As Introduced

136th General Assembly

Regular Session **H. B. No. 775**

2025-2026

Representatives Callender, Dovilla

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

To amend sections 9.46, 9.79, 9.821, 101.15, 101.34, 101.78, 101.98, 102.05, 103.0511, 105.41, 107.56, 109.08, 109.36, 109.361, 109.541, 109.57, 109.68, 111.15, 111.18, 111.47, 113.21, 113.51, 113.60, 119.01, 119.03, 120.03, 120.06, 120.521, 121.36, 121.41, 121.68, 122.075, 122.076, 122.077, 122.081, 122.083, 122.086, 122.087, 122.09, 122.154, 122.16, 122.17, 122.171, 122.175, 122.177, 122.179, 122.1710, 122.18, 122.25, 122.291, 122.38, 122.4020, 122.4077, 122.631, 122.632, 122.633, 122.6511, 122.6512, 122.74, 122.851, 122.86, 122.91, 122.922, 122.924, 122.925, 122.9511, 123.01, 123.04, 123.08, 123.201, 123.21, 123.22, 124.17, 124.74, 125.14, 125.84, 125.87, 125.88, 128.63, 131.024, 131.33, 135.182, 135.22, 135.45, 135.46, 135.61, 145.038, 145.09, 145.092, 145.196, 145.28, 145.2913, 145.2914, 145.311, 145.323, 145.381, 145.391, 145.401, 145.43, 145.58, 145.583, 145.584, 145.62, 145.65, 145.81, 145.814, 145.97, 147.62, 148.04, 149.331, 153.71, 156.05, 163.58, 166.02, 166.12, 166.17, 169.09, 173.02, 173.27, 173.38, 173.381, 173.42, 173.43, 173.45, 173.46, 173.502, 173.52,

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

Section 1. That sections 9.46, 9.79, 9.821, 101.15, 101.34, 101.78, 101.98, 102.05, 103.0511, 105.41, 107.56, 109.08, 109.36, 109.361, 109.541, 109.57, 109.68, 111.15, 111.18, 111.47, 113.21, 113.51, 113.60, 119.01, 119.03, 120.03, 120.06, 120.521, 121.36, 121.41, 121.68, 122.075, 122.076, 122.077, 122.081, 122.083, 122.086, 122.087, 122.09, 122.154, 122.16, 122.17, 122.171, 122.175, 122.177, 122.179, 122.1710, 122.18, 122.25, 122.291, 122.38, 122.4020, 122.4077, 122.631, 122.632, 122.633, 122.6511, 122.6512, 122.74, 122.851, 122.86, 122.91, 122.922, 122.924, 122.925, 122.9511, 123.01, 123.04,

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

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

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

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

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

Code to practice an occupation or profession.

(3) "Offense of violence" has the same meaning as in section 2901.01 of the Revised Code.

(4) "Sexually oriented offense" has the same meaning as in section 2950.01 of the Revised Code.

(5) "State agency" has the same meaning as in section 1.60 of the Revised Code.

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

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

(8) "Fiduciary duty" means a duty to act for someone else's benefit, while subordinating one's personal interest to that of the other person.

(B)(1) Notwithstanding any provision of the Revised Code to the contrary, subject to division ~~(L)~~ (K) of this section, for each type of license issued or conferred by a licensing authority, the licensing authority shall establish within one hundred eighty days after April 12, 2021, a list of specific criminal offenses for which a conviction, judicial finding of guilt, or plea of guilty may disqualify an individual from obtaining an initial license. The licensing authority shall make the list available to the public on the licensing authority's web site pursuant to division (C) of section 9.78 of the Revised Code. The licensing authority, in adopting the list, shall do both of the following:

(a) Identify each disqualifying offense by name or by the Revised Code section number that creates the offense;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(5) Certificates of authority to a health insuring corporation issued under section 1751.05 of the Revised Code;

(6) Licenses to operate a home or residential care facility issued under section 3721.07 of the Revised Code;

(7) Certificates of authority to make contracts of indemnity issued under section 3931.10 of the Revised Code;

(8) Supported living certificates issued under section 5123.161 of the Revised Code;

(9) Certificates to administer medications and perform health-related activities under section 5123.45 of the Revised Code.

~~(J)~~ (I) Nothing in divisions (B) to ~~(K)~~ (J) of this section prohibits a licensing authority from considering either of the following when making a determination whether to issue a license to an individual:

(1) Past disciplinary action taken by the licensing authority against the individual;

(2) Past disciplinary action taken against the individual by an authority in another state that issues a license that is substantially similar to the license for which the individual applies.

~~(K)~~ (J) Notwithstanding any provision of the Revised Code to the contrary, if a licensing authority issues a license to an individual after considering a conviction of, judicial finding of guilt of, or plea of guilty to an offense under division (D) of this section, the licensing authority shall not refuse to renew the individual's license based on that conviction, judicial finding of guilt, or plea of guilty.

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

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

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

(B) The office of risk management is hereby established

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

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

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

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

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

(4) Consolidate and combine state insurance coverages;

(5) Provide technical services in risk management and insurance to state agencies~~;~~

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

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

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

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

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

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

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

(1) "Caucus" means all of the members of either house of the general assembly who are members of the same political party.

(2) "Committee" means any committee of either house of the general assembly, a joint committee of both houses of the general assembly, including a committee of conference, or a subcommittee of any committee listed in division (A)(2) of this section.

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

(B) Except as otherwise provided in division (F) of this section, all meetings of any committee are declared to be public meetings open to the public at all times. The secretary assigned to the chairperson of the committee shall prepare, file, and maintain the minutes of every regular or special meeting of a committee. The committee, at its next regular or special meeting, shall approve the minutes prepared, filed, and maintained by the secretary, or, if the minutes prepared, filed, and maintained by the secretary require correction before their approval, the committee shall correct and approve the minutes at the next following regular or special meeting. The committee shall make the minutes available for public inspection not later than seven days after the meeting the minutes reflect or not later than the committee's next regular or special meeting, whichever occurs first.

(C) Each committee shall establish a reasonable method whereby any person may determine the time and place of all regularly scheduled meetings and the time, place, and purpose of all special meetings. No committee shall hold a regular or special meeting unless it gives at least twenty-four hours'

advance notice to the news media that have requested notification.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(c) To discuss pending or proposed legislation.

(2) Meetings of a caucus.

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

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

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

In the first regular session of each general assembly, the speaker of the house of representatives shall appoint the chairperson of the committee from among the house members of the committee, and the president of the senate shall appoint the vice-chairperson of the committee from among the senate members of the committee. In the second regular session of each general assembly, the president of the senate shall appoint the chairperson of the committee from among the senate members of the committee, and the speaker of the house of representatives shall appoint the vice-chairperson of the committee from among the house members of the committee. The chairperson, vice-chairperson, and members of the committee shall serve until their respective successors are appointed or until they are no longer members of the general assembly.

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

(B) The joint legislative ethics committee:

(1) Shall recommend a code of ethics that is consistent with law to govern all members and employees of each house of the general assembly and all candidates for the office of member of each house;

(2) May receive and hear any complaint that alleges a breach of any privilege of either house, or misconduct of any member, employee, or candidate, or any violation of the appropriate code of ethics;

(3) May obtain information with respect to any complaint filed pursuant to this section and to that end may enforce the attendance and testimony of witnesses, and the production of books and papers;

(4) May recommend whatever sanction is appropriate with respect to a particular member, employee, or candidate as will best maintain in the minds of the public a good opinion of the conduct and character of members and employees of the general assembly;

(5) May recommend legislation to the general assembly relating to the conduct and ethics of members and employees of and candidates for the general assembly;

(6) Shall employ an executive director for the committee and may employ other staff as the committee determines necessary to assist it in exercising its powers and duties. The executive director and staff of the committee shall be known as the office of legislative inspector general. At least one member of the staff of the committee shall be an attorney at law licensed to practice law in this state. The appointment and removal of the executive director shall require the approval of at least eight

members of the committee.

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

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

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

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

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

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

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

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

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

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

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

Code or the legislative code of ethics.

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

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

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

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

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

IS A MISDEMEANOR OF THE FIRST DEGREE."

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

improve, an electronic rule-filing system connecting:

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

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

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

(D) The several publishers of the Administrative Code;

(E) The common sense initiative office; and

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

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

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

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

political party;

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

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

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

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

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

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

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

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

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

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

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

(3) Enter into an indefinite delivery indefinite quantity contract, under section 153.013 of the Revised Code, for an architect or engineer;

~~(4) Adopt, amend, or rescind rules necessary to accomplish the duties of the board as set forth in this section;~~

~~(5)~~ Sponsor, conduct, and support such social events as the board may authorize and consider appropriate for the employees of the board, employees and members of the general assembly, employees of persons under contract with the board or otherwise engaged to perform services on the premises of capitol square, or other persons as the board may consider appropriate. Subject to the requirements of Chapter 4303. of the Revised

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

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

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

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

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

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

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

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

the capitol square;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(1) The accountancy board;

(2) The architects board;

(3) The state cosmetology and barber board;

(4) The board of embalmers and funeral directors;

(5) The board of executives of long-term services and supports;

(6) The crematory review board;

(7) The motor vehicle dealers board;

(8) The motor vehicle repair board;

(9) The motor vehicle salvage dealer's licensing board;

(10) The Ohio athletic commission;

(11) The Ohio construction industry licensing board;

(12) The Ohio landscape architects board;

(13) The Ohio real estate commission;

(14) The real estate appraiser board;

(15) The state auctioneers commission;

(16) The state speech and hearing professionals board;

(17) The state board of education;

(18) The state board of emergency medical, fire, and transportation services;

(19) The board of nursing;

(20) The state board of pharmacy;

(21) The state board of registration for professional engineers and surveyors;

(22) The state board of psychology;

(23) The state chiropractic board;

(24) The state dental board;

(25) The state medical board;

(26) The state veterinary medical licensing board;

(27) The state vision professionals board;

(28) The counselor, social worker, and marriage and family therapist board;

(29) The chemical dependency professionals board;

(30) The Ohio occupational therapy, physical therapy, and athletic trainers board;

(31) Any other multi-member body created under state law that licenses or otherwise regulates an occupation or industry

to which one or more members of the body belongs.

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

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

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

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

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

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

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

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

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

(a) Denying an application to obtain a license because the applicant has violated or has not complied with the Ohio Revised Code or the Ohio Administrative Code;

(b) Taking disciplinary action against an individual or corporation that is licensed by a board or commission for violations of the Ohio Revised Code or the Ohio Administrative Code.

(C)(1) The following persons or entities may refer an action to the office for review under this section:

(a) A board or commission that has taken or is proposing to take an action;

(b) A person who is affected by an action taken by a board or commission or is likely to be affected by an action proposed by a board or commission;

(c) A person who has been granted a stay pursuant to division (G) of this section.

(2) A board or commission or person who refers an action to the office shall prepare a brief statement explaining the action and its consistency or inconsistency with state or federal antitrust law and file the statement with the office. If the action is in writing, the board or commission or person shall attach a copy of it to the statement. The person shall transmit a copy of the statement to the board or commission.

(3) The referral of an action by a board or commission for review by the office does not constitute an admission that the action violates any state or federal law.

(4) A person who is affected by an action taken by a board or commission or is likely to be affected by an action proposed

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

officer or employee is elected or appointed.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

institution and the person in charge of any state institution having custody of a person suspected of having committed a felony, any crime constituting a misdemeanor on the first offense and a felony on subsequent offenses, or any misdemeanor described in division (A)(1)(a), (A)(4)(a), or (A)(6)(a) of section 109.572 of the Revised Code or having custody of a child under eighteen years of age with respect to whom there is probable cause to believe that the child may have committed an act that would be a felony or an offense of violence if committed by an adult shall furnish such material to the superintendent of the bureau. Fingerprints, photographs, or other descriptive information of a child who is under eighteen years of age, has not been arrested or otherwise taken into custody for committing an act that would be a felony or an offense of violence who is not in any other category of child specified in this division, if committed by an adult, has not been adjudicated a delinquent child for committing an act that would be a felony or an offense of violence if committed by an adult, has not been convicted of or pleaded guilty to committing a felony or an offense of violence, and is not a child with respect to whom there is probable cause to believe that the child may have committed an act that would be a felony or an offense of violence if committed by an adult shall not be procured by the superintendent or furnished by any person in charge of any county, multicounty, municipal, municipal-county, or multicounty-municipal jail or workhouse, community-based correctional facility, halfway house, alternative residential facility, or state correctional institution, except as authorized in section 2151.313 of the Revised Code.

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

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

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

(b) The style and number of the case;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(J) As used in this section:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(d) The estimated destruction date of the kit.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

amendment shall fully restate the rule as amended.

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

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

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

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

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

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

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

This division does not apply to any of the following:

(1) A proposed rule of an emergency nature;

(2) A rule proposed under section 1121.05, 1121.06, ~~1349.33,~~ 1707.201, 1733.412, 4123.29, 4123.34, 4123.341, 4123.342, 4123.345, 4123.40, 4123.411, 4123.44, or 4123.442 of the Revised Code;

(3) A rule proposed by an agency other than a board, commission, department, division, or bureau of the government of the state;

(4) A proposed internal management rule of a board, commission, department, division, or bureau of the government of the state;

(5) Any proposed rule that must be adopted verbatim by an agency pursuant to federal law or rule, to become effective within sixty days of adoption, in order to continue the operation of a federally reimbursed program in this state, so long as the proposed rule contains both of the following:

(a) A statement that it is proposed for the purpose of complying with a federal law or rule;

(b) A citation to the federal law or rule that requires verbatim compliance.

(6) An initial rule proposed by the director of health to impose quality standards on a health care facility as defined in section 3702.30 of the Revised Code;

(7) A rule of the state lottery commission pertaining to instant game rules.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1733.37, or 1761.03 of the Revised Code.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

The public notice shall include:

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

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

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

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

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

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

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

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

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

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

with the director of the legislative service commission.

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

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

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

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

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

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

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

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

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

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

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

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

This division does not apply to:

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

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

following:

(a) A statement that it is proposed for the purpose of complying with a federal law or rule;

(b) A citation to the federal law or rule that requires verbatim compliance.

(3) A proposed rule, amendment, or rescission that, as set forth in section 3719.41 of the Revised Code, must be adopted by the state board of pharmacy pursuant to federal law or rule, to become effective within sixty days of adoption, so long as the proposed rule contains a statement that it is proposed for the purpose of complying with federal law or rule.

If a rule or amendment is exempt from legislative review under division (C)(2) of this section, and if the federal law or rule pursuant to which the rule or amendment was adopted expires, is repealed or rescinded, or otherwise terminates, the rule or amendment, or its rescission, is thereafter subject to legislative review under division (C) of this section.

(D) On the date and at the time and place designated in the notice, the agency shall conduct a public hearing at which any person affected by the proposed action of the agency may appear and be heard in person, by the person's attorney, or both, may present the person's position, arguments, or contentions, orally or in writing, offer and examine witnesses, and present evidence tending to show that the proposed rule, amendment, or rescission, if adopted or effectuated, will be unreasonable or unlawful. An agency may permit persons affected by the proposed rule, amendment, or rescission to present their positions, arguments, or contentions in writing, not only at the hearing, but also for a reasonable period before, after, or both

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(2) Standards for the hiring of outside counsel;

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

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

(5) Minimum caseload standards;

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

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

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

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

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

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

(1) The commission shall do the following:

(a) Approve an annual operating budget;

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

offices.

(2) The commission may do the following:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(i) The private legal counsel shall file with the attorney general a copy of the contract; a request for an award of legal fees, court costs, and expenses earned or incurred in connection with the defense of the Ohio public defender commission, the state public defender, an assistant state public defender, an employee, or an attorney in a specified civil action or proceeding; a written itemization of those fees, costs, and expenses, including the signature of the state public defender and the state public defender's attestation that the fees, costs, and expenses were earned or incurred pursuant to division (E)(1) of this section to the best of the state public defender's knowledge and information; a written statement whether the fees, costs, and expenses are for all legal services to be rendered in connection with that defense, are only for legal services rendered to the date of the request and additional legal services likely will have to be provided in connection with that defense, or are for the final legal services rendered in connection with that defense; a written statement indicating whether the private legal counsel previously submitted a request for an award under division (E)(2) of this section in connection with that defense and, if so, the date and the amount of each award granted; and, if the fees, costs, and expenses are for all legal services to be rendered in

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

youth services record as needed to implement this section.

(J) As used in this section:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

the home care dependent adult;

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

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

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

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

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

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

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

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

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

as in section 102.01 of the Revised Code.

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

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

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

(1) The general assembly;

(2) Any court;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(4) "Ethanol" means fermentation ethyl alcohol derived from agricultural products, including potatoes, cereal, grains, cheese whey, and sugar beets; forest products; or other renewable resources, including residue and waste generated from the production, processing, and marketing of agricultural products, forest products, and other renewable resources that meet all of the specifications in the American society for testing and materials (ASTM) specification D 4806-88 and is denatured as specified in Parts 20 and 21 of Title 27 of the Code of Federal Regulations.

(5) "Blended biodiesel" means diesel fuel containing at least twenty per cent biodiesel by volume.

(6) "Blended gasoline" means gasoline containing at least eighty-five per cent ethanol by volume.

(7) "Incremental cost" means either of the following:

(a) The difference in cost between blended gasoline and gasoline containing ten per cent or less ethanol at the time that the blended gasoline is purchased;

(b) The difference in cost between blended biodiesel and diesel fuel containing two per cent or less biodiesel at the time that the blended biodiesel is purchased.

(B) For the purpose of improving the air quality in this state, the director of development services shall establish an alternative fuel transportation program under which the director may make grants and loans to businesses, nonprofit organizations, public school systems, or local governments for the purchase and installation of alternative fuel refueling or distribution facilities and terminals, for the purchase and use of alternative fuel, to pay the cost of fleet conversion, and to

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

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

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

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

(a) Publicly accessible refueling facilities;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(d) The alternative fuel technology used in the vehicle

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(2) A brief summary of the proposed rule;

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

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

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

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

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

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

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

(1) Acquisition of property, including options;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(i) Office;

(ii) Residential;

(iii) Retail, which may include restaurant space;

(iv) Hotel and hospitality;

(v) Recreation.

(c) Satisfies one of the following criteria:

(i) If the project site is located within ten miles of a major city, the project includes at least one new or previously vacant building that is fifteen or more stories in height or has a floor area of at least three hundred fifty thousand square feet, or after completion will be the site of employment accounting for at least five million dollars in annual payroll, or includes two or more buildings that are connected to each other, are located on the same parcel or on contiguous parcels, and that collectively have a floor area of at least three hundred fifty thousand square feet;

(ii) If the project site is not located within ten miles of a major city, the project includes at least one new or previously vacant building that is two or more stories in height or has a floor area of at least seventy-five thousand square feet or two or more new buildings that are located on the same parcel or on contiguous parcels and that collectively have a floor area of at least seventy-five thousand square feet.

A "transformational mixed use development" does not include a project located wholly or partially in a transformational major sports facility mixed-use project district as defined in section 123.28 of the Revised Code.

(5) "Increase in tax collections" means the difference, if

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

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

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

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

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

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

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

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

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

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

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

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

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

uniformity, consistency, and fairness;

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

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

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

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

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

by this section or by rule of the director;

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

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

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

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

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

the project.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

category.

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

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

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

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

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

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

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

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

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

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

preliminarily approved for a credit associated with the project.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(4) The form of the tax credit certificate;

(5) Reporting requirements and monitoring procedures;

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

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

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

(1) A bank statement evidencing each growth investment;

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

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

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

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

(5) Any other information required by the agency.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

The petition shall include written documentation that

demonstrates all of the following:

(a) The number of jobs lost by the closing or downsizing;

(b) The impact that the job loss has on the unemployment rate of the county or municipal corporation as measured by the director of job and family services;

(c) The annual payroll associated with the job loss;

(d) The amount of state and local taxes associated with the job loss;

(e) The impact that the closing or downsizing has on the suppliers located in the county or municipal corporation.

(12) "Voluntary action" has the same meaning as in section 3746.01 of the Revised Code.

(13) "Taxpayer" means a corporation subject to the tax imposed by section 5733.06 of the Revised Code or any person subject to the tax imposed by section 5747.02 of the Revised Code.

(14) "Governing body" means the board of county commissioners of a county, the board of township trustees of a township, or the legislative authority of a municipal corporation.

(15) "Eligible site" means property for which a covenant not to sue has been issued under section 3746.12 of the Revised Code.

(16) "American community survey" means the supplementary statistics collected and published annually by the United States census bureau in accordance with 13 U.S.C. 141 and 193.

(B)(1) A taxpayer, partnership, or S corporation that has

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

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

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

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

development may grant under such agreements shall be as follows:

1996 $5,000,000

1997 $10,000,000

1998 $10,000,000

1999 $5,000,000

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

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

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

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

the Revised Code.

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

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

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

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

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

be relocated has been notified of the possible relocation.

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

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

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

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

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

the previous year;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(11) "Megaproject" means a project in this state that meets all of the following requirements:

(a) At least one of the following applies:

(i) The project requires unique sites, extremely robust utility service, and a technically skilled workforce.

(ii) The megaproject operator of the project has its corporate headquarters in the United States, incurs more than fifty per cent of its research and development expenses in the United States in the year preceding the date the tax credit authority approves the project for a credit under this section, and builds and operates semiconductor wafer manufacturing factories in this state or intends to do so by the metric evaluation date applicable to the megaproject operator.

(b) The megaproject operator of the project agrees, in an agreement with the tax credit authority under division (D) of this section, that, on and after the metric evaluation date applicable to the megaproject operator and until the end of the last year for which the megaproject qualifies for the credit authorized under this section, the megaproject operator will compensate the project's employees at an average hourly wage of at least three hundred per cent of the federal minimum wage under 29 U.S.C. 206, exclusive of employee benefits, as determined at the time the tax credit authority approves the project for a credit under this section.

(c) The megaproject operator agrees, in an agreement with the tax credit authority under division (D) of this section, to satisfy either of the following by the metric evaluation date applicable to the project:

(i) The megaproject operator makes at least one billion dollars, as adjusted under division (V)(1) of this section, in fixed-asset investments in the project.

(ii) The megaproject operator creates at least seventy-five million dollars, as adjusted under division (V)(1) of this section, in Ohio employee payroll at the project.

(d) The megaproject operator agrees, in an agreement with the tax credit authority under division (D) of this section, that if the project satisfies division (A)(11)(c)(ii) of this section, then, on and after the metric evaluation date and until the end of the last year for which the megaproject qualifies for the credit authorized under this section, the megaproject operator will maintain at least the amount in Ohio employee payroll at the project required under that division for each year in that period.

(12) "Megaproject operator" means a taxpayer that, separately or collectively with other taxpayers, undertakes and operates a megaproject. Such a taxpayer becomes a megaproject operator effective the first day of the calendar year in which the taxpayer and the tax credit authority enter into an agreement under division (D) of this section with respect to the megaproject. More than one taxpayer may be designated by the tax credit authority as a megaproject operator for the same megaproject.

(13) "Megaproject supplier" means a supplier in this state that meets either or both of the following requirements:

(a) The supplier sells tangible personal property directly to a megaproject operator of a megaproject that satisfies the criteria described in division (A)(11)(a)(ii) of this section for use at a megaproject site, provided that such property was subject to substantial manufacturing, assembly, or processing in this state at a facility owned or operated by the supplier;

(b) The supplier sells tangible personal property directly to a megaproject operator for use at a megaproject site, provided that the supplier agrees, in an agreement with the tax credit authority under division (D) of this section, to meet all of the following requirements:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(7) A requirement that the director of development

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

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

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

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

number of employees the taxpayer employed on June 30, 2011;

(10) If the taxpayer is a megaproject supplier, the percentage of the annual tax credit certified under division (D)(7) of this section, up to one hundred per cent, that may be claimed by each megaproject operator to which the megaproject supplier directly sells tangible personal property, rather than by that megaproject supplier, on the condition that the megaproject operator continues to qualify as a megaproject operator;

(11) If the taxpayer is a megaproject operator or megaproject supplier, a requirement that the taxpayer meet and maintain compliance with all thresholds and requirements to which the taxpayer agreed, pursuant to division (A)(11) or (13) of this section, respectively, as a condition of the operator's project qualifying as a megaproject or the supplier qualifying as a megaproject supplier until the end of the last year for which the taxpayer qualifies for the credit authorized under this section. In each year that a megaproject operator or megaproject supplier is subject to an agreement with the tax credit authority under this section and meets the requirements of this division, the director of development shall issue a certificate to the megaproject operator or megaproject supplier stating that the megaproject operator or megaproject supplier continues to meet those requirements.

(12) If the taxpayer is a megaproject operator, a requirement that the megaproject operator submit, in a form acceptable to the director of development, an economic impact report with respect to each megaproject for which the megaproject operator is designated, summarizing all of the following for the reporting year:

(a) The aggregate amount of purchases made by the megaproject operator for such megaproject from megaproject suppliers;

(b) The aggregate amount of purchases made by the megaproject operator for such megaproject from suppliers other than megaproject suppliers;

(c) A summary of the construction activity for any facilities at the site of the megaproject in that year;

(d) The aggregate amount expended by the megaproject operator on research and development at the site of the megaproject in that year;

(e) The number of employees working at the site of the megaproject and the counties in which those employees reside;

(f) A summary of the supply chain activity in support of the megaproject, including a list of the twenty-five suppliers with a physical presence in Ohio from which the megaproject operator made the most purchases in that year.

The economic impact report shall be due on or before the first day of July of each year, beginning in the year specified in the agreement with the tax credit authority. The information required in the report shall be certified as true and correct by an officer of the megaproject operator. If there is more than one megaproject operator designated for a single megaproject, all of the megaproject operators designated for the megaproject may jointly submit a single report. Any information contained in the report is a public record for purposes of section 149.43 of the Revised Code and shall be published on the department of development's web site.

(E)(1) If a taxpayer fails to meet or comply with any

condition or requirement set forth in a tax credit agreement, the tax credit authority may amend the agreement to reduce the percentage or term of the tax credit. The reduction of the percentage or term may take effect in the current taxable or calendar year.

(2) If the tax credit authority determines that a taxpayer that is a megaproject operator of a megaproject described in division (A)(11)(a)(ii) of this section is not fully compliant with the requirements of the agreement, the authority may impose a recoupment payment on the taxpayer in accordance with the following:

(a) If, on the metric evaluation date, the taxpayer fails to substantially meet the capital investment, full-time equivalent employee, or payroll requirements included in the agreement, an amount determined at the discretion of the authority, not to exceed the sum of the following for all years prior to the metric evaluation date: (i) the amount of taxes that would have been imposed under Chapters 5739. and 5741. of the Revised Code in the absence of the agreement, and (ii) the amount of taxes that would have been imposed under Chapter 5751. of the Revised Code on receipts realized from sales to the taxpayer in the absence of the agreement;

(b) If the taxpayer fails to substantially maintain the capital investment, full-time equivalent employee, or payroll requirements included in the agreement in any year after the metric evaluation date, an amount determined at the discretion of the authority, not to exceed the sum of the following for the calendar year in which taxpayer failed to meet the requirements: (i) the amount of taxes that would have been imposed under Chapters 5739. and 5741. of the Revised Code in the absence of

the agreement, and (ii) the amount of taxes that would have been imposed under Chapter 5751. of the Revised Code on receipts realized from sales to the taxpayer in the absence of the agreement.

(3) The tax credit authority may, subject to any requirements of the tax credit agreement, take into consideration the taxpayer's prior performance and any market conditions impacting the taxpayer when determining the amount of the recoupment payment described in division (E)(2) of this section.

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

(G) Financial statements and other information submitted to the department of development or the tax credit authority by an applicant or recipient of a tax credit under this section, and any information taken for any purpose from such statements or information, are not public records subject to section 149.43 of the Revised Code. However, the chairperson of the authority

may make use of the statements and other information for purposes of issuing public reports or in connection with court proceedings concerning tax credit agreements under this section. Upon the request of the tax commissioner or, if the applicant or recipient is an insurance company, upon the request of the superintendent of insurance, the chairperson of the authority shall provide to the commissioner or superintendent any statement or information submitted by an applicant or recipient of a tax credit in connection with the credit. The commissioner or superintendent shall preserve the confidentiality of the statement or information.

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

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

recommendation under division (C)(2)(a) of this section but does not approve it. The director, in consultation with the commissioner and superintendent, may adopt rules ~~may provide~~ providing for recipients of tax credits under this section to be charged fees to cover administrative costs of the tax credit program. ~~For the purposes of these rules, a qualifying work-from-home employee shall be considered to be an employee employed at the applicant's project location.~~ The fees collected shall be credited to the tax incentives operating fund created in section 122.174 of the Revised Code. At the time the director gives public notice under division (A) of section 119.03 of the Revised Code of the adoption of the rules, the director shall submit copies of the proposed rules to the chairpersons of the standing committees on economic development in the senate and the house of representatives.

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

(K)(1) If the director of development determines that a

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

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

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

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

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

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

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

(3) In determining the portion of the tax credit to be refunded to this state, the tax credit authority shall consider the effect of market conditions on the taxpayer's project and whether the taxpayer continues to maintain other operations in this state. After making the determination, the authority shall certify the amount to be refunded to the tax commissioner or superintendent of insurance, as appropriate. If the amount is certified to the commissioner, the commissioner shall make an assessment for that amount against the taxpayer under Chapter 5726., 5733., 5736., 5747., or 5751. of the Revised Code. If the amount is certified to the superintendent, the superintendent shall make an assessment for that amount against the taxpayer under Chapter 5725. or 5729. of the Revised Code. The time limitations on assessments under those chapters do not apply to an assessment under this division, but the commissioner or superintendent, as appropriate, shall make the assessment within one year after the date the authority certifies to the commissioner or superintendent the amount to be refunded. Within ninety days after certifying the amount to be refunded, if circumstances have changed, the authority may adjust the amount to be refunded and certify the adjusted amount to the commissioner or superintendent. The authority may only adjust the amount to be refunded one time and only if the amount initially certified by the authority has not been repaid, in whole or in part, by the taxpayer or certified to the attorney general for collection under section 131.02 of the Revised Code.

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

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

approve any such business, including the election of the vice-chairperson.

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

(N) For purposes of the credits granted by this section against the taxes imposed under sections 5725.18 and 5729.03 of the Revised Code, "taxable year" means the period covered by the taxpayer's annual statement to the superintendent of insurance.

(O) On or before the first day of March of each of the five calendar years beginning with 2014, each taxpayer subject to an agreement with the tax credit authority under this section on the basis of home-based employees shall report the number of home-based employees and other employees employed by the taxpayer in this state to the department of development.

(P) On or before the first day of January of 2019, the director of development shall submit a report to the governor, the president of the senate, and the speaker of the house of representatives on the effect of agreements entered into under this section in which the taxpayer included home-based employees in the computation of income tax revenue, as that term was defined in this section prior to the amendment of this section by H.B. 64 of the 131st general assembly. The report shall include information on the number of such agreements that were entered into in the preceding six years, a description of the

projects that were the subjects of such agreements, and an analysis of nationwide home-based employment trends, including the number of home-based jobs created from July 1, 2011, through June 30, 2017, and a description of any home-based employment tax incentives provided by other states during that time.

(Q) The director of development may require any agreement entered into under this section for a tax credit computed on the basis of home-based employees to contain a provision that the taxpayer makes available health care benefits and tuition reimbursement to all employees.

(R) Original agreements approved by the tax credit authority under this section in 2014 or 2015 before September 29, 2015, may be revised at the request of the taxpayer to conform with the amendments to this section and sections 5733.0610, 5736.50, 5747.058, and 5751.50 of the Revised Code by H.B. 64 of the 131st general assembly, upon mutual agreement of the taxpayer and the department of development, and approval by the tax credit authority.

(S)(1) As used in division (S) of this section:

(a) "Eligible agreement" means an agreement approved by the tax credit authority under this section on or before December 31, 2013.

(b) "Income tax revenue" has the same meaning as under this section as it existed before September 29, 2015, the effective date of the amendment of this section by H.B. 64 of the 131st general assembly.

(2) In calendar year 2016 and thereafter, the tax credit authority shall annually determine a withholding adjustment factor to be used in the computation of income tax revenue for

eligible agreements. The withholding adjustment factor shall be a numerical percentage that equals the percentage that employer income tax withholding rates have been increased or decreased as a result of changes in the income tax rates prescribed by section 5747.02 of the Revised Code by amendment of that section taking effect on or after June 29, 2013.

(3) Except as provided in division (S)(4) of this section, for reporting periods ending in 2015 and thereafter for taxpayers subject to eligible agreements, the tax credit authority shall adjust the income tax revenue reported on the taxpayer's annual report by multiplying the withholding adjustment factor by the taxpayer's income tax revenue and doing one of the following:

(a) If the income tax rates prescribed by section 5747.02 of the Revised Code have decreased by amendment of that section taking effect on or after June 29, 2013, add the product to the taxpayer's income tax revenue.

(b) If the income tax rates prescribed by section 5747.02 of the Revised Code have increased by amendment of that section taking effect on or after June 29, 2013, subtract the product from the taxpayer's income tax revenue.

(4) Division (S)(3) of this section shall not apply unless all of the following apply for the reporting period with respect to the eligible agreement:

(a) The taxpayer has achieved one hundred per cent of the new employment commitment identified in the agreement.

(b) If applicable, the taxpayer has achieved one hundred per cent of the new payroll commitment identified in the agreement.

(c) If applicable, the taxpayer has achieved one hundred per cent of the investment commitment identified in the agreement.

(5) Failure by a taxpayer to have achieved any of the applicable commitments described in divisions (S)(4)(a) to (c) of this section in a reporting period does not disqualify the taxpayer for the adjustment under division (S) of this section for an ensuing reporting period.

(T) For reporting periods ending in calendar year 2020 or thereafter, any taxpayer may include qualifying work-from-home employees in its report required under division (D)(6) of this section, and the compensation of such employees shall qualify as Ohio employee payroll under division (A)(3)(a) of this section, even if the taxpayer's application to the tax credit authority to enter into an agreement for a tax credit under this section was approved before September 29, 2017, the effective date of the amendment of this section by H.B. 49 of the 132nd general assembly.

(U) The director of development shall notify the tax commissioner if the director determines that a megaproject operator or megaproject supplier is not in compliance with the agreement pursuant to a review conducted under division (D)(11) of this section.

(V) Beginning in 2025 and in each fifth calendar year thereafter, the tax commissioner shall adjust the following amounts in September of that year:

(1) The fixed-asset investment threshold described in division (A)(11)(c)(i) of this section and the Ohio employee payroll threshold described in division (A)(11)(c)(ii) of this

section by completing the following calculations:

(a) Determine the percentage increase in the gross domestic product deflator determined by the bureau of economic analysis of the United States department of commerce from the first day of January of the fifth preceding calendar year to the last day of December of the preceding calendar year;

(b) Multiply that percentage increase by the fixed-asset investment threshold and the Ohio employee payroll threshold for the current year;

(c) Add the resulting products to the corresponding fixed-asset investment threshold and Ohio employee payroll threshold for the current year;

(d) Round the resulting fixed-asset investment sum to the nearest multiple of ten million dollars and the Ohio employee payroll sum to the nearest multiple of one million dollars.

(2) The fixed-asset investment threshold described in division (A)(13)(b)(i) of this section and the Ohio employee payroll threshold described in division (A)(13)(b)(ii) of this section by completing the calculations described in divisions (V)(1)(a) to (c) of this section and rounding the resulting fixed-asset investment sum to the nearest multiple of one million dollars and the Ohio employee payroll sum to the nearest multiple of one hundred thousand dollars.

The commissioner shall certify the amount of the adjustments under divisions (V)(1) and (2) of this section to the director of development and to the tax credit authority not later than the first day of December of the year the commissioner computes the adjustment. Each certified amount applies to the ensuing calendar year and each calendar year

thereafter until the tax commissioner makes a new adjustment. The tax commissioner shall not calculate a new adjustment in any year in which the resulting amount from the adjustment would be less than the corresponding amount for the current year.

Sec. 122.171. (A) As used in this section:

(1) "Capital investment project" means a plan of investment at a project site for the acquisition, construction, renovation, or repair of buildings, machinery, or equipment, or for capitalized costs of basic research and new product development determined in accordance with generally accepted accounting principles, but does not include any of the following:

(a) Payments made for the acquisition of personal property through operating leases;

(b) Project costs paid before January 1, 2002;

(c) Payments made to a related member as defined in section 5733.042 of the Revised Code or to a consolidated elected taxpayer or a combined taxpayer as defined in section 5751.01 of the Revised Code.

(2) "Eligible business" means a taxpayer and its related members with Ohio operations that had a capital investment project reviewed and approved by the tax credit authority as provided in divisions (C), (D), and (E) of this section and that satisfies either of the following requirements:

(a) If engaged at the project site primarily in significant corporate administrative functions, as defined by the director of development by rule, the taxpayer meets both of the following criteria:

(i) The taxpayer either is located in a foreign trade zone, employs at least five hundred full-time equivalent employees, or has an annual Ohio employee payroll of at least thirty-five million dollars at the time the tax credit authority grants the tax credit under this section;

(ii) The taxpayer makes or causes to be made payments for the capital investment project of at least twenty million dollars in the aggregate at the project site during a period of three consecutive calendar years including the calendar year that includes a day of the taxpayer's taxable year or tax period with respect to which the credit is granted.

(b) If engaged at the project site primarily as a manufacturer, the taxpayer makes or causes to be made payments for the capital investment project at the project site during a period of three consecutive calendar years, including the calendar year that includes a day of the taxpayer's taxable year or tax period with respect to which the credit is granted, in an amount that in the aggregate equals or exceeds the lesser of the following:

(i) Fifty million dollars;

(ii) Five per cent of the net book value of all tangible personal property used at the project site as of the last day of the three-year period in which the capital investment payments are made.

(3) "Full-time equivalent employees" means the quotient obtained by dividing the total number of hours for which employees were compensated for employment in the project by two thousand eighty. "Full-time equivalent employees" shall exclude hours that are counted for a credit under section 122.17 of the

Revised Code.

(4) "Ohio employee payroll" has the same meaning as in section 122.17 of the Revised Code.

(5) "Manufacturer" has the same meaning as in section 5739.011 of the Revised Code.

(6) "Project site" means an integrated complex of facilities in this state, as specified by the tax credit authority under this section, within a fifteen-mile radius where a taxpayer is primarily operating as an eligible business.

(7) "Related member" has the same meaning as in section 5733.042 of the Revised Code as that section existed on the effective date of its amendment by Am. Sub. H.B. 215 of the 122nd general assembly, September 29, 1997.

(8) "Taxable year" includes, in the case of a domestic or foreign insurance company, the calendar year ending on the thirty-first day of December preceding the day the superintendent of insurance is required to certify to the treasurer of state under section 5725.20 or 5729.05 of the Revised Code the amount of taxes due from insurance companies.

(9) "Foreign trade zone" means a general purpose foreign trade zone or a special purpose subzone for which, pursuant to 19 U.S.C. 81a, as amended, a permit for foreign trade zone status has been granted and remains active, including special purpose subzones for which a permit has been granted and remains active.

(B) The tax credit authority created under section 122.17 of the Revised Code may grant a nonrefundable tax credit to an eligible business under this section for the purpose of fostering job retention in this state. Upon application by an

eligible business and upon consideration of the determination of the director of budget and management, tax commissioner, and the superintendent of insurance in the case of an insurance company, the recommendation and determination of the director of development under division (C)(1) of this section, and a review of the criteria described in division (C)(2) of this section, the tax credit authority may grant the credit against the tax imposed by section 5725.18, 5726.02, 5729.03, 5733.06, 5736.02, 5747.02, or 5751.02 of the Revised Code.

The credit authorized in this section may be granted for a period up to fifteen taxable years or, in the case of the tax levied by section 5736.02 or 5751.02 of the Revised Code, for a period of up to fifteen calendar years. The credit amount for a taxable year or a calendar year that includes the tax period for which a credit may be claimed equals the Ohio employee payroll for that year multiplied by the percentage specified in the agreement with the tax credit authority. The credit shall be claimed in the order required under section 5725.98, 5726.98, 5729.98, 5733.98, 5747.98, or 5751.98 of the Revised Code. In determining the percentage and term of the credit, the tax credit authority shall consider both the number of full-time equivalent employees and the value of the capital investment project. The credit amount may not be based on the Ohio employee payroll for a calendar year before the calendar year in which the tax credit authority specifies the tax credit is to begin, and the credit shall be claimed only for the taxable years or tax periods specified in the eligible business' agreement with the tax credit authority. In no event shall the credit be claimed for a taxable year or tax period terminating before the date specified in the agreement.

If a credit allowed under this section for a taxable year

or tax period exceeds the taxpayer's tax liability for that year or period, the excess may be carried forward for the three succeeding taxable or calendar years, but the amount of any excess credit allowed in any taxable year or tax period shall be deducted from the balance carried forward to the succeeding year or period.

(C)(1) A taxpayer that proposes a capital investment project to retain jobs in this state may apply to the tax credit authority to enter into an agreement for a tax credit under this section. The director of development shall prescribe the form of the application. After receipt of an application, the authority shall forward copies of the application to the director of budget and management, the tax commissioner, and the superintendent of insurance in the case of an insurance company, each of whom shall review the application to determine the economic impact the proposed project would have on the state and the affected political subdivisions and shall submit a summary of their determinations to the authority. The authority shall also forward a copy of the application to the director of development, who shall review the application to determine the economic impact the proposed project would have on the state and the affected political subdivisions and shall submit a summary of the director's determinations and recommendations to the authority.

(2) The director of development, in reviewing applications and making recommendations to the tax credit authority, and the authority, in selecting taxpayers with which to enter into an agreement under division (D) of this section, shall give priority to applications that meet one or more of the following criteria, with greater priority given to applications that meet more of the criteria: (a) Within the preceding five years, the

applicant has not received a credit under this section or section 122.17 of the Revised Code for a project at the same project site as that proposed in the application.

(b) The applicant is not currently receiving a credit under this section or section 122.17 of the Revised Code.

(c) The applicant has operated at the project site for at least the preceding ten years.

(d) The project involves a significant upgrade of the project site, rather than only routine maintenance of existing facilities, such as an increase in capacity of a facility, new product development, or technology upgrades or other facility modernization.

(e) The applicant intends to use machinery, equipment, and materials supplied by Ohio businesses in the project when possible.

(D) Upon review and consideration of the determinations, recommendations, and criteria described in division (C) of this section, the tax credit authority may enter into an agreement with the taxpayer for a credit under this section if the authority determines all of the following:

(1) The taxpayer's capital investment project will result in the retention of employment in this state.

(2) The taxpayer is economically sound and has the ability to complete the proposed capital investment project.

(3) The taxpayer intends to and has the ability to maintain operations at the project site for at least the greater of (a) the term of the credit plus three years, or (b) seven years.

(4) Receiving the credit is a major factor in the taxpayer's decision to begin, continue with, or complete the project.

(E) An agreement under this section shall include all of the following:

(1) A detailed description of the project that is the subject of the agreement, including the amount of the investment, the period over which the investment has been or is being made, the number of full-time equivalent employees at the project site, and the anticipated Ohio employee payroll to be generated.

(2) The term of the credit, the percentage of the tax credit, the maximum annual value of tax credits that may be allowed each year, and the first year for which the credit may be claimed.

(3) A requirement that the taxpayer maintain operations at the project site for at least the greater of (a) the term of the credit plus three years, or (b) seven years.

(4)(a) If the taxpayer is engaged at the project site primarily in significant corporate administrative functions, a requirement that the taxpayer either retain at least five hundred full-time equivalent employees at the project site and within this state for the entire term of the credit, maintain an annual Ohio employee payroll of at least thirty-five million dollars for the entire term of the credit, or remain located in a foreign trade zone for the entire term of the credit;

(b) If the taxpayer is engaged at the project site primarily as a manufacturer, a requirement that the taxpayer maintain at least the number of full-time equivalent employees

specified in the agreement pursuant to division (E)(1) of this section at the project site and within this state for the entire term of the credit.

(5) A requirement that the taxpayer annually report to the director of development full-time equivalent employees, Ohio employee payroll, capital investment, and other information the director needs to perform the director's duties under this section.

(6) A requirement that the director of development annually review the annual reports of the taxpayer to verify the information reported under division (E)(5) of this section and compliance with the agreement. Upon verification, the director shall issue a certificate to the taxpayer stating that the information has been verified and identifying the amount of the credit for the taxable year or calendar year that includes the tax period. In determining the number of full-time equivalent employees, no position shall be counted that is filled by an employee who is included in the calculation of a tax credit under section 122.17 of the Revised Code.

(7) A provision providing that the taxpayer may not relocate a substantial number of employment positions from elsewhere in this state to the project site unless the director of development determines that the taxpayer notified the legislative authority of the county, township, or municipal corporation from which the employment positions would be relocated.

For purposes of this section, the movement of an employment position from one political subdivision to another political subdivision shall be considered a relocation of an employment position unless the movement is confined to the

project site. The transfer of an employment position from one political subdivision to another political subdivision shall not be considered a relocation of an employment position if the employment position in the first political subdivision is replaced by another employment position.

(8) A waiver by the taxpayer of any limitations periods relating to assessments or adjustments resulting from the taxpayer's failure to comply with the agreement.

(F) If a taxpayer fails to meet or comply with any condition or requirement set forth in a tax credit agreement, the tax credit authority may amend the agreement to reduce the percentage or term of the credit. The reduction of the percentage or term may take effect in the current taxable or calendar year.

(G) Financial statements and other information submitted to the department of development or the tax credit authority by an applicant for or recipient of a tax credit under this section, and any information taken for any purpose from such statements or information, are not public records subject to section 149.43 of the Revised Code. However, the chairperson of the authority may make use of the statements and other information for purposes of issuing public reports or in connection with court proceedings concerning tax credit agreements under this section. Upon the request of the tax commissioner, or the superintendent of insurance in the case of an insurance company, the chairperson of the authority shall provide to the commissioner or superintendent any statement or other information submitted by an applicant for or recipient of a tax credit in connection with the credit. The commissioner or superintendent shall preserve the confidentiality of the

statement or other information.

(H) A taxpayer claiming a tax credit under this section shall submit to the tax commissioner or, in the case of an insurance company, to the superintendent of insurance, a copy of the director of development's certificate of verification under division (E)(6) of this section with the taxpayer's tax report or return for the taxable year or for the calendar year that includes the tax period. Failure to submit a copy of the certificate with the report or return does not invalidate a claim for a credit if the taxpayer submits a copy of the certificate to the commissioner or superintendent within the time prescribed by section 5703.0510 of the Revised Code or within thirty days after the commissioner or superintendent requests it.

(I) For the purposes of this section, a taxpayer may include a partnership, a corporation that has made an election under subchapter S of chapter one of subtitle A of the Internal Revenue Code, or any other business entity through which income flows as a distributive share to its owners. A partnership, S-corporation, or other such business entity may elect to pass the credit received under this section through to the persons to whom the income or profit of the partnership, S-corporation, or other entity is distributed. The election shall be made on the annual report required under division (E)(5) of this section. The election applies to and is irrevocable for the credit for which the report is submitted. If the election is made, the credit shall be apportioned among those persons in the same proportions as those in which the income or profit is distributed.

(J)(1) If the director of development determines that a

taxpayer that received a certificate under division (E)(6) of this section is not complying with the requirements of the agreement, the director shall notify the tax credit authority of the noncompliance. After receiving such a notice, and after giving the taxpayer an opportunity to explain the noncompliance, the authority may terminate the agreement and require the taxpayer, or any related member or members that claimed the tax credit under division (N) of this section, to refund to the state all or a portion of the credit claimed in previous years, as follows:

(a) If the taxpayer fails to comply with the requirement under division (E)(3) of this section, an amount determined in accordance with the following:

(i) If the taxpayer maintained operations at the project site for less than or equal to the term of the credit, an amount not to exceed one hundred per cent of the sum of any tax credits allowed and received under this section.

(ii) If the taxpayer maintained operations at the project site longer than the term of the credit, but less than the greater of seven years or the term of the credit plus three years, the amount required to be refunded shall not exceed seventy-five per cent of the sum of any tax credits allowed and received under this section.

(b) If the taxpayer fails to substantially, satisfy the employment, payroll, or location requirements required under the agreement, as prescribed under division (E)(4)(a) or (b), as applicable to the taxpayer, at any time during the term of the agreement or during the post-term reporting period, an amount determined at the discretion of the authority.

(2) If a taxpayer files for bankruptcy and fails as described in division (J)(1)(a) or (b) of this section, the director may immediately commence an action to recoup an amount not exceeding one hundred per cent of the sum of any credits received by the taxpayer under this section.

(3) In determining the portion of the credit to be refunded to this state, the authority shall consider the effect of market conditions on the taxpayer's project and whether the taxpayer continues to maintain other operations in this state. After making the determination, the authority shall certify the amount to be refunded to the tax commissioner or the superintendent of insurance. If the taxpayer, or any related member or members who claimed the tax credit under division (N) of this section, is not an insurance company, the commissioner shall make an assessment for that amount against the taxpayer under Chapter 5726., 5733., 5736., 5747., or 5751. of the Revised Code. If the taxpayer, or any related member or members that claimed the tax credit under division (N) of this section, is an insurance company, the superintendent of insurance shall make an assessment under section 5725.222 or 5729.102 of the Revised Code. The time limitations on assessments under those chapters and sections do not apply to an assessment under this division, but the commissioner or superintendent shall make the assessment within one year after the date the authority certifies to the commissioner or superintendent the amount to be refunded. Within ninety days after certifying the amount to be refunded, if circumstances have changed, the authority may adjust the amount to be refunded and certify the adjusted amount to the commissioner or superintendent. The authority may only adjust the amount to be refunded one time and only if the amount initially certified by the authority has not been repaid, in

whole or in part, by the taxpayer or certified to the attorney general for collection under section 131.02 of the Revised Code.

(K) The director of development, after consultation with the tax commissioner and the superintendent of insurance and in accordance with Chapter 119. of the Revised Code, shall adopt ~~rules necessary to implement this section. The~~ rules ~~may provide~~ providing for recipients of tax credits under this section to be charged fees to cover administrative costs of the tax credit program. The fees collected shall be credited to the tax incentives operating fund created in section 122.174 of the Revised Code. At the time the director gives public notice under division (A) of section 119.03 of the Revised Code of the adoption of the rules, the director shall submit copies of the proposed rules to the chairpersons of the standing committees on economic development in the senate and the house of representatives.

(L) On or before the first day of August of each year, the director of development shall submit a report to the governor, the president of the senate, and the speaker of the house of representatives on the tax credit program under this section. The report shall include information on the number of agreements that were entered into under this section during the preceding calendar year, a description of the project that is the subject of each such agreement, and an update on the status of projects under agreements entered into before the preceding calendar year.

(M) The aggregate amount of nonrefundable tax credits issued under this section during any calendar year for capital investment projects reviewed and approved by the tax credit authority may not exceed the following amounts:

(1) For 2010, thirteen million dollars;

(2) For 2011 through 2023, the amount of the limit for the preceding calendar year plus thirteen million dollars;

(3) For 2024 and each year thereafter, one hundred ninety-five million dollars.

The limitations in division (M) of this section do not apply to credits for capital investment projects approved by the tax credit authority before July 1, 2009.

(N) This division applies only to an eligible business that is part of an affiliated group that includes a diversified savings and loan holding company or a grandfathered unitary savings and loan holding company, as those terms are defined in section 5726.01 of the Revised Code. Notwithstanding any contrary provision of the agreement between such an eligible business and the tax credit authority, any credit granted under this section against the tax imposed by section 5725.18, 5729.03, 5733.06, 5747.02, or 5751.02 of the Revised Code to the eligible business, at the election of the eligible business and without any action by the tax credit authority, may be shared with any member or members of the affiliated group that includes the eligible business, which member or members may claim the credit against the taxes imposed by section 5725.18, 5726.02, 5729.03, 5733.06, 5747.02, or 5751.02 of the Revised Code. Credits shall be claimed by the eligible business in sequential order, as applicable, first claiming the credits to the fullest extent possible against the tax that the certificate holder is subject to, then against the tax imposed by, sequentially, section 5729.03, 5725.18, 5747.02, 5751.02, and lastly 5726.02 of the Revised Code. The credits may be allocated among the members of the affiliated group in such manner as the eligible

business elects, but subject to the sequential order required under this division. This division applies to credits granted before, on, or after March 27, 2013, the effective date of H.B. 510 of the 129th general assembly. Credits granted before that effective date that are shared and allocated under this division may be claimed in those calendar years in which the remaining taxable years specified in the agreement end.

As used in this division, "affiliated group" means a group of two or more persons with fifty per cent or greater of the value of each person's ownership interests owned or controlled directly, indirectly, or constructively through related interests by common owners during all or any portion of the taxable year, and the common owners. "Affiliated group" includes, but is not limited to, any person eligible to be included in a consolidated elected taxpayer group under section 5751.011 of the Revised Code or a combined taxpayer group under section 5751.012 of the Revised Code.

(O)(1) As used in division (O) of this section:

(a) "Eligible agreement" means an agreement approved by the tax credit authority under this section on or before December 31, 2013.

(b) "Reporting period" means a period corresponding to the annual report required under division (E)(5) of this section.

(c) "Income tax revenue" has the same meaning as under division (S) of section 122.17 of the Revised Code.

(2) In calendar year 2016 and thereafter, the tax credit authority shall annually determine a withholding adjustment factor to be used in the computation of income tax revenue for eligible agreements. The withholding adjustment factor shall be

a numerical percentage that equals the percentage that employer income tax withholding rates have been increased or decreased as a result of changes in the income tax rates prescribed by section 5747.02 of the Revised Code by amendment of that section taking effect on or after June 29, 2013.

(3) Except as provided in division (O)(4) of this section, for reporting periods ending in 2015 and thereafter for taxpayers subject to eligible agreements, the tax credit authority shall adjust the income tax revenue reported on the taxpayer's annual report by multiplying the withholding adjustment factor by the taxpayer's income tax revenue and doing one of the following:

(a) If the income tax rates prescribed by section 5747.02 of the Revised Code have decreased by amendment of this section taking effect on or after June 29, 2013, add the product to the taxpayer's income tax revenue.

(b) If the income tax rates prescribed by section 5747.02 of the Revised Code have increased by amendment of this section taking effect on or after June 29, 2013, subtract the product from the taxpayer's income tax revenue.

(4) Division (O)(3) of this section shall not apply unless all of the following apply with respect to the eligible agreement:

(a) If applicable, the taxpayer has achieved one hundred per cent of the job retention commitment identified in the agreement.

(b) If applicable, the taxpayer has achieved one hundred per cent of the payroll retention commitment identified in the agreement."

(c) If applicable, the taxpayer has achieved one hundred per cent of the investment commitment identified in the agreement.

(5) Failure by a taxpayer to have achieved any of the applicable commitments described in divisions (O)(4)(a) to (c) of this section in a reporting period does not disqualify the taxpayer for the adjustment under division (O) of this section for an ensuing reporting period.

Sec. 122.175. (A) As used in this section:

(1) "Capital investment project" means a plan of investment at a project site for the acquisition, construction, renovation, expansion, replacement, or repair of a computer data center or of computer data center equipment, but does not include any of the following:

(a) Project costs paid before a date determined by the tax credit authority for each capital investment project;

(b) Payments made to a related member as defined in section 5733.042 of the Revised Code or to a consolidated elected taxpayer or a combined taxpayer as defined in section 5751.01 of the Revised Code.

(2) "Computer data center" means a facility used or to be used primarily to house computer data center equipment used or to be used in conducting one or more computer data center businesses, as determined by the tax credit authority.

(3) "Computer data center business" means, as may be further determined by the tax credit authority, a business that provides electronic information services as defined in division (Y)(1)(c) of section 5739.01 of the Revised Code, or that leases a facility to one or more such businesses. "Computer data center

business" does not include providing electronic publishing as defined in that section.

(4) "Computer data center equipment" means tangible personal property used or to be used for any of the following:

(a) To conduct a computer data center business, including equipment cooling systems to manage the performance of computer data center equipment;

(b) To generate, transform, transmit, distribute, or manage electricity necessary to operate the tangible personal property used or to be used in conducting a computer data center business;

(c) As building and construction materials sold to construction contractors for incorporation into a computer data center.

(5) "Eligible computer data center" means a computer data center that satisfies all of the following requirements:

(a) One or more taxpayers operating a computer data center business at the project site will, in the aggregate, make payments for a capital investment project of at least one hundred million dollars at the project site during one of the following cumulative periods:

(i) For projects beginning in 2013, six consecutive calendar years;

(ii) For projects beginning in 2014, four consecutive calendar years;

(iii) For projects beginning in or after 2015, three consecutive calendar years.

(b) One or more taxpayers operating a computer data center business at the project site will, in the aggregate, pay annual compensation that is subject to the withholding obligation imposed under section 5747.06 of the Revised Code of at least one million five hundred thousand dollars to employees employed at the project site for each year of the agreement beginning on or after the first day of the twenty-fifth month after the agreement was entered into under this section.

(6) "Person" has the same meaning as in section 5701.01 of the Revised Code.

(7) "Project site," "related member," and "tax credit authority" have the same meanings as in sections 122.17 and 122.171 of the Revised Code.

(8) "Taxpayer" means any person subject to the taxes imposed under Chapters 5739. and 5741. of the Revised Code.

(B) The tax credit authority may completely or partially exempt from the taxes levied under Chapters 5739. and 5741. of the Revised Code the sale, storage, use, or other consumption of computer data center equipment used or to be used at an eligible computer data center. Any such exemption shall extend to charges for the delivery, installation, or repair of the computer data center equipment subject to the exemption under this section.

(C) A taxpayer that proposes a capital improvement project for an eligible computer data center in this state may apply to the tax credit authority to enter into an agreement under this section authorizing a complete or partial exemption from the taxes imposed under Chapters 5739. and 5741. of the Revised Code on computer data center equipment purchased by the applicant or any other taxpayer that operates a computer data center business

at the project site and used or to be used at the eligible computer data center. The director of development shall prescribe the form of the application. After receipt of an application, the authority shall forward copies of the application to the tax commissioner, who shall review the application to determine the economic impact that the proposed eligible computer data center would have on the state and any affected political subdivisions and submit to the authority a summary of their determinations. The authority shall also forward a copy of the application to the director of development who shall review the application to determine the economic impact that the proposed eligible computer data center would have on the state and the affected political subdivisions and shall submit a summary of their determinations and recommendations to the authority.

(D) Upon review and consideration of such determinations and recommendations, the tax credit authority may enter into an agreement with the applicant and any other taxpayer that operates a computer data center business at the project site for a complete or partial exemption from the taxes imposed under Chapters 5739. and 5741. of the Revised Code on computer data center equipment used or to be used at an eligible computer data center if the authority determines all of the following:

(1) The capital investment project for the eligible computer data center will increase payroll and the amount of income taxes to be withheld from employee compensation pursuant to section 5747.06 of the Revised Code.

(2) The applicant is economically sound and has the ability to complete or effect the completion of the proposed capital investment project.

(3) The applicant intends to and has the ability to maintain operations at the project site for the term of the agreement.

(4) Receiving the exemption is a major factor in the applicant's decision to begin, continue with, or complete the capital investment project.

(E) An agreement entered into under this section shall include all of the following:

(1) A detailed description of the capital investment project that is the subject of the agreement, including the amount of the investment, the period over which the investment has been or is being made, the annual compensation to be paid by each taxpayer subject to the agreement to its employees at the project site, and the anticipated amount of income taxes to be withheld from employee compensation pursuant to section 5747.06 of the Revised Code.

(2) The percentage of the exemption from the taxes imposed under Chapters 5739. and 5741. of the Revised Code for the computer data center equipment used or to be used at the eligible computer data center, the length of time the computer data center equipment will be exempted, and the first date on which the exemption applies.

(3) A requirement that the computer data center remain an eligible computer data center during the term of the agreement and that the applicant maintain operations at the eligible computer data center during that term. An applicant does not violate the requirement described in division (E)(3) of this section if the applicant ceases operations at the eligible computer data center during the term of the agreement but

resumes those operations within eighteen months after the date of cessation. The agreement shall provide that, in such a case, the applicant and any other taxpayer that operates a computer data center business at the project site shall not claim the tax exemption authorized in the agreement for any purchase of computer data center equipment made during the period in which the applicant did not maintain operations at the eligible computer data center.

(4) A requirement that, for each year of the term of the agreement beginning on or after the first day of the twenty-fifth month after the date the agreement was entered into, one or more taxpayers operating a computer data center business at the project site will, in the aggregate, pay annual compensation that is subject to the withholding obligation imposed under section 5747.06 of the Revised Code of at least one million five hundred thousand dollars to employees at the eligible computer data center.

(5) A requirement that each taxpayer subject to the agreement annually report to the director of development employment, tax withholding, capital investment, and other information required by the director to perform the director's duties under this section.

(6) A requirement that the director of development annually review the annual reports of each taxpayer subject to the agreement to verify the information reported under division (E)(5) of this section and compliance with the agreement. Upon verification, the director shall issue a certificate to each such taxpayer stating that the information has been verified and that the taxpayer remains eligible for the exemption specified in the agreement.

(7) A provision providing that the taxpayers subject to the agreement may not relocate a substantial number of employment positions from elsewhere in this state to the project site unless the director of development determines that the appropriate taxpayer notified the legislative authority of the county, township, or municipal corporation from which the employment positions would be relocated. For purposes of this paragraph, the movement of an employment position from one political subdivision to another political subdivision shall be considered a relocation of an employment position unless the movement is confined to the project site. The transfer of an employment position from one political subdivision to another political subdivision shall not be considered a relocation of an employment position if the employment position in the first political subdivision is replaced by another employment position.

(8) A waiver by each taxpayer subject to the agreement of any limitations periods relating to assessments or adjustments resulting from the taxpayer's failure to comply with the agreement.

(F) The term of an agreement under this section shall be determined by the tax credit authority, and the amount of the exemption shall not exceed one hundred per cent of such taxes that would otherwise be owed in respect to the exempted computer data center equipment.

(G) If any taxpayer subject to an agreement under this section fails to meet or comply with any condition or requirement set forth in the agreement, the tax credit authority may amend the agreement to reduce the percentage of the exemption or term during which the exemption applies to the

computer data center equipment used or to be used by the noncompliant taxpayer at an eligible computer data center. The reduction of the percentage or term may take effect in the current calendar year.

(H) Financial statements and other information submitted to the department of development or the tax credit authority by an applicant for or recipient of an exemption under this section, and any information taken for any purpose from such statements or information, are not public records subject to section 149.43 of the Revised Code. However, the chairperson of the authority may make use of the statements and other information for purposes of issuing public reports or in connection with court proceedings concerning tax exemption agreements under this section. Upon the request of the tax commissioner, the chairperson of the authority shall provide to the tax commissioner any statement or other information submitted by an applicant for or recipient of an exemption under this section. The tax commissioner shall preserve the confidentiality of the statement or other information.

(I) The tax commissioner shall issue a direct payment permit under section 5739.031 of the Revised Code to each taxpayer subject to an agreement under this section. Such direct payment permit shall authorize the taxpayer to pay any sales and use taxes due on purchases of computer data center equipment used or to be used in an eligible computer data center and to pay any sales and use taxes due on purchases of tangible personal property or taxable services other than computer data center equipment used or to be used in an eligible computer data center directly to the tax commissioner. Each such taxpayer shall pay pursuant to such direct payment permit all sales tax levied on such purchases under sections 5739.02, 5739.021,

5739.023, and 5739.026 of the Revised Code and all use tax levied on such purchases under sections 5741.02, 5741.021, 5741.022, and 5741.023 of the Revised Code, consistent with the terms of the agreement entered into under this section.

During the term of an agreement under this section each taxpayer subject to the agreement shall submit to the tax commissioner a return that shows the amount of computer data center equipment purchased for use at the eligible computer data center, the amount of tangible personal property and taxable services other than computer data center equipment purchased for use at the eligible computer data center, the amount of tax under Chapter 5739. or 5741. of the Revised Code that would be due in the absence of the agreement under this section, the exemption percentage for computer data center equipment specified in the agreement, and the amount of tax due under Chapter 5739. or 5741. of the Revised Code as a result of the agreement under this section. Each such taxpayer shall pay the tax shown on the return to be due in the manner and at the times as may be further prescribed by the tax commissioner. Each such taxpayer shall include a copy of the director of development's certificate of verification issued under division (E)(6) of this section. Failure to submit a copy of the certificate with the return does not invalidate the claim for exemption if the taxpayer submits a copy of the certificate to the tax commissioner within the time prescribed by section 5703.0510 of the Revised Code.

(J) If the director of development determines that one or more taxpayers received an exemption from taxes due on the purchase of computer data center equipment purchased for use at a computer data center that no longer complies with the requirement under division (E)(3) of this section, the director

shall notify the tax credit authority and, if applicable, the taxpayer that applied to enter the agreement for the exemption under division (C) of this section of the noncompliance. After receiving such a notice, and after giving each taxpayer subject to the agreement an opportunity to explain the noncompliance, the authority may terminate the agreement and require each such taxpayer to pay to the state all or a portion of the taxes that would have been owed in regards to the exempt equipment in previous years~~, all as determined under rules adopted pursuant to division (K) of this section~~. In determining the portion of the taxes that would have been owed on the previously exempted equipment to be paid to this state by a taxpayer, the authority shall consider the effect of market conditions on the eligible computer data center, whether the taxpayer continues to maintain other operations in this state, and, with respect to agreements involving multiple taxpayers, the taxpayer's level of responsibility for the noncompliance. After making the determination, the authority shall certify to the tax commissioner the amount to be paid by each taxpayer subject to the agreement. The tax commissioner shall make an assessment for that amount against each such taxpayer under Chapter 5739. or 5741. of the Revised Code. The time limitations on assessments under those chapters do not apply to an assessment under this division, but the tax commissioner shall make the assessment within one year after the date the authority certifies to the tax commissioner the amount to be paid by the taxpayer.

(K) The director of development, after consultation with the tax commissioner and in accordance with Chapter 119. of the Revised Code, shall adopt rules ~~necessary to implement this section. The rules may provide~~ providing for recipients of tax exemptions under this section to be charged fees to cover

administrative costs incurred in the administration of this section. The fees collected shall be credited to the tax incentives operating fund created in section 122.174 of the Revised Code. At the time the director gives public notice under division (A) of section 119.03 of the Revised Code of the adoption of the rules, the director shall submit copies of the proposed rules to the chairpersons of the standing committees on economic development in the senate and the house of representatives.

(L) On or before the first day of August of each year, the director of development shall submit a report to the governor, the president of the senate, and the speaker of the house of representatives on the tax exemption authorized under this section. The report shall include information on the number of agreements that were entered into under this section during the preceding calendar year, a description of the eligible computer data center that is the subject of each such agreement, and an update on the status of eligible computer data centers under agreements entered into before the preceding calendar year.

(M) A taxpayer may be made a party to an existing agreement entered into under this section by the tax credit authority and another taxpayer or group of taxpayers. In such a case, the taxpayer shall be entitled to all benefits and bound by all obligations contained in the agreement and all requirements described in this section. When an agreement includes multiple taxpayers, each taxpayer shall be entitled to a direct payment permit as authorized in division (I) of this section.

Sec. 122.177. (A) As used in this section:

(1) "Business" means a sole proprietorship, a corporation

for profit, or a pass-through entity as defined in section 5733.04 of the Revised Code.

(2) "Career exploration internship" means a paid employment relationship between a student intern and a business in which the student intern acquires education, instruction, and experience relevant to the student intern's career aspirations.

(3) "Student intern" means an individual who, at the time the business applies for a grant under division (B) of this section, meets both of the following criteria:

(a) The individual is entitled to attend school in this state.

(b) The individual is either between sixteen and eighteen years of age or is enrolled in grade eleven or twelve.

(B) There is hereby created in the development services agency the career exploration internship program to award grants to businesses that employ a student intern in a career exploration internship. To qualify for a grant under the program, the career exploration internship shall be at least twenty weeks in duration and include at least two hundred hours of paid work and instruction in this state. To obtain a grant, the business shall apply to the development services agency before the starting date of the career exploration internship. The application shall include all of the following:

(1) A brief description of the career exploration internship;

(2) A signed statement by the student intern briefly describing the student intern's career aspirations and how the student intern believes this career exploration internship may help achieve those aspirations;

(3) A signed statement by a principal or guidance counselor at the student intern's school or, in the case of a home schooled student, an individual responsible for administering instruction to the student intern, acknowledging that the employment opportunity qualifies as a career exploration internship and expressing intent to advise the student intern as provided in division (E) of this section;

(4) The name, address, and telephone number of the business;

(5) Any other information required by the development services agency.

(C)(1) The development services agency shall review and make a determination with respect to each application submitted under division (B) of this section in the order in which the application is received. The agency shall not approve any application under this section that is received by the agency later than June 25, 2017, or that was submitted by a business that does not have substantial operations in this state. The agency may not otherwise deny an application unless the application is incomplete, the proposed employment relationship does not qualify as a career exploration internship for which a grant may be awarded under this section, the business is ineligible to receive a grant under division (D)(1) of this section, or the agency determines that approving the application would cause the amount that could be awarded to exceed the amount of money in the career exploration internship fund.

(2) The agency shall send written notice of its determination to the applicant within thirty days after receiving the application. If the agency determines that the application shall not be approved, the notice shall include the

reasons for such determination.

(3) The agency's determination is final and may not be appealed for any reason. A business may submit a new or amended application under division (B) of this section at any time before or after receiving notice under division (C)(2) of this section.

(D)(1) In any calendar year, the development services agency shall not award grants under this section to any business that has received grants for three career exploration internships in that calendar year. The agency shall not award a grant to a business unless the agency receives a report from the business within thirty days after the end of the career exploration internship or thirteen months after the approval of the application, whichever comes first, that includes all of the following:

(a) The date the student intern began the internship;

(b) The date the internship ended or a statement that the student will continue to be employed by the business;

(c) The total number of hours during the internship that the student intern was employed by the business;

(d) The total wages paid by the business to the student intern during the internship;

(e) A signed statement by the student intern briefly describing the duties performed during the internship and the skills and experiences gained throughout the internship;

(f) Any other information required by the agency.

(2) If the agency receives the report and determines that it contains all of the information and the statement required by

division (D)(1) of this section and that the career exploration internship described in the report complies with all the provisions of this section, the agency shall award a grant to the business. The amount of the grant shall equal the lesser of the following:

(a) Fifty per cent of the wages paid by the business to the student intern for the first twelve months following the date the application was approved;

(b) Five thousand dollars.

(E) The student intern and the principal, guidance counselor, or other qualified individual who signed the statement described in division (B)(3) of this section shall meet at least once in the thirty days following the end of the career exploration internship or in the thirteenth month following the start of the career exploration internship, whichever comes first. The purpose of the meeting is to discuss the student intern's experiences during the career exploration internship, consider the practical applications of these experiences to the student intern's career aspirations, and to establish or confirm goals for the student intern. If practicable, the meeting shall be in person. Otherwise, the meeting may be conducted over the telephone.

(F) A business that receives a grant under this section may submit a new application under division (B) of this section for another career exploration internship with the same student intern. Such an application does not have to include the statements otherwise required by divisions (B)(2) and (3) of this section.

(G) Annually, on the first day of August until August

2017, the development services agency shall compile a report indicating the number of career exploration internships approved by the agency under this section, the statements issued by the student interns under divisions (B)(2) and (D)(1)(e) of this section, the number of student interns that continued employment with the business after the termination of the career exploration internship, and the total amount of grants awarded under this section. The report shall not disclose any student interns' personally identifiable information. The agency shall provide copies of the report to the governor, the speaker and minority leader of the house of representatives, and the president and minority leader of the senate.

(H) ~~The development services agency may adopt rules necessary to administer this section in accordance with Chapter 119. of the Revised Code.~~

~~(I)~~ The career exploration internship fund is hereby created in the state treasury. The fund shall consist of a portion of the proceeds from the upfront license fees paid for the casino facilities authorized under Section 6(C) of Article XV, Ohio Constitution. Money in the fund shall be used by the development services agency to provide grants under this section.

Sec. 122.179. (A) As used in this section:

"Charitable organization" has the same meaning as in section 1716.01 of the Revised Code.

"Independent college or university" means a nonprofit institution of higher education that has a certificate of authorization under Chapter 1713. of the Revised Code.

"Industry sector partnership" means a workforce

collaborative that organizes key leaders and stakeholders of an industry cluster into a working group that focuses on achieving a shared goal of meeting the industry cluster's human resources needs.

"Ohio technical center" has the same meaning as in section 3333.94 of the Revised Code.

"Sector partnership network" means a regional or statewide workforce collaborative that organizes multiple industry sector partnerships into a working group that focuses on achieving a shared goal of meeting the human resources needs of a region or statewide.

"State board" and "local board" have the same meanings as in section 6301.01 of the Revised Code.

"State institution of higher education" has the same meaning as in section 3345.011 of the Revised Code.

(B) A collaboration of multiple employers of an industry cluster may organize and lead an industry sector partnership by convening or acting in partnership with representatives of businesses, employers, or other institutions of an industry cluster, including small- and medium-sized employers where practicable, and a collaboration of multiple industry sector partnerships may convene or act in partnership together as a sector partnership network. An industry sector partnership may include representatives of one or more of the following:

(1) A school district;

(2) A state institution of higher education;

(3) An Ohio technical center;

(4) An independent college or university;

(5) The state or a local government;

(6) A state or local economic or workforce development agency;

(7) A state board or local board;

(8) The department of job and family services;

(9) A business, trade, or industry association;

(10) A charitable organization;

(11) An economic development organization;

(12) A nonprofit or community-based organization or intermediary;

(13) The Ohio state university extension division established under section 3335.16 of the Revised Code or the central state university extension program;

(14) Any other organization that the industry sector partnership considers necessary to further the shared goal of meeting the industry cluster's human resources needs.

(C) The director of development services, in consultation with the governor's office of workforce transformation, shall develop a grant program to support industry sector partnerships and sector partnership networks. An industry sector partnership or sector partnership network may use a grant awarded under this section to do any of the following:

(1) Hire employees to coordinate industry sector partnership or sector partnership network activities;

(2) Develop curricula or other educational resources to support the industry sector partnership or sector partnership network;

(3) Market the industry sector partnership or sector partnership network and opportunities the industry sector partnership or sector partnership network creates for workforce development activities~~;~~

~~(4) Any other activity the director has approved in rules adopted under division (E) of this section~~.

(D) The director shall do both of the following:

(1) Establish a system for evaluating and scoring grant applications, which prioritizes collaborative community-based solutions, including sector partnership networks;

(2) Award a grant to an industry sector partnership or a sector partnership network that submits a complete application for funding describing the activities in division (C) of this section the partnership or network will use the funds to support and meets the scoring criteria established under division (D)(1) of this section.

~~(E) The director may adopt rules in accordance with Chapter 119. of the Revised Code as the director considers necessary to administer the grant program.~~

Sec. 122.1710. (A) As used in this section:

(1) "Low-income individual" has the same meaning as "low-income person" in section 5101.311 of the Revised Code.

(2) "Microcredential" has the same meaning as in section 122.178 of the Revised Code.

(3) "OhioMeansJobs web site" has the same meaning as in section 6301.01 of the Revised Code.

(4) "Partially unemployed" and "totally unemployed" have

the same meanings as in section 4141.01 of the Revised Code.

(5) "Training provider" means all of the following:

(a) A state institution of higher education as defined in section 3345.011 of the Revised Code;

(b) An Ohio technical center as defined in section 3333.94 of the Revised Code;

(c) A private business or institution that offers training to allow an individual to earn one or more microcredentials.

(6) "Fiscal year" means the fiscal year of this state as specified in section 9.34 of the Revised Code.

(B) There is hereby created the individual microcredential assistance program to reimburse training providers for training costs for individuals to earn a microcredential. The department of development, in consultation with the governor's office of workforce transformation, shall administer the program. The director shall administer the program so that the total reimbursement to each training provider approved to participate in the program occurs at least once per fiscal year.

(C) A training provider seeking to participate in the program shall submit an application to the director of development at the beginning or before the beginning of a fiscal year, but not later than the date established by the director. The training provider shall include in the application all of the following information:

(1) The number of microcredentials the training provider will seek a reimbursement for and the names of the microcredentials;

(2) The cost of the training for each microcredential;

(3) The total amount of the reimbursement the training provider will seek;

(4) The training provider's plan to provide opportunities for individuals who are low income, partially unemployed, or totally unemployed to participate in a training program and receive a microcredential;

(5) Any other information the director requires.

(D)(1) The director shall consider the following factors in determining whether to approve an application submitted under division (C) of this section:

(a) The duration of the training program;

(b) The cost of the training;

(c) Whether approving an application will promote regional diversity in apportioning reimbursements uniformly across the state;

(d) The training provider's commitment to providing opportunities for individuals who are low income, partially unemployed, or totally unemployed to participate in a training program and receive a microcredential.

(2) In determining regional diversity under division (D)(1)(c) of this section, the director shall use the regions established under division (G) of section 122.178 of the Revised Code.

(3) The director shall not approve an application submitted under this section if either of the following apply:

(a) The microcredentials identified in the application are not included in the list the chancellor of higher education

establishes under section 122.178 of the Revised Code.

(b) The training provider has violated Chapter 4111. of the Revised Code within the four fiscal years immediately preceding the date of application.

(4) The director shall notify a training provider in writing of the director's decision to approve or deny the training provider's application to participate in the program.

(E) A participating training provider shall not charge an individual participating in a training program to earn a microcredential for which the training provider is seeking a reimbursement for either of the following:

(1) Any costs associated with the individual's participation in the training program;

(2) Any costs to the training provider resulting from an individual not completing the training program.

(F)(1) Each participating training provider seeking reimbursement for training costs for one or more microcredentials earned by one or more individuals in a training program shall submit an application to the director after the individual or individuals have earned a microcredential. The training provider shall submit the reimbursement application during the fiscal year in which the training provider applied under division (C) of this section, but not later than the date established by the director. The training provider shall include in the reimbursement application all of the following information:

(a) The actual cost for the training provider to provide each individual with the training;

(b) Evidence that each individual earned a microcredential;

(c) Any demographic information of each individual that the individual provides to the training provider, including race and gender.

(2) The amount of the reimbursement shall be not more than three thousand dollars for each microcredential an individual receives. A participating training provider may not receive a reimbursement for any additional individual who earns a microcredential beyond the number of microcredentials included in the application under division (C) of this section. A participating training provider may receive a total reimbursement of five hundred thousand dollars in a fiscal year. However, each participating training provider that is a state institution of higher education may receive a total reimbursement or advance payment amount under section 122.1713 of the Revised Code of one million dollars in a fiscal year.

(3) A training provider may request that an individual participating in the training provider's program provide demographic information to the training provider, including race and gender. An individual is not required to provide that information.

(G) The director shall do all of the following regarding the operation of the program:

(1) Create an application to participate in the program and an application for reimbursement;

(2) Create applications to participate in and seek advance payments under the platinum provider programs established under sections 122.1712 and 122.1713 of the Revised Code;

(3) Create and distribute a survey to each individual who successfully earned a microcredential because of a reimbursement to a training provider under this section inquiring as to the individual's occupation and wages at the time of completing the survey.

(H) The director shall include on the internet web site maintained by the department, and the governor's office of workforce transformation shall include on the office's internet web site and the OhioMeansJobs web site, all of the content created under division (G) of this section.

(I) The director may adopt rules in accordance with Chapter 119. of the Revised Code ~~as the director considers necessary to implement this section and sections 122.1712 and 122.1713 of the Revised Code, including~~ establishing priority guidelines for approving applications under division (D) of this section.

(J) Any personal information of an individual the director receives in connection with the individual microcredential assistance program created under this section is not a public record for purposes of section 149.43 of the Revised Code. However, the director may use the information as necessary to complete the reports required under section 122.1711 of the Revised Code.

Sec. 122.18. (A) As used in this section:

(1) "Facility" means all real property and interests in real property owned by either of the following:

(a) A landlord and leased to a tenant pursuant to a project that is the subject of an agreement under this section;

(b) The United States or any department, agency, or

instrumentality of the United States.

(2) "Full-time employee" has the same meaning as under section 122.17 of the Revised Code.

(3) "Landlord" means a county or municipal corporation, or a corporate entity that is an instrumentality of a county or municipal corporation and that is not subject to the tax imposed by section 5733.06 or 5747.02 of the Revised Code.

(4) "New employee" means a full-time employee first employed by, or under or pursuant to a contract with, the tenant in the project that is the subject of the agreement after a landlord enters into an agreement with the tax credit authority under this section.

(5) "New income tax revenue" means the total amount withheld under section 5747.06 of the Revised Code by the tenant or tenants at a facility during a year from the compensation of new employees for the tax levied under Chapter 5747. of the Revised Code.

(6) "Retained income tax revenue" means the total amount withheld under section 5747.06 of the Revised Code from employees retained at an existing facility recommended for closure to the base realignment and closure commission in the United States department of defense.

(7) "Tenant" means the United States, any department, agency, or instrumentality of the United States, or any person under contract with the United States or any department, agency, or instrumentality of the United States.

(B) The tax credit authority may enter into an agreement with a landlord under which an annual payment equal to the new income tax revenue or retained income tax revenue, as

applicable, or the amount called for under division (D)(3) or (4) of this section shall be made to the landlord from moneys of this state that were not raised by taxation, and shall be credited by the landlord to the rental owing from the tenant to the landlord for a facility.

(C) A landlord that proposes a project to create new jobs in this state or retain jobs in this state at an existing facility recommended for closure or realignment to the base realignment and closure commission in the United States department of defense may apply to the tax credit authority to enter into an agreement for annual payments under this section. The director of development shall prescribe the form of the application. After receipt of an application, the authority may enter into an agreement with the landlord for annual payments under this section if it determines all of the following:

(1) The project will create new jobs in this state or retain jobs at a facility recommended for closure or realignment to the base realignment and closure commission in the United States department of defense.

(2) The project is economically sound and will benefit the people of this state by increasing opportunities for employment and strengthening the economy of this state.

(3) Receiving the annual payments will be a major factor in the decision of the landlord and tenant to go forward with the project.

(D) An agreement with a landlord for annual payments shall include all of the following:

(1) A description of the project that is the subject of the agreement;

(2) The term of the agreement, which shall not exceed twenty years;

(3) Based on the estimated new income tax revenue or retained income tax revenue, as applicable, to be derived from the facility at the time the agreement is entered into, provision for a guaranteed payment to the landlord commencing with the issuance by the landlord of any bonds or other forms of financing for the construction of the facility and continuing for the term approved by the authority;

(4) Provision for offsets to this state of the annual payment in years in which such annual payment is greater than the guaranteed payment of amounts previously paid by this state to the landlord in excess of the new income tax revenue or retained income tax revenue, as applicable, by reason of the guaranteed payment;

(5) A specific method for determining how many new employees are employed during a year;

(6) A requirement that the landlord annually shall obtain from the tenant and report to the director of development the number of new employees and the new income tax revenue withheld in connection with the new employees, or the number of retained employees and the retained income tax revenue withheld in connection with the retained employees, as applicable, and any other information the director needs to perform the director's duties under this section;

(7) A requirement that the director of development annually shall verify the amounts reported under division (D)(6) of this section, and after doing so shall issue a certificate to the landlord stating that the amounts have been verified.

~~(E) The director of development, in accordance with Chapter 119. of the Revised Code, shall adopt rules necessary to implement this section.~~

Sec. 122.25. (A) In administering the program established under section 122.24 of the Revised Code, the director of development shall do all of the following:

(1) Designate, within three months after the publication of each decennial census by the United States census bureau, the entities that constitute the eligible areas in this state as defined in section 122.23 of the Revised Code;

(2) Inform local governments and others in the state of the availability of the program and financial assistance established under sections 122.23 to 122.27 of the Revised Code;

(3) Report to the governor, president of the senate, speaker of the house of representatives, and minority leaders of the senate and the house of representatives by the first day of August of each year on the activities carried out under the program during the preceding calendar year. The report shall include the number of loans made that year and the amount and recipient of each loan.

(4) Work in conjunction with conventional lending institutions, local revolving loan funds, private investors, and other private and public financing sources to provide loans or loan guarantees to eligible applicants;

(5) Establish fees, charges, interest rates, payment schedules, local match requirements, and other terms and conditions for loans and loan guarantees provided under the program;

(6) Require each applicant to demonstrate the suitability

of any site for the assistance sought; that the site has been surveyed, that the site has adequate or available utilities, and that there are no zoning restrictions, environmental regulations, or other matters impairing the use of the site for the purpose intended;

(7) Require each applicant to provide a marketing plan and management strategy for the project;

(8) Adopt rules establishing all of the following:

(a) Forms and procedures by which eligible applicants may apply for assistance;

(b) Criteria for reviewing, evaluating, and ranking applications, and for approving applications that best serve the goals of the program;

(c) Reporting requirements and monitoring procedures;

(d) Guidelines regarding situations in which industrial parks would be considered to compete against one another for the purposes of division (B)(2) of section 122.27 of the Revised Code~~;~~

~~(e) Any other rules necessary to implement and administer the program~~.

(B) The director may adopt rules establishing requirements governing the use of any industrial park site receiving assistance under section 122.24 of the Revised Code, such that a certain portion of the site must be used for manufacturing, distribution, high technology, research and development, or other businesses wherein a majority of the product or service produced is exported out of the state.

(C) As a condition of receiving assistance under section

122.24 of the Revised Code, and except as provided in division (D) of this section, an applicant shall agree, for a period of five years, not to permit the use of a site that is developed or improved with such assistance to cause the relocation of jobs to that site from elsewhere in the state.

(D) A site developed or improved with assistance under section 122.24 of the Revised Code may be the site of jobs relocated from elsewhere in the state if the director does all of the following:

(1) Makes a written determination that the site from which the jobs would be relocated is inadequate to meet market or industry conditions, expansion plans, consolidation plans, or other business considerations affecting the relocating employer;

(2) Provides a copy of the determination required by division (D)(1) of this section to the members of the general assembly whose legislative districts include the site from which the jobs would be relocated;

(3) Determines that the governing body of the area from which the jobs would be relocated has been notified in writing by the relocating company of the possible relocation.

(E) The director shall obtain the approval of the controlling board for any loan or loan guarantee provided under sections 122.23 to 122.27 of the Revised Code.

Sec. 122.291. (A) The Ohio river commission may do all of the following, subject to available funding through appropriations made directly by the general assembly or the controlling board to the commission:

(1) Employ an executive director who shall have appropriate experience as determined by the commission, and a

secretary-treasurer and other employees that the commission considers appropriate. The commission may fix the compensation of the employees.

(2) Adopt and, from time to time, ratify, amend, and repeal bylaws necessary and proper for the regulation of its affairs and the conduct of its business ~~and rules to implement and make effective its powers and duties~~;

(3) Receive, promote, support, and consider recommendations, from public or private planning organizations, and develop a master plan for Ohio river infrastructure and transportation projects;

(4) Coordinate with port authorities, private port operators, metropolitan planning organizations, regional transportation planning organizations, local development districts, Ohio river service entities, utility service providers, and agricultural, tourism, and recreational interests, regarding Ohio river infrastructure and transportation;

(5) In conjunction with applicable state agencies, coordinate with state agencies, local governments and communities, other states, and the federal government regarding Ohio river issues;

(6) Collect, track, and maintain key statistics and data regarding commerce on the Ohio river and make an annual report to the general assembly;

(7) Ensure the monitoring of federal, state, and local policies, programs, and priorities pertaining to the development and operation of marine cargo terminals and travel and tourism on the Ohio river;

(8) Prioritize policies, programs, and issues identified in the Ohio maritime strategy prepared by the department of transportation and in the department's "Economic Impact of the Ohio River Maritime Activity" study, as those or similar documents or reports are published and updated from time to time by the department;

(9) Evaluate policies, programs, programs of research, and priorities to offset the continued decline in coal production and consumption within the Ohio river basin and promote prosperity in the Appalachian region of this state;

(10) Administer development funds and seek, support, and assist the Ohio river industry in the utilization of available grants, loans, and other finance mechanisms in support of Ohio river projects;

(11) Represent the interests of this state in regional, national, and international forums pertaining to economic development, marine cargo terminals, and travel and tourism on the Ohio river and its tributaries;

(12) Coordinate, for dissemination and publication, information regarding the commission and its related activities in connection with the Ohio river;

(13) Raise funds through direct solicitation or other fundraising events alone, or with other groups, and accept gifts, grants, and bequests from individuals, corporations, foundations, governmental agencies, and public and private organizations and institutions. The funds, gifts, grants, or bequests received pursuant to this section shall be deposited to the Ohio river commission fund created in section 122.292 of the Revised Code.

(B) The commission, or the department of development, on behalf of the commission, may apply for and receive from the United States government grants in accordance with any federal law or program, for the benefit of Ohio river infrastructure, transportation, or recreation and tourism.

Sec. 122.38. (A) As used in this section:

(1) "Small business enterprise" means any person with a principal place of business or research in the state, who meets the definition of a "small business concern" as defined in 13 C.F.R. 121.7 (a), as amended.

(2) "Eligible educational institution" means any educational institution that disseminates information, conducts educational or technical seminars and meetings, or provides other services of value or interest to small business enterprises.

(3) "Eligible organization" means any organization, representing the interest of small business enterprises or areas of technological research, that disseminates information, conducts educational or technical seminars and meetings, or provides other services of value or interest to small business enterprises.

(B) There is hereby created in the department of development the small business innovation research grant program for the purpose of providing educational, technical, and financial assistance to:

(1) Any small business enterprise engaging in or intending to engage in technological research that the director of development determines to be innovative and in the broad and long-term interest of the economy of the state;

(2) Any eligible educational institution;

(3) Any eligible organization.

(C) The director may provide educational, technical, and financial assistance to small business enterprises, eligible educational institutions, and eligible organizations. Any assistance shall be in the form and conditioned upon terms the director considers appropriate.

(D) The director shall:

(1) Establish the procedures by which small business enterprises, eligible educational institutions, and eligible organizations may apply for assistance under this section;

(2) Collect, prepare, and disseminate information, describing the types of assistance offered under the program and describing revelant federal programs and services to small business enterprises, eligible educational institutions, and eligible organizations as the director considers appropriate~~;~~

~~(3) Adopt rules for the administration of this section, in accordance with Chapter 119. of the Revised Code~~.

Sec. 122.4020. (A) An application for a program grant under the Ohio residential broadband expansion grant program shall include, at a minimum, the following information for an eligible project:

(1) The location and description of the project, including:

(a) The residential addresses in the unserved or tier one areas where tier two broadband service will be available following completion of the project;

(b) A notarized letter of intent that the broadband provider will provide access to tier two broadband service to all of the residential addresses listed in the project;

(c) A notarized letter of intent by the broadband provider that none of the funds provided by the program grant will be used to extend or deploy facilities to any residential addresses other than those in the unserved or tier one areas that are part of the project.

(2) The amount of the broadband funding gap and the amount of state funds requested;

(3) The amount of any financial or in-kind contributions to be used towards the broadband funding gap and identification of the contribution sources, which may include, but are not limited to, any combination of the following:

(a) Funds that the broadband provider is willing to contribute to the broadband funding gap;

(b) Funds received or approved under any other federal or state government grant or loan program;

(c) General revenue funds of a municipal corporation, township, or county comprising the area of the eligible project;

(d) Other discretionary funds of the municipal corporation, township, or county comprising the area of the eligible project;

(e) Any alternate payment terms that the broadband provider and any legislative authority in which the project is located have negotiated and agreed to pursuant to section 122.4025 of the Revised Code;

(f) Contributions or grants from individuals,

organizations, or companies;

(g) Property tax assessments made by the municipal corporation under Chapter 727. of the Revised Code, township under section 505.881 of the Revised Code, or county under section 303.251 of the Revised Code.

(4) The source and amount of any financial or in-kind contributions received or approved for any part of the overall eligible project cost, but not applied to the broadband funding gap;

(5) A description of, or documentation demonstrating, the broadband provider's managerial and technical expertise and experience with broadband service projects;

(6) Whether the broadband provider plans to use wired, wireless, or satellite technology to complete the project;

(7) A description of the scalability of the project;

(8) The megabit-per-second broadband download and upload speeds planned for the project;

(9) A description of the broadband provider's customer service capabilities, including any locally based call centers or customer service offices;

(10) A copy of the broadband provider's general customer service policies, including any policy to credit customers for service outages or the provider's failure to keep scheduled appointments for service;

(11) The length of time that the broadband provider has been operating in the state;

(12) Proof that the broadband provider has the financial

stability to complete the project;

(13) A projected construction timetable, including the anticipated date of the provision of tier two broadband service access within the project;

(14) A description of anticipated or preliminary government authorizations, permits, and other approvals required in connection with the project, and an estimated timetable for the acquisition of such approvals;

(15) A notification from the broadband provider informing the department of development of any information contained in the application, or within related documents submitted with it, that the provider considers proprietary or a trade secret;

(16) A notarized statement that the broadband provider accepts the condition that noncompliance with Ohio residential broadband expansion grant program requirements may require the provider to refund all or part of any program grant the provider receives;

(17) A brief description of any arrangements, including any subleases of infrastructure or joint ownership arrangements that the broadband provider that submitted the application has entered into, or plans to enter into, with another broadband provider, an electric cooperative, or an electric distribution utility, to enable the offering of tier two broadband service under the project;

(18) Other relevant information that the department determines is necessary ~~and prescribes by rule~~;

(19) Any other information the broadband provider considers necessary.

(B) To meet the requirement to provide proof of financial responsibility in the application, the broadband provider may submit publicly available financial statements with its application.

Sec. 122.4077. (A) The department of development ~~services agency shall~~ may adopt the following rules for the Ohio residential broadband expansion grant program~~. The rules shall establish an application form and application procedures for the program and procedures for periodic program grant disbursements.~~

~~(B) The rules may include the following~~:

(1) Requirements for a program application in addition to the requirements described in section 122.4020 of the Revised Code;

(2) Procedures for and circumstances under which partial funding of applications is permitted;

(3) Procedures for broadband expansion program authority meetings, extension periods for applications and application challenges, hearings, and opportunities for public comment;

(4) An application form and application procedures for the program;

(5) Procedures for periodic program grant disbursements.

~~(C) The agency may adopt rules and procedures to implement sections 122.4051, 122.4053, and 122.4055 of the Revised Code.~~

~~(D)~~ (B) Rules adopted under this section are not subject to section 121.95 of the Revised Code.

~~(E)~~ (C) The ~~agency~~ department and the authority are not subject to division (F) of section 121.95 of the Revised Code

regarding the development and adoption of rules pursuant to this section.

Sec. 122.631. (A) As used in sections 122.631 to 122.633 of the Revised Code:

(1) "Qualified nonprofit developer" means a nonprofit corporation, as defined in section 1702.01 of the Revised Code, that is all of the following:

(a) Incorporated in this state;

(b) Engaged in community development activities primarily within an identified geographic area of operation in this state;

(c) Has as its primary purpose the improvement of the physical, economic, or social environment by addressing critical problems in that geographic area of operation including housing.

(2) "Electing subdivision," "county land reutilization corporation," and "land reutilization program" have the same meanings as in section 5722.01 of the Revised Code.

(3) "Manufactured home" has the same meaning as in section 3781.06 of the Revised Code, and "mobile home" has the same meaning as in section 4501.01 of the Revised Code.

(4) "Qualifying residential property" means a single unit of single-family residential property that has at least eight hundred square feet of habitable space and is either a stand-alone unit or in a multi-unit property containing not more than ten single-family residential units. "Qualifying residential property" excludes mobile homes but includes both of the following:

(a) A manufactured home;

(b) A single unit in a multi-unit property that has other nonresidential units or uses. Such nonresidential units or uses are not qualifying residential property.

(5) "Qualifying median income" means one hundred twenty per cent of median income for the county where qualifying residential property is located, as determined by the director of development pursuant to section 174.04 of the Revised Code.

(6) "Qualifying financial literacy counseling" means a homeownership course with a curriculum that includes basic home maintenance training and financial literacy.

(7) "Qualifying counseling provider" means an individual, business, nonprofit organization, or political subdivision, including an agency or instrumentality thereof, that is licensed, certified, or authorized to provide homeownership counseling and financial literacy as one of its primary functions, including housing counselors certified by the United States department of housing and urban development or the Ohio housing financing agency.

(B) There is created in the department of development the welcome home Ohio (WHO) program to administer the grants authorized by this section and section 122.632 of the Revised Code and the tax credits authorized by section 122.633 of the Revised Code. The department shall create and maintain a list of qualifying residential property to which the deed restriction described in division (D)(4) of this section, division (B)(4) of section 122.632, or division (C)(4) of section 122.633 of the Revised Code applies. That list is not a public record for purposes of section 149.43 of the Revised Code.

(C) An electing subdivision, a county land reutilization

corporation, or a qualified nonprofit developer may apply to the director of development for a grant from the welcome home Ohio fund, which is created in the state treasury, to pay or defer the cost of purchasing qualifying residential property for incorporation into the electing subdivision's or county land reutilization corporation's land reutilization program or the qualified nonprofit developer's housing program. Up to two thousand dollars of each grant may be used to fund the qualifying financial literacy counseling required under division (D)(6) of this section. To the extent that funding is available in that fund, the director may award grants to electing subdivisions, county land reutilization corporations, and qualified nonprofit developers that make such an application and agree to comply with division (D) of this section, with a maximum grant of one hundred thousand dollars per qualifying residential property.

(D) The director of development shall require all applicants for a grant authorized by division (C) of this section to agree, as part of the application, to all of the following:

(1) That grant funds shall only be used to pay the cost of purchasing qualifying residential property;

(2) That qualifying residential property on which grant funds are spent shall be held until sold to an individual or individuals who, inclusively:

(a) Have annual income that is not more than the qualifying median income;

(b) Demonstrate the financial means to purchase the qualifying residential property;

(c) Agree to maintain ownership of the qualifying residential property, occupy it as a primary residence, and not to rent any portion of the property to another individual for use as a dwelling, for at least three years following the date of purchase;

(d) Agree not to sell the qualifying residential property, within fifteen years after the date of the sale, to any purchaser other than the electing subdivision, county land reutilization corporation, or qualified nonprofit developer or an individual or individuals who have annual income that is not more than the qualifying median income;

(e) Agree to pay a penalty to the director of development for violation of the agreement required by division (D)(2)(c) of this section that equals the amount of the grant attributable to the property, less one-third of that amount multiplied by the number of full years the individual or individuals owned the property;

(f) Agree that the director of development is a third-party beneficiary of the purchase agreement;

(g) Agree to participate in the applicant's qualifying financial literacy program;

(h) Agree to annually certify to the director of development, during the period described by division (D)(2)(c) of this section, that the individual or individuals own and occupy the qualifying residential property, and that no part of the property is being rented to another individual for use as a dwelling.

(3) That qualifying residential property on which grant funds are spent shall be sold for not more than two hundred

twenty thousand dollars per property.

(4) That qualifying residential property on which grant funds are spent shall not be sold without a deed restriction prohibiting the sale of the property to a person that is not the electing subdivision, county land reutilization corporation, or qualified nonprofit developer or an individual or individuals who have annual income that is not more than the qualifying median income for fifteen years after the date of the property's first transfer from the applicant following the use of grant funds. The deed restriction is a covenant running with the land and is fully binding on subsequent purchasers of the property until it expires on the fifteenth anniversary of the property's first transfer from the applicant following the use of grant funds. The electing subdivision, county land reutilization corporation, or qualified nonprofit developer may include in the deed restriction a right of first refusal to repurchase the property for the purpose of ensuring that the property is ultimately sold to an individual or individuals who have annual income that is not more than the qualifying median income.

(5) That the applicant shall repay all grant funds not expended to purchase qualifying residential property or to fund the qualifying financial literacy counseling required by division (D)(6) of this section and all grant funds expended to purchase qualifying residential property that is not sold to an individual or individuals who meet the requirements described in division (D)(2) of this section or that is sold without the deed restriction described in division (D)(4) of this section.

(6) That the applicant shall provide qualifying financial literacy counseling, over a minimum of six months, delivered by a qualifying counseling provider, to each purchaser of

qualifying residential property on which grant funds are spent. An applicant may provide information regarding its qualifying financial literacy program to the director of development for review as part of the application or prior to application. Qualifying financial literacy counseling provided by the applicant to the same purchaser, in accordance with division (B)(6) of section 122.632 of the Revised Code or division (C)(5) of section 122.633 of the Revised Code, satisfies the requirements of division (D)(6) of this section.

(7) That the applicant shall report to the department of development the date when the qualifying residential property that is the subject of the application is sold by the applicant.

(E) The director of development has authority and standing to sue for the enforcement of a deed restriction described in division (D)(4) of this section.

(F) An electing subdivision, a county land reutilization corporation, or a qualified nonprofit developer may apply for, and the director of development may award both a grant under this section for the purchase of qualifying residential property, and either a grant under section 122.632 of the Revised Code, or a tax credit under section 122.633 of the Revised Code, to rehabilitate or construct the same qualifying residential property.

(G)(1) The director may adopt rules in accordance with Chapter 119. ~~Of~~ of the Revised Code ~~as necessary to administer the grant program. Such rules may include~~ relating to any of the following:

(a) Application forms, deadlines, and procedures;

(b) Criteria for evaluating and prioritizing applications;

(c) Guidelines for promoting an even geographic distribution of grants throughout the state;

(d) Guidelines to determine the value of qualifying residential property located in a building with other uses and the total value of that building.

(2) Any grants repaid under this section shall be credited to the welcome home Ohio fund.

(3) An electing subdivision, a county land reutilization corporation, or a qualified nonprofit developer shall use all profits derived from the sale of qualifying residential property on which grant funds are spent, including profits derived from the resale of such property to a subsequent purchaser, for the electing subdivision's or county land reutilization corporation's land reutilization program or the qualified nonprofit developer's housing program.

Sec. 122.632. (A) An electing subdivision, a county land reutilization corporation, or a qualified nonprofit developer may apply to the director of development for a grant from the welcome home Ohio fund created in section 122.631 of the Revised Code to pay or defer the cost to rehabilitate or construct qualifying residential property held by the electing subdivision's or county land reutilization corporation's land reutilization program or the qualified nonprofit developer's housing program. To the extent that funding is available, in that fund the director may award grants to electing subdivisions, county land reutilization corporations, and qualified nonprofit developers that make such an application and agree to comply with division (B) of this section, with a maximum grant of one hundred thousand dollars per qualifying residential property.

(B) The director of development shall require all applicants for a grant authorized by division (A) of this section to agree, as part of the application, to all of the following:

(1) That grant funds shall be used to pay the cost of rehabilitation or construction of qualifying residential property and all work will be completed according to all applicable construction and design standards. Up to two thousand dollars of each grant may be used to fund the qualifying financial literacy counseling required under division (B)(6) of this section. If grant funds are spent to construct or rehabilitate a qualifying residential property described in division (A)(4)(b) of section 122.631 of the Revised Code, then no portion of the funds shall be spent to construct or rehabilitate portions of the building that are for nonresidential uses, except for common areas used by the occupants of the residential units and improvements that serve both the residential units and the other portions of the building.

(2) That qualifying residential property on which grant funds are spent shall be held until sold to an individual or individuals who, inclusively:

(a) Have annual income that is not more than the qualifying median income;

(b) Demonstrate the financial means to purchase the qualifying residential property;

(c) Agree to maintain ownership of the qualifying residential property, occupy it as a primary residence, and not to rent any portion of the property to another individual for

use as a dwelling, for at least three years following the date of purchase;

(d) Agree not to sell the qualifying residential property, within fifteen years after the date of the sale, to any purchaser other than the electing subdivision, county land reutilization corporation, or qualified nonprofit developer or an individual or individuals who have annual income that is not more than the qualifying median income;

(e) Agree to pay a penalty to the director of development for violation of the agreement required by division (B)(2)(c) of this section that equals the amount of the grant attributable to the property, less one-third of that amount multiplied by the number of full years the individual or individuals owned the property.

(f) Agree that the director of development is a third-party beneficiary of the purchase agreement;

(g) Agree to participate in the applicant's qualifying financial literacy program;

(h) Agree to annually certify to the director of development, during the period described by division (B)(2)(c) of this section, that the individual or individuals own and occupy the qualifying residential property, and that no part of the property is being rented to another individual for use as a dwelling.

(3) That qualifying residential property on which grant funds are spent shall be sold for not more than two hundred twenty thousand dollars per property.

(4) That qualifying residential property on which grant funds are spent shall not be sold without a deed restriction

prohibiting the sale of the property to a person that is not the electing subdivision, county land reutilization corporation, or qualified nonprofit developer or an individual or individuals who have annual income that is not more than the median income for fifteen years after the date of the property's first transfer from the applicant following the use of grant funds. The deed restriction is a covenant running with the land and is fully binding on subsequent purchasers of the property until it expires on the fifteenth anniversary of the property's first transfer from the applicant following the use of grant funds. The electing subdivision, county land reutilization corporation, or qualified nonprofit developer may include in the deed restriction a right of first refusal to repurchase the property for the purpose of ensuring that the property is ultimately sold to an individual or individuals who have annual income that is not more than the qualifying median income.

(5) That the applicant shall repay all grant funds expended on any expenses other than the construction or rehabilitation of qualifying residential property or financial literacy counseling required under division (B)(6) of this section, or on qualifying residential property that is not sold to an individual or individuals who meet the requirements described in division (B)(2) of this section or that is sold without the deed restriction described in division (B)(4) of this section;

(6) That the applicant shall provide financial qualifying literacy counseling, over a minimum of six months, delivered by the qualifying counseling provider, to each purchaser of qualifying residential property on which grant funds are spent. An applicant may provide information regarding its qualifying financial literacy program to the director of development for

review as part of the application or prior to application;

(7) That the applicant shall report to the department of development the date when the qualifying residential property that is the subject of the application is sold by the applicant.

(8) That, if grant funds are received, the qualifying residential property that is the subject of the application shall not be the subject of an application for a tax credit under section 122.633 of the Revised Code.

(C) The director of development is granted authority and standing to sue for the enforcement of a deed restriction described in division (B)(4) of this section.

(D)(1) The director may adopt rules in accordance with Chapter 119. of the Revised Code ~~as necessary to administer the grant program. Such rules may include~~ relating to any of the following:

(a) Application forms, deadlines, and procedures;

(b) Criteria for evaluating and prioritizing applications;

(c) Guidelines for promoting an even geographic distribution of grants throughout the state;

(d) Guidelines to determine the value of qualifying residential property located in a building with other uses and the total value of that building.

(2) Any grants repaid under this section shall be credited to the welcome home Ohio fund.

(3) An electing subdivision, a county land reutilization corporation, or a qualified nonprofit developer shall use all profits derived from the sale of qualifying residential property

on which grant funds are spent, including profits derived from the resale of such property to a subsequent purchaser, for the electing subdivision's or county land reutilization corporation's land reutilization program or the qualified nonprofit developer's housing program.

Sec. 122.633. (A) As used in this section, "eligible developer" means any of the following:

(1) A nonprofit corporation, as defined in section 1702.01 of the Revised Code, based in this state with a primary activity of the development ~~fand~~ and preservation of affordable housing;

(2) A limited partnership or domestic limited partnership, as defined in section 1782.01 of the Revised Code, in which a general partner is a nonprofit corporation based in this state, a primary activity of which is the development and preservation of affordable housing;

(3) A limited liability company, as defined in section 1706.01 of the Revised Code, in which the manager is a nonprofit corporation based in this state, a primary activity of which is the development and preservation of affordable housing;

(4) A community improvement corporation, as defined in section 1724.01 of the Revised Code, or a community urban redevelopment corporation, as defined in section 1728.01 of the Revised Code.

(B) An electing subdivision or eligible developer that rehabilitates or constructs a unit of qualifying residential property and sells the property to an individual or individuals for the individual's or individuals' occupancy may apply to the director of development for a nonrefundable credit against the tax levied under section 5726.02 or 5747.02 of the Revised Code,

provided the rehabilitation or construction and the sale comply with division (C) of this section. The credit application shall be made on forms prescribed by the director. The credit shall equal ninety thousand dollars or ninety per cent of the cost to rehabilitate or construct the property, whichever is less.

(C) An application for a credit authorized by division (B) of this section shall certify all of the following:

(1) That the rehabilitation or construction of qualifying residential property that is the subject of the application was completed according to all applicable construction and design standards;

(2) That each qualifying residential property that is the subject of the application was sold to an individual or individuals who have annual income that is not more than the qualifying median income, demonstrated the financial means to purchase the qualifying residential property, and agreed to all of the following in the purchase agreement:

(a) To maintain ownership of the qualifying residential property, occupy it as a primary residence, and not to rent any portion of the property to another individual for use as a dwelling, for at least three years following the date of purchase;

(b) Not to sell the qualifying residential property to a purchaser other than the electing subdivision, the eligible developer, or an individual or individuals who have annual income that is no more than the qualifying median income for at least fifteen years after the date of purchase;

(c) To pay a penalty to the director of development for violation of the agreement required by division (C)(2)(a) of

this section that equals the total amount of the tax credit authorized by this section and attributable to the qualifying residential property purchased by the individual, reduced by one-third of that amount for each full year the individual or individuals owned the property;

(d) That the director of development is a third-party beneficiary of the purchase agreement;

(e) To participate in the applicant's qualifying financial literacy program;

(f) Agree to annually certify to the director of development, during the period described by division (C)(2)(a) of this section, that the individual or individuals own and occupy the qualifying residential property, and that no part of the property is being rented to another individual for use as a dwelling.

(3) That the qualifying residential property that is the subject of the application was sold for not more than two hundred twenty thousand dollars;

(4) That the purchaser of the qualifying residential property that is the subject of the application was transferred with a deed restriction prohibiting the sale of the property to a person other than the electing subdivision, the eligible developer, or an individual or individuals who have annual income that is not more than the qualifying median income for at least fifteen years after the date of transfer. The deed restriction is a covenant running with the land and is fully binding on subsequent purchasers of the property until it expires on the fifteenth anniversary of the property's first transfer from the applicant under this section. The electing

subdivision or eligible developer may include in the deed restriction a right of first refusal to repurchase the property for the purposes of ensuring that the property is ultimately sold to an individual or individuals who have annual income that is not more than the qualifying median income.

(5) That the applicant provides a minimum of six months of qualifying financial literacy counseling, delivered by a qualifying counseling provider, to each purchaser of qualifying residential property that is the subject of the application. An applicant may provide information regarding its qualifying financial literacy program to the director of development for review as part of the application or prior to application.

(6) That the applicant shall report to the department of development the date when the qualifying residential property that is the subject of the application is sold by the applicant.

(7) That the qualifying residential property that is the subject of the application was not rehabilitated or constructed using grant funds received under section 122.632 of the Revised Code.

(D) The director of development is granted authority and standing to sue for the enforcement of a deed restriction described in division (C)(4) of this section.

(E)(1) Subject to division (E)(2) of this section, if the director determines that the applicant qualifies for a credit under this section, the director shall issue a tax credit certificate to the applicant identified with a unique number and listing the amount of the credit that is eligible to be transferred or claimed pursuant to division (E)(3) or (F) of this section.

(2) The total amount of tax credits issued by the director under this section after ~~the effective date of this amendment~~ September 30, 2025, shall not exceed twenty million dollars, and no tax credits shall be issued after June 30, 2027.

(3) A person granted a certificate pursuant to division (E)(1) of this section may claim the credit against the tax levied under section 5726.02 of the Revised Code or against the person's aggregate tax liability under section 5747.02 of the Revised Code for the taxable year in which the certificate is issued. The taxpayer shall claim the credit in the order prescribed by section 5726.98 or 5747.98 of the Revised Code, as applicable. Any unused amount may be carried forward for the following five taxable years. If the person is a pass-through entity, any taxpayer that is a direct or indirect investor in the pass-through entity on the last day of the entity's taxable year may claim the taxpayer's proportionate or distributive share of the credit against the taxpayer's aggregate amount of tax levied under section 5747.02 of the Revised Code.

A taxpayer claiming a credit under this section shall submit a copy of the certificate with the taxpayer's return or report.

(F) A person granted a certificate pursuant to division (E)(1) of this section may transfer the right to claim all or part of the credit reflected on the certificate to another person.

To effectuate the transfer, the transferor shall notify the tax commissioner, in writing, that the transferor is transferring the right to claim all or part of the remaining credit stated on the certificate. The transferor shall identify in that notification the certificate's number, the name and the

tax identification number of the transferee, the amount of the remaining credit transferred to the transferee, and, if applicable, the amount of remaining credit retained by the transferor.

The transferee may claim the amount of the credit received under this division against the tax levied under section 5726.02 of the Revised Code or against the person's aggregate tax liability under section 5747.02 of the Revised Code for the taxable year in the same manner and for the same taxable years as it may be claimed by a person under division (E)(3) of this section.

Any person to which a credit has been transferred under this division may transfer the right to claim all or part of the transferred credit amount to any other person, in the same manner prescribed by this division for the initial transfer, including that any such transfer be reported by the transferor to the tax commissioner as described in this division.

Transferring a credit under this division does not extend the taxable years for which the credit may be claimed or number of years for which the unclaimed credit amount may be carried forward.

(G) The director may adopt rules in accordance with Chapter 119. of the Revised Code ~~as necessary to administer the tax credits authorized by this section. Such rules may include~~ relating to the following:

(1) Application forms, deadlines, and procedures;

(2) Criteria for evaluating and prioritizing applications;

(3) Guidelines for promoting an even geographic distribution of credits throughout the state.

Sec. 122.6511. (A) As used in this section and section 122.6512 of the Revised Code:

(1) "Brownfield" means an abandoned, idled, or under-used industrial, commercial, or institutional property where expansion or redevelopment is complicated by known or potential releases of hazardous substances or petroleum.

(2) "Lead entity" means a county, township, municipal corporation, port authority, conservancy district, park district or other similar park authority, county land reutilization corporation, or organization for profit.

(3) "Remediation" means any action to contain, remove, or dispose of hazardous substances or petroleum at a brownfield. "Remediation" includes the acquisition of a brownfield, demolition performed at a brownfield, and the installation or upgrade of the minimum amount of infrastructure that is necessary to make a brownfield operational for economic development activity. "Remediation" also includes demolition and infrastructure development costs.

(4) "County land reutilization corporation" has the same meaning as in section 1724.01 of the Revised Code.

(5) "Demolition and infrastructure development costs" means demolition costs and costs associated with constructing, upgrading, or extending infrastructure necessary to make a brownfield operational.

(6) "Priority investment area eligible project" means some or all of the following activities necessary or conducive for generating, transporting, storing, or transmitting electricity at the site of a brownfield or former coal mine located in a priority investment area designated under section 122.161 of the

Revised Code:

(a) Environmental or cultural resource site assessments;

(b) The monitoring, remediation, cleanup, or containment of land to remove any condition or substance regulated by state or federal environmental laws or regulations, including hazardous substances, hazardous wastes, solid wastes, or petroleum;

(c) The demolition and removal of existing structures, grading, or other site work necessary to make a site or certain real property that includes a brownfield or former coal mine usable for economic development;

(d) The development of a remediation and reuse plan;

(e) The development or operation of a site for energy generation or battery storage.

(B)(1) There is hereby created the brownfield remediation program to award grants for priority investment area eligible projects and the remediation of brownfield sites throughout Ohio. The program shall be administered by the director of development pursuant to this section and rules adopted pursuant to division (B)(2) of this section.

(2) The director shall adopt rules, under Chapter 119. of the Revised Code, for ~~the administration of the program. The rules shall include provisions for~~ determining project and project sponsor eligibility~~, program administration, and any other provisions the director finds necessary~~.

(3) The director shall not award a grant exceeding ten million dollars to a priority investment area eligible project. Grants for such projects may not be used for the construction or

operation of electric generating infrastructure.

(C)(1) There is hereby created in the state treasury the brownfield remediation fund. The fund shall consist of moneys appropriated to it by the general assembly.

The director shall reserve funds from each appropriation to the fund to each county in the state. The amount reserved shall be one million dollars per county, or, if an appropriation is less than eighty-eight million dollars, a proportionate amount to each county. Amounts reserved pursuant to this section are reserved for one calendar year from the date of the appropriation. After one calendar year, the funds shall be available pursuant to division (D) of this section.

(2) A lead entity may submit a grant application for the use of funds reserved under division (C)(1) of this section to the director.

(D) Funds from an appropriation not reserved under division (C)(1) of this section shall be available for grants to projects located anywhere in the state, and grants from those funds shall be awarded on a case by case basis. In making the award determination, the director shall evaluate the economic merit of the project to the county, surrounding counties, and state. The director also shall ensure that projects awarded are in different regions of the state.

(E) The amendments to this section by ~~this act~~ H.B. 96 of the 136th general assembly apply to new projects that are applied for and awarded funding by the director of development on and after ~~the effective date of this amendment~~September 30, 2025. Projects that are applied for or were applied for under this section prior to July 1, 2025, shall be governed by this

section as it existed prior to July 1, 2025.

Sec. 122.6512. (A)(1) There is hereby created the building demolition and site revitalization program to award grants for the demolition of commercial and residential buildings and revitalization of surrounding properties on sites that are not brownfields. The program shall be administered by the director of development pursuant to this section and rules adopted pursuant to division (A)(2) of this section.

(2) The director shall adopt rules~~, under Chapter 119. of the Revised Code, for the administration of the program. The rules shall include provisions~~ for determining project and project sponsor eligibility~~, program administration, and any other provisions the director finds necessary~~.

(3) The director shall ensure that the program is operational and accepting proposals for grants not later than ninety days after September 30, 2021.

(4) To streamline funding through the program, each county shall have one lead entity designated in accordance with the following:

(a) If the county has a population of less than one hundred thousand according to the most recent federal decennial census, the director shall select the lead entity from a list of recommendations made by the board of county commissioners of the county. The board shall submit a lead entity letter of intent and any other documentation required by the director in order for the director to select a lead entity for that county.

(b) If the county has a population of one hundred thousand or more according to the most recent federal decennial census and the county does not have a county land reutilization

corporation, the director shall select the lead entity from a list of recommendations made by the board of county commissioners of the county. The board shall submit a lead entity letter of intent and any other documentation required by the director in order for the director to select a lead entity for that county.

(c) If the county has a population of one hundred thousand or more according to the most recent federal decennial census and the county has a county land reutilization corporation, the county land reutilization corporation is the lead entity for that county.

(5) The lead entity of each county shall submit all grant applications for that county. The lead entity shall submit with a grant application any agreements executed between the lead entity with other recipients that will receive grant money through the lead entity, if applicable. Such recipients may include local governments, nonprofit organizations, community development corporations, regional planning commissions, county land reutilization corporations, and community action agencies.

(B)(1) There is hereby created in the state treasury the building demolition and site revitalization fund. The fund shall consist of moneys appropriated to it by the general assembly.

(2) The director shall reserve funds from each appropriation to the fund to each county in the state. The amount reserved shall be five hundred thousand dollars per county, or, if an appropriation is less than forty-four million dollars, a proportionate amount to each county. Amounts reserved pursuant to this section are reserved for one calendar year from the date of the appropriation. After one calendar year, the funds shall be available pursuant to division (B)(3) of this

section.

(3) Funds from an appropriation not reserved under division (B)(2) of this section shall be available for grants to projects located anywhere in the state. Grants awarded pursuant to this division shall be limited to seventy-five per cent of a project's total cost.

Sec. 122.74. (A)(1) The director of development shall do all of the following:

(a) Receive applications for assistance under sections 122.71 to 122.83 and 122.87 to 122.89 of the Revised Code and applications from surety companies for bond guarantees under section 122.90 of the Revised Code, and, after processing but subject to division (A)(2) of this section, forward them to the minority development financing advisory board together with necessary supporting information;

(b) Receive the recommendations of the board and make a final determination whether to approve the application for assistance;

(c) Receive recommendations from a regional economic development entity for loans made under section 122.76 of the Revised Code and make a final determination, notwithstanding divisions (A)(1) and (2) of this section, whether to approve the proposed loan;

(d) Transmit the director's determinations to approve assistance to the controlling board unless such assistance falls under section 122.90 of the Revised Code and has been previously approved by the controlling board, together with any information the controlling board requires for its review and decision as to whether to approve the assistance.

(2) The director is not required to submit any determination, data, terms, or any other application materials or information to the minority development financing advisory board when provision of the assistance has been recommended to the director by a regional economic development entity or when an application for a surety company for bond guarantees under section 122.90 of the Revised Code has been previously approved by the controlling board.

(B) The director may do all of the following:

(1) Fix the rate of interest and charges to be made upon or with respect to moneys loaned or guaranteed by the director and the terms upon which mortgages and lease rentals may be guaranteed and the rates of charges to be made for them and make provisions for the operation of the funds established by the director in accordance with this section and sections 122.80, 122.88, and 122.90 of the Revised Code;

(2) Loan and guarantee moneys from the fund established in accordance with section 122.80 of the Revised Code pursuant to and in compliance with sections 122.71 to 122.83 and 122.87 to 122.90 of the Revised Code.

(3) Acquire in the name of the director any property of any kind or character in accordance with sections 122.71 to 122.83 and 122.87 to 122.90 of the Revised Code, by purchase, purchase at foreclosure, or exchange on such terms and in such manner as the director considers proper;

(4) Make and enter into all contracts and agreements necessary or incidental to the performance of the director's duties and the exercise of the director's powers under sections 122.71 to 122.83 and 122.87 to 122.90 of the Revised Code;

(5) Maintain, protect, repair, improve, and insure any property that the director has acquired and dispose of it by sale, exchange, or lease for the consideration and on the terms and in the manner as the director considers proper, but the director shall not operate any such property as a business except as the lessor of it;

(6)(a) When the cost of any contract for the maintenance, protection, repair, or improvement of any property held by the director, other than compensation for personal services, involves an expenditure of more than fifty thousand dollars, the director shall make a written contract with the lowest responsive and responsible bidder in accordance with section 9.312 of the Revised Code after advertisement for not less than two consecutive weeks in a newspaper of general circulation in the county where such contract, or some substantial part of it, is to be performed, and in such other publications as the director determines, which notice shall state the general character of the work and the general character of the materials to be furnished, the place where plans and specifications therefor may be examined, and the time and place of receiving bids.

(b) Each bid for a contract for the construction, demolition, alteration, repair, or reconstruction of an improvement shall contain the full name of every person interested in it and meet the requirements of section 153.54 of the Revised Code.

(c) Each bid for a contract, except as provided in division (B)(6)(b) of this section, shall contain the full name of every person interested in it and shall be accompanied by bond or certified check on a solvent bank, in such amount as the

director considers sufficient, that if the bid is accepted a contract will be entered into and the performance of the proposal secured.

(d) The director may reject any and all bids.

(e) A bond with good and sufficient surety, approved by the director, shall be required of every contractor awarded a contract except as provided in division (B)(6)(b) of this section, in an amount equal to at least fifty per cent of the contract price, conditioned upon faithful performance of the contract.

(7) Employ or contract with financial consultants, appraisers, consulting engineers, superintendents, managers, construction and accounting experts, attorneys, and other employees and agents as are necessary in the director's judgment and fix their compensation;

(8) Receive and accept grants, gifts, and contributions of money, property, labor, and other things of value to be held, used, and applied only for the purpose for which the grants, gifts, and contributions are made, from individuals, private and public corporations, from the United States or any agency thereof, from the state or any agency thereof, and from any political subdivision of the state, and may agree to repay any contribution of money or to return any property contributed or the value thereof at such times, in amounts, and on terms and conditions, excluding the payment of interest, as the director determines at the time the contribution is made, and may evidence the obligations by notes, bonds, or other written instruments;

(9) Establish with the treasurer of state the funds

provided in sections 122.80 and 122.88 of the Revised Code in addition to such funds as the director determines are necessary or proper;

(10) ~~Adopt rules under Chapter 119. of the Revised Code necessary to implement sections 122.71 to 122.83 and 122.87 to 122.90 of the Revised Code.~~

~~(11)~~ Do all acts and things necessary or proper to carry out the powers expressly granted and the duties imposed in sections 122.71 to 122.83 and 122.87 to 122.90 of the Revised Code.

(C)(1) All expenses and obligations incurred by the director in carrying out the director's powers and in exercising the director's duties under sections 122.71 to 122.83 and 122.87 to 122.90 of the Revised Code shall be payable solely from revenues or other receipts or income of the director, from grants, gifts, and contributions, or funds established in accordance with such sections. Such sections do not authorize the director to incur indebtedness or to impose liability on the state or any political subdivision of the state.

(2) Financial statements and other data submitted to the director by any corporation, partnership, or person in connection with financial assistance provided under sections 122.71 to 122.83 and 122.87 to 122.90 of the Revised Code, or any information taken from such statements or data for any purpose, shall not be open to public inspection.

Sec. 122.851. (A) As used in this section:

(1) "Venture capital operating company" has the same meaning as in 29 C.F.R. 2510.3-101.

(2) "Ohio venture capital operating company" means a

venture capital operating company certified by the director of development as having met the requirements prescribed by division (B) of this section. A venture capital operating company is an Ohio venture capital operating company only for so long as the certification is valid.

(3) "Ohio business" means a business that, in either the calendar year in which a capital gain from the business is recognized by the Ohio venture capital operating company or its direct or indirect investors or the calendar year in which the Ohio venture capital operating company distributes an equity interest or security in the business, has its headquarters in this state and employs more than one-half of the total number of its full-time equivalent employees in this state. For the purpose of this section, an employee is employed in this state if the business is required to withhold income tax under section 5747.06 of the Revised Code for fifty per cent or more of the compensation paid to the employee in either the calendar year in which the Ohio venture capital operating company or its direct or indirect investors recognize a capital gain from the business or the calendar year in which the Ohio venture capital operating company distributes an equity interest or security in the business, as applicable.

(4) "Qualifying interest" means a direct or indirect ownership interest acquired through an investment of cash or cash equivalent made in, or the provision of services to, a venture capital operating company during the period for which it was certified as an Ohio venture capital operating company.

(B)(1) A venture capital operating company may apply to the director of development for certification as an Ohio venture capital operating company if it manages, or has capital

commitments of, at least fifty million dollars in active assets and at least two-thirds of its managing and general partners are residents of Ohio under division (I) of section 5747.01 of the Revised Code. The director, in consultation with the tax commissioner, shall prescribe the form and manner of the application and the information or documentation required to be submitted with the application.

(2) The director shall review and make a determination with respect to each application submitted under this division within sixty days of receipt. The director shall grant certification to any applicant that meets the criteria prescribed by this division. The director shall decline certification of any applicant that does not meet such criteria. The director shall notify the applicant and the tax commissioner of the director's determination in writing.

(C)(1) Certification as an Ohio venture capital operating company is valid for as long as the company continues to qualify as a venture capital operating company and meets the criteria prescribed by division (B)(1) of this section.

(2) A company that no longer qualifies as a venture capital operating company or no longer meets the criteria prescribed by division (B)(1) of this section shall notify the director within thirty days of the date the company ceases to qualify.

(3) Upon receiving such a notification or upon otherwise discovering that an Ohio venture capital operating company no longer qualifies for certification, the director shall issue a written notice of revocation to the venture capital operating company and the tax commissioner. The notice shall state the effective date of the revocation, which shall be the date the

company ceased to qualify for certification as an Ohio venture capital operating company.

(4) An Ohio venture capital operating company receiving such a notice may contest the director's decision to revoke its certification or the effective date of that revocation by submitting additional information or documentation to the director and requesting reconsideration in writing within thirty days of the notice of revocation based on that information or documentation. The director shall review and evaluate any such requests within thirty days of receipt. The director shall notify the company and tax commissioner in writing of the director's decision on the request, which shall not be subject to appeal or further review.

(D)(1) On or after the first day of January and on or before the first day of February of each year, a company that is certified as an Ohio venture capital operating company shall provide the following information, on forms prescribed by the director of development, to the director and the tax commissioner:

(a) The name, social security or federal employer identification number, and ownership percentage of each person with a qualifying interest in the company;

(b) The amount of capital gains generated during the portion of the previous calendar year during which the company was certified as an Ohio venture capital operating company;

(c) A description of the company's investments that generated the capital gains described in division (D)(1)(b) of this section, including the date of sale and whether the investment was in an Ohio business;

(d) The amount of, and basis in, any equity interests or securities distributed to each investor, arranged by entity, while the company was certified as an Ohio venture capital operating company and whether the entity is an Ohio business;

(e) Any other information the director, in consultation with the tax commissioner, considers relevant and necessary to administer the deduction allowed under division (A)(35) of section 5747.01 of the Revised Code.

(2) The director shall review the information submitted under division (D)(1) of this section by an Ohio venture capital operating company within sixty days of receipt. If the company generated capital gains that qualify for the deduction allowed under division (A)(35) of section 5747.01 of the Revised Code or distributed equity interests or securities that, when sold, will qualify for the deduction once income is recognized from its disposition, the director shall issue a certificate to the company. The certificate shall include a unique number and the following information:

(a) The total amount of capital gains generated during the portion of the year during which the company was certified as an Ohio venture capital operating company;

(b) The portion of the capital gains attributable to the company's investments in Ohio businesses; and

(c) The total amount of, and basis in, any equity interests or securities distributed during the portion of the year during which the company was certified as an Ohio venture capital operating company;

(d) The portion of the distributed equity interests or securities attributable to the company's investments in Ohio

businesses;

(e) The portion of the amounts described in divisions (D)(2)(a) and (b) of this section attributable to each individual with a qualifying interest in the company;

(f) Any other information the director or tax commissioner considers necessary for the administration of the deduction allowed under division (A)(35) of section 5747.01 of the Revised Code.

(E) An Ohio venture capital operating company shall provide each person with a qualifying interest in the company with a copy of the certificate issued under division (D) of this section and any other documentation necessary to compute the adjustments under division (A)(35) of section 5747.01 of the Revised Code. A pass-through entity that receives a certificate issued under this division from an Ohio venture capital operating company shall provide its investors with a copy of the certificate and any other documentation necessary to compute the adjustments under division (A)(35) of section 5747.01 of the Revised Code.

A taxpayer claiming a deduction under division (A)(35)(a) of section 5747.01 of the Revised Code shall provide, upon request of the tax commissioner, a copy of that certificate. The taxpayer shall retain a copy of the certificate for four years from the later of the final filing date of the return on which the deduction was claimed or the date the return on which the deduction was claimed is filed.

~~(F) The director of development, in consultation with the tax commissioner, may adopt rules in accordance with Chapter 119. of the Revised Code as are necessary to administer this~~

~~section.~~

Sec. 122.86. (A) As used in this section and section 5747.81 of the Revised Code:

(1) "Small business enterprise" means a corporation, pass-through entity, or other person satisfying all of the following:

(a) At the time of a qualifying investment, the enterprise meets all of the following requirements:

(i) Has no outstanding tax or other liabilities owed to the state;

(ii) Is in good standing with the secretary of state, if the enterprise is required to be registered with the secretary;

(iii) Is current with any court-ordered payments;

(iv) Is not engaged in any illegal activity.

(b) At the time of a qualifying investment, the enterprise's assets according to generally accepted accounting principles do not exceed fifty million dollars, or its annual sales do not exceed ten million dollars. When making this determination, the assets and annual sales of all of the enterprise's related or affiliated entities shall be included in the calculation.

(c) At the time of a qualifying investment and for the two-year period immediately preceding the qualifying investment, the enterprise employs at least fifty full-time equivalent employees in this state for whom the enterprise is required to withhold income tax under section 5747.06 of the Revised Code, or more than one-half the enterprise's total number of full-time equivalent employees employed anywhere in the United States are employed in this state and are subject to that withholding

requirement.

(d) The enterprise, within six months after an eligible investor's qualifying investment is made, incurs cost for one or more of the following:

(i) Tangible personal property, other than motor vehicles operated on public roads and highways, used in business and physically located in this state from the time of its acquisition by the enterprise until the end of the investor's holding period, including the installation of such tangible personal property;

(ii) Motor vehicles operated on public roads and highways if, from the time of acquisition by the enterprise until the end of the investor's holding period, the motor vehicles are purchased in this state, registered in this state under Chapter 4503. of the Revised Code, are used primarily for business purposes, and are necessary for the operation of the enterprise's business;

(iii) Real property located in this state that is used in the business from the time of its acquisition by the enterprise until the end of the holding period;

(iv) Leasehold improvements and construction costs for property located in this state that is used in the business from the time its improvement or construction was completed until the end of the holding period;

(v) Compensation for new employees of the enterprise hired after the date the qualifying investment is made for whom the enterprise is required to withhold income tax under section 5747.06 of the Revised Code.

(2) "Qualifying investment" means an investment of money

made to acquire capital stock or other equity interest in a small business enterprise. "Qualifying investment" does not include either of the following:

(a) Any investment of money an eligible investor derives, directly or indirectly, from a grant or loan from the federal government or the state or a political subdivision, including the third frontier program under Chapter 184. of the Revised Code;

(b) Any investment of money which is the basis of a tax credit granted under any other section of the Revised Code.

(3) "Eligible investor" means an individual, estate, or trust subject to the tax imposed by section 5747.02 of the Revised Code, or a pass-through entity in which such an individual, estate, or trust holds a direct or indirect ownership or other equity interest. To qualify as an eligible investor, the individual, estate, trust, or pass-through entity shall not owe any outstanding tax or other liability to the state at the time of a qualifying investment.

(4) "Holding period" means the two-year period beginning on the day a qualifying investment is made.

(5) "Pass-through entity" has the same meaning as in section 5733.04 of the Revised Code.

(B) An eligible investor that makes a qualifying investment in a small business enterprise on or after July 1, 2019, but on or before November 3, 2025, may apply to the director of development to obtain an allocation for a small business investment certificate from the director. Alternatively, a small business enterprise may apply on behalf of eligible investors to obtain the allocation for those

investors. The application must be submitted to the director within sixty days after the date of the qualifying investment, but within the same biennium as the qualifying investment. The director, in consultation with the tax commissioner, shall prescribe the form or manner in which an applicant shall apply for the certificate, devise the form of the certificate, and prescribe any records or other information an applicant shall furnish with the application to evidence the qualifying investment. The applicant shall pay an application fee equal to the greater of one-tenth of one per cent of the amount of the intended investment or one hundred dollars.

The director may reserve small business investment allocations to qualifying applicants in the order in which the director receives applications. An application is completed when the director has validated that an eligible investor has made a qualified investment and receives all required documentation needed to demonstrate the small business enterprise satisfies the requirements of division (A)(1) of this section. To qualify for an allocation, an eligible investor must satisfy both of the following, subject to the limitation on the amount of qualifying investments for which allocations may be issued under division (C) of this section:

(1) The eligible investor makes a qualifying investment on or after July 1, 2019, but on or before November 3, 2025.

(2) The eligible investor pledges not to sell or otherwise dispose of the qualifying investment before the conclusion of the applicable holding period.

(C)(1) The amount of any eligible investor's qualifying investments for which small business investment allocations may be issued for a fiscal biennium shall not exceed ten million

dollars.

(2) The director shall not issue a small business investment allocation to an eligible investor representing an amount of qualifying investment in excess of the amount of the investment indicated on the investor's application.

(3) For any fiscal biennium beginning before July 1, 2019, the director shall not issue small business investment allocations in a total amount that would cause the tax credits claimed in that biennium to exceed one hundred million dollars. For any fiscal biennium beginning on or after July 1, 2019, the director shall not issue small business investment allocations in a total amount that would cause the tax credits claimed in that biennium to exceed fifty million dollars.

(4) The director may issue a small business investment allocation only if both of the following apply at the time of issuance:

(a) The small business enterprise meets all the requirements listed in divisions (A)(1)(a)(i) to (iv) of this section;

(b) The eligible investor does not owe any outstanding tax or other liability to the state.

(5) The director shall not issue a small business investment allocation on the basis of any investment for which an Ohio opportunity zone investment certificate has been issued under section 122.84 of the Revised Code.

(D) Before the end of the applicable holding period of a qualifying investment, each enterprise in which a qualifying investment was made for which a small business investment allocation has been issued, upon the request of the director,

shall provide to the director records or other evidence satisfactory to the director that the enterprise is a small business enterprise for the purposes of this section. Each enterprise shall also provide annually to the director records or evidence regarding the number of jobs created or retained in the state. The director shall compile and maintain a register of small business enterprises qualifying under this section and shall certify the register to the tax commissioner. The director shall also compile and maintain a record of the number of jobs created or retained as a result of qualifying investments made pursuant to this section.

(E) After the conclusion of the applicable holding period for a qualifying investment, a person to whom a small business investment allocation has been issued under this section shall receive a small business investment certification, which entitles the person to claim a credit as provided under section 5747.81 of the Revised Code. However, no certificate may be issued if the director finds that any requirement under this section is not met.

(F) The director, in consultation with the tax commissioner, may adopt rules ~~for the administration of this section, including rules~~ governing the following:

(1) Documents, records, or other information eligible investors shall provide to the director;

(2) Any information a small business enterprise shall provide for the purposes of this section and section 5747.81 of the Revised Code;

(3) Determination of the number of full-time equivalent employees of a small business enterprise;

(4) Verification of a small business enterprise's investment;

(5) Circumstances under which small business enterprises or eligible investors may be subverting the purposes of this section and section 5747.81 of the Revised Code.

(G) Application fees paid under division (B) of this section shall be credited to the tax incentives operating fund created in section 122.174 of the Revised Code.

Sec. 122.91. (A) As used in this section:

(1) "Qualifying individual" means an individual who holds a valid commercial driver's license or who is eligible to obtain such a license.

(2) "Commercial driver's license" and "commercial motor vehicle" have the same meanings as in section 4506.01 of the Revised Code.

(3) "Training expense" means any cost customarily incurred by an employer to train an employee who is a qualifying individual to obtain a commercial driver's license or to operate a commercial motor vehicle. "Training expense" shall not include such an employee's wages.

(4) "Tax credit-eligible training expense" means any training expense certified under division (B) of this section.

(5) "Director" means the director of development.

(B)(1) For calendar years 2023 through 2026, an employer may apply to the director, on or before the first day of December of each year and on a form prescribed by the director, to certify training expenses that an employer estimates the employer will incur during the following calendar year as tax

credit-eligible training expenses. Within thirty days after receiving such an application, the director shall certify to each applicant the amount of the applicant's submitted expenses the director finds to be tax credit-eligible training expenses. The director shall not certify more than fifty thousand dollars of training expenses per year as tax credit-eligible training expenses for any employer.

(2) The director shall not certify more than three million dollars in tax credit-eligible training expenses for each calendar year, increased by the sum of tax credit-eligible expenses the director was authorized to certify within the limit described in division (B)(2) of this section for preceding years that were not the basis of a tax credit certificate issued under division (C)(2) of this section in the current year or any preceding year.

(C)(1) An employer that incurs tax credit-eligible training expenses in a calendar year that were certified for that year under division (B) of this section may apply to the director for a nonrefundable credit against the tax imposed by section 5747.02 of the Revised Code. The credit shall equal one-half of the tax credit-eligible training expenses actually incurred by the employer in, and certified for, the preceding calendar year. The application may be submitted after the first day and before the twenty-first day of January of the year following the year for which the director certified the expenses. The application shall be submitted on a form prescribed by the director and shall, at a minimum, include an itemized list of tax credit-eligible training expenses incurred by the employer for each employee and the identities of those employees.

(2) If the director approves an application described in division (C)(1) of this section, the director, within sixty days after receipt of the application, shall issue a tax credit certificate to the applicant. The director in consultation with the tax commissioner shall prescribe the form and manner of issuing certificates. The director shall assign a unique identifying number to each tax credit certificate and shall record the certificate in a register devised and maintained by the director for that purpose. The certificate shall state the amount of the tax credit-eligible training expenses on which the credit is based, the amount of the credit, and the date the certificate is issued. Upon issuance of a certificate, the director shall certify to the tax commissioner the name of the applicant~~,~~ and the amount of tax credit-eligible training expenses stated on the certificate~~, and any other information required by the rules adopted under this section~~.

(D)(1) An employer that has been issued a tax credit certificate under division (C)(2) of this section during the preceding calendar year shall file a form with the director identifying all employees, the training of which is the basis of that tax credit, whose employment with the employer was terminated during the preceding calendar year, the amount of the tax credit that is attributable to those employees, and any other information requested by the director. The form shall be prescribed by the director, and shall be filed on or before the twenty-first day of January of the year following the issuance year stated on the certificate.

(2) The director shall annually submit to the general assembly a report in accordance with division (B) of section 101.68 of the Revised Code that includes the total number of employees described in division (D)(1) of this section and

reported to the director for the preceding calendar year, the total amount of tax credits attributable to those employees, and any other information the director finds pertinent.

(E) The director in consultation with the tax commissioner shall adopt rules under Chapter 119. of the Revised Code ~~for the administration of this section. Such rules shall set~~ setting forth any applicable fees, any penalties for noncompliance with the reporting requirements prescribed in division (D) of this section, and the types of expenses that qualify as training expenses for purposes of this section.

Sec. 122.922. (A) As used in this section, "EDGE business enterprise" means a sole proprietorship, association, partnership, corporation, limited liability corporation, or joint venture certified as a participant in the encouraging diversity, growth, and equity program by the director of development under this section of the Revised Code.

(B) The director of development shall establish a business assistance program known as the encouraging diversity, growth, and equity program and shall adopt rules in accordance with Chapter 119. of the Revised Code to ~~administer the program that~~ do all of the following:

(1) Establish procedures by which a sole proprietorship, association, partnership, corporation, limited liability corporation, or joint venture may apply for certification as an EDGE business enterprise;

(2) Except as provided in division (B)(14) of this section, establish agency procurement goals for contracting with EDGE business enterprises in the award of contracts under Chapters 123., 125., and 153. of the Revised Code based on the

availability of eligible program participants by region or geographic area, as determined by the director, and by standard industrial code or equivalent code classification.

(a) Goals established under division (B)(2) of this section shall be based on a percentage level of participation and a percentage of contractor availability.

(b) Goals established under division (B)(2) of this section shall be applied at the contract level, relative to an overall dollar goal for each state agency, in accordance with the following certification categories: construction, architecture, and engineering; professional services; goods and services; and information technology services.

(3) Establish a system of certifying EDGE business enterprises based on a requirement that the business owner or owners show both social and economic disadvantage based on the following, as determined to be sufficient by the director:

(a) Relative wealth of the business seeking certification as well as the personal wealth of the owner or owners of the business;

(b) Social disadvantage based on any of the following:

(i) A rebuttable presumption when the business owner or owners demonstrate membership in a racial minority group or show personal disadvantage due to color, ethnic origin, gender, physical disability, long-term residence in an environment isolated from the mainstream of American society, location in an area of high unemployment;

(ii) Some other demonstration of personal disadvantage not common to other small businesses;

(iii) By business location in a qualified census tract.

(c) Economic disadvantage based on economic and business size thresholds and eligibility criteria designed to stimulate economic development through contract awards to businesses located in qualified census tracts.

(4) Establish standards to determine when an EDGE business enterprise no longer qualifies for EDGE business enterprise certification;

(5) Develop a process for evaluating and adjusting goals established by this section to determine what adjustments are necessary to achieve participation goals established by the director;

(6) Establish a point system or comparable system to evaluate bid proposals to encourage EDGE business enterprises to participate in the procurement of professional design and information technology services;

(7) Establish a system to track data and analyze each certification category established under division (B)(2)(b) of this section;

(8) Establish a process to mediate complaints and to review EDGE business enterprise certification appeals;

(9) Implement an outreach program to educate potential participants about the encouraging diversity, growth, and equity program;

(10) Establish a system to assist state agencies in identifying and utilizing EDGE business enterprises in their contracting processes;

(11) Implement a system of self-reporting by EDGE business

enterprises as well as an on-site inspection process to validate the qualifications of an EDGE business enterprise;

(12) Establish a waiver mechanism to waive program goals or participation requirements for those companies that, despite their best-documented efforts, are unable to contract with certified EDGE business enterprises;

(13) Establish a process for monitoring overall program compliance in which equal employment opportunity officers primarily are responsible for monitoring their respective agencies;

(14) Establish guidelines for state universities as defined in section 3345.011 of the Revised Code and the Ohio facilities construction commission created in section 123.20 of the Revised Code for awarding contracts pursuant to Chapters 153., 3318., and 3345. of the Revised Code to allow the universities and commission to establish agency procurement goals for contracting with EDGE business enterprises.

(C) Business and personal financial information and trade secrets submitted by encouraging diversity, growth, and equity program applicants to the director pursuant to this section are not public records for purposes of section 149.43 of the Revised Code, unless the director presents the financial information or trade secrets at a public hearing or public proceeding regarding the applicant's eligibility to participate in the program.

Sec. 122.924. (A) As used in this section:

"Women-owned business enterprise" means any individual, partnership, corporation, or joint venture of any kind that is owned and controlled by women who are United States citizens and residents of this state or of a reciprocal state.

"Owned and controlled" means that at least fifty-one per cent of the business, including corporate stock if it is a corporation, is owned by women and that such owners have control over the day-to-day operations of the business and an interest in the capital, assets, and profits and losses of the business proportionate to their percentage of ownership. In order to qualify as a women-owned business, a business shall have been owned by such owners at least one year.

(B) The director of development shall establish a business assistance program known as the women-owned business enterprise program and shall adopt rules in accordance with Chapter 119. of the Revised Code ~~to administer the program~~ that do all of the following:

(1) Establish procedures by which a business enterprise may apply for certification as a women-owned business enterprise;

(2) Establish standards to determine when a women-owned business enterprise no longer qualifies for women-owned business enterprise certification;

(3) Establish a system to make publicly available a list of women-owned business enterprises certified under this section;

(4) Establish a process to mediate complaints and to review women-owned business enterprise certification appeals;

(5) Implement an outreach program to educate potential participants about the women-owned business enterprise program;

(6) Establish a system to assist state agencies in identifying and utilizing women-owned business enterprises in their contracting processes;

(7) Implement a system of self-reporting by women-owned business enterprises as well as an on-site inspection process to validate the qualifications of women-owned business enterprises.

(C) Business and personal financial information and trade secrets submitted by women-owned business enterprise applicants to the director pursuant to this section are not public records for purposes of section 149.43 of the Revised Code, unless the director presents the financial information or trade secrets at a public hearing or public proceeding regarding the applicant's eligibility to participate in the program.

(D) The director of development, upon approval of the attorney general, may enter into a reciprocal agreement with the appropriate officials of one or more states, when the other state has a business assistance program or programs substantially similar to the women-owned business enterprise program of this state. The agreement shall provide that a business certified by the other state as a women-owned business enterprise, which is owned and controlled by a resident or residents of that other state, shall be considered a women-owned business enterprise in this state under this section. The agreement shall provide that a women-owned business enterprise certified under this section, which is owned and controlled by a resident or residents of this state, shall be considered certified in the other state and eligible for programs of that state that provide an advantage or benefit to such businesses.

(E)(1) Any person who has been certified as a women-owned business enterprise under this section may present the person's certification to a political subdivision as evidence that that person is eligible to participate in any public initiatives or strategies that the political subdivision has established to

increase the participation, representation, or inclusion of women in business opportunities, and in any programs the political subdivision may have that set aside a certain amount of public contracts to award to women-owned business enterprises.

(2) When considering this evidence, a political subdivision shall defer to the department's determination that the person is a woman, that the person owns and controls the person's business, and that the person has owned the person's business for at least one year.

Sec. 122.925. (A) As used in this section:

"Armed forces" means the armed forces of the United States, including the army, navy, air force, marine corps, space force, coast guard, or any reserve component of those forces; the national guard of any state; the commissioned corps of the United States public health service; the merchant marine service during wartime; such other service as may be designated by congress; and the Ohio organized militia when engaged in full-time national guard duty for a period of more than thirty days.

"State agency" has the meaning defined in section 1.60 of the Revised Code.

"Veteran" means any person who has completed service in the armed forces, including the national guard of any state, or a reserve component of the armed forces, who has been honorably discharged or discharged under honorable conditions from the armed forces or who has been transferred to the reserve with evidence of satisfactory service.

"Veteran-friendly business enterprise" means a sole proprietorship, association, partnership, corporation, limited

liability company, or joint venture that meets veteran employment standards established by the director of development and the director of transportation under this section.

(B) The director of development and the director of transportation shall establish and maintain the veteran-friendly business procurement program. The director of development shall adopt the rules ~~to administer the program~~ described in this division for all state agencies except the department of transportation, and the director of transportation shall adopt the rules ~~to administer the program~~ described in this division for the department of transportation. The rules shall be adopted under Chapter 119. of the Revised Code. The rules, as adopted separately by but with the greatest degree of consistency possible between the two directors, shall do all of the following:

(1) Establish criteria, based on the percentage of an applicant's employees who are veterans, that qualifies an applicant for certification as a veteran-friendly business enterprise;

(2) Establish procedures by which a sole proprietorship, association, partnership, corporation, limited liability company, or joint venture may apply for certification as a veteran-friendly business enterprise;

(3) Establish procedures for certifying a sole proprietorship, association, partnership, corporation, limited liability company, or joint venture as a veteran-friendly business enterprise;

(4) Establish standards for determining when a veteran-friendly business enterprise no longer qualifies for

certification as a veteran-friendly business enterprise;

(5) Establish procedures, to be used by state agencies or the department of transportation, for the evaluation and ranking of proposals, which provide preference or bonus points to each certified veteran-friendly business enterprise that submits a bid or other proposal for a contract with the state or an agency of the state other than the department of transportation, or with the department of transportation, for the rendering of services, or the supplying of materials, or for the construction, demolition, alteration, repair, or reconstruction of any public building, structure, highway, or other improvement;

(6) Implement an outreach program to educate potential participants about the veteran-friendly business procurement program; and

(7) Establish a process for monitoring overall performance of the veteran-friendly business procurement program.

(C)(1) Any person who has been certified as a veteran-friendly business enterprise under this section may present the person's certification to a political subdivision as evidence that the person is eligible to participate in any public initiatives or strategies that the political subdivision has established to reward veteran-friendly businesses or to increase the participation, representation, or inclusion of veteran-friendly businesses in business opportunities, and in any programs the political subdivision may have that set aside a certain amount of public contracts to award to veteran-friendly business enterprises.

(2) When considering this evidence, a political

subdivision shall defer to the department's determination that the person meets the criteria established under division (B)(1) of this section.

Sec. 122.9511. (A) As used in this section:

(1) "Eligible applicant" means a person or a political subdivision.

(2) "Eligible project" means a project that, upon completion, will be a site and facility primarily intended for commercial, industrial, or manufacturing use. "Eligible projects" do not include sites and facilities intended primarily for residential, retail, or government use.

(3) "Person" has the same meaning as in section 5701.01 of the Revised Code.

(4) "Political subdivision" means a municipal corporation, township, county, school district, or any other body corporate and politic responsible for governmental activities in a geographic area smaller than that of the state.

(5) "SiteOhio certification program" means the program created under this section.

(B) There is hereby created the SiteOhio certification program to certify and market eligible projects in the state. The program shall be administered by the department of development.

(C) An eligible applicant may apply to the director of development on forms prescribed by the director for the director to certify an eligible project. In addition to the application, the applicant shall submit any additional materials required by the director. The director shall establish scoring criteria,

scoring instruments, and materials for use by the department of development in reviewing applications under the SiteOhio certification program. The content of the scoring criteria, scoring instruments, and materials shall be at the discretion of the director and may include, where practicable, evaluation of certain quality of life indicators and community assets. The scoring criteria, scoring instruments, and materials shall be published and made available with the application.

Subject to any limitations imposed under division (E)(2) of this section, the director shall approve an application and certify the applicant's eligible project if the applicant meets all of the scoring criteria established by the director.

(D) After the director of development certifies an eligible project, the project shall be listed on the department's web site. The director shall market certified eligible projects to interested persons.

(E) The director of development ~~shall~~ may adopt rules under Chapter 119. of the Revised Code ~~necessary to implement and operate the SiteOhio certification program. The rules may~~ to provide for eligible applicants for certification to be charged fees to cover administrative costs incurred by the department in the administration of this section. Any fees collected under this section shall be credited to the SiteOhio administration fund. The director may do either of the following:

(1) Contract with one or more persons to administer all or part of the SiteOhio certification program.

(2) Limit the number of eligible projects the director certifies according to the available resources and capabilities of the department.

Sec. 123.01. (A) The department of administrative services, in addition to those powers enumerated in Chapters 124. and 125. of the Revised Code and provided elsewhere by law, shall exercise the following powers:

(1) To prepare and suggest comprehensive plans for the development of grounds and buildings under the control of a state agency;

(2) To acquire, by purchase, gift, devise, lease, or grant, all real estate required by a state agency, in the exercise of which power the department may exercise the power of eminent domain, in the manner provided by sections 163.01 to 163.22 of the Revised Code;

(3) To erect, supervise, and maintain all public monuments and memorials erected by the state, except where the supervision and maintenance is otherwise provided by law;

(4) To procure, by lease, storage accommodations for a state agency;

(5) To lease or grant easements or licenses for unproductive and unused lands or other property under the control of a state agency. Such leases, easements, or licenses may be granted to any person or entity, shall be for a period not to exceed fifteen years, unless a longer period is authorized by division (A)(5) of this section, and shall be executed for the state by the director of administrative services. The director shall grant leases, easements, or licenses of university land for periods not to exceed twenty-five years for purposes approved by the respective university's board of trustees wherein the uses are compatible with the uses and needs of the university and may grant leases of university

land for periods not to exceed forty years for purposes approved by the respective university's board of trustees pursuant to section 123.17 of the Revised Code. The director may grant perpetual easements to public utilities, as defined in section 4905.02 of the Revised Code or described in section 4905.03 of the Revised Code.

(6) To lease space for the use of a state agency;

(7) To have general supervision and care of the storerooms, offices, and buildings leased for the use of a state agency;

(8) To exercise general custodial care of all real property of the state;

(9) To assign and group together state offices in any city in the state and to establish, in cooperation with the state agencies involved, rules governing space requirements for office or storage use;

(10) To lease for a period not to exceed forty years, pursuant to a contract providing for the construction thereof under a lease-purchase plan, buildings, structures, and other improvements for any public purpose, and, in conjunction therewith, to grant leases, easements, or licenses for lands under the control of a state agency for a period not to exceed forty years. The lease-purchase plan shall provide that at the end of the lease period, the buildings, structures, and related improvements, together with the land on which they are situated, shall become the property of the state without cost.

(a) Whenever any building, structure, or other improvement is to be so leased by a state agency, the department shall retain either basic plans, specifications, bills of materials,

and estimates of cost with sufficient detail to afford bidders all needed information or, alternatively, all of the following plans, details, bills of materials, and specifications:

(i) Full and accurate plans suitable for the use of mechanics and other builders in the improvement;

(ii) Details to scale and full sized, so drawn and represented as to be easily understood;

(iii) Accurate bills showing the exact quantity of different kinds of material necessary to the construction;

(iv) Definite and complete specifications of the work to be performed, together with such directions as will enable a competent mechanic or other builder to carry them out and afford bidders all needed information;

(v) A full and accurate estimate of each item of expense and of the aggregate cost thereof.

(b) The department shall give public notice, in such newspaper, in such form, and with such phraseology as the director of administrative services prescribes, published once each week for four consecutive weeks, of the time when and place where bids will be received for entering into an agreement to lease to a state agency a building, structure, or other improvement. The last publication shall be at least eight days preceding the day for opening the bids. The bids shall contain the terms upon which the builder would propose to lease the building, structure, or other improvement to the state agency. The form of the bid approved by the department shall be used, and a bid is invalid and shall not be considered unless that form is used without change, alteration, or addition. Before submitting bids pursuant to this section, any builder shall

comply with Chapter 153. of the Revised Code.

(c) On the day and at the place named for receiving bids for entering into lease agreements with a state agency, the director of administrative services shall open the bids and shall publicly proceed immediately to tabulate the bids upon duplicate sheets. No lease agreement shall be entered into until the bureau of workers' compensation has certified that the person to be awarded the lease agreement has complied with Chapter 4123. of the Revised Code, until, if the builder submitting the lowest and best bid is a foreign corporation, the secretary of state has certified that the corporation is authorized to do business in this state, until, if the builder submitting the lowest and best bid is a person nonresident of this state, the person has filed with the secretary of state a power of attorney designating the secretary of state as its agent for the purpose of accepting service of summons in any action brought under Chapter 4123. of the Revised Code, and until the agreement is submitted to the attorney general and the attorney general's approval is certified thereon. Within thirty days after the day on which the bids are received, the department shall investigate the bids received and shall determine that the bureau and the secretary of state have made the certifications required by this section of the builder who has submitted the lowest and best bid. Within ten days of the completion of the investigation of the bids, the department shall award the lease agreement to the builder who has submitted the lowest and best bid and who has been certified by the bureau and secretary of state as required by this section. If bidding for the lease agreement has been conducted upon the basis of basic plans, specifications, bills of materials, and estimates of costs, upon the award to the builder the department, or the

builder with the approval of the department, shall appoint an architect or engineer licensed in this state to prepare such further detailed plans, specifications, and bills of materials as are required to construct the building, structure, or improvement. ~~The department shall adopt such rules as are necessary to give effect to this section.~~ The department may reject any bid. Where there is reason to believe there is collusion or combination among bidders, the bids of those concerned therein shall be rejected.

(11) To acquire by purchase, gift, devise, or grant and to transfer, lease, or otherwise dispose of all real property required to assist in the development of a conversion facility as defined in section 5709.30 of the Revised Code as that section existed before its repeal by Amended Substitute House Bill 95 of the 125th general assembly;

(12) To lease for a period not to exceed forty years, notwithstanding any other division of this section, the state-owned property located at 408-450 East Town Street, Columbus, Ohio, formerly the state school for the deaf, to a developer in accordance with this section. "Developer," as used in this section, has the same meaning as in section 123.77 of the Revised Code.

Such a lease shall be for the purpose of development of the land for use by senior citizens by constructing, altering, renovating, repairing, expanding, and improving the site as it existed on June 25, 1982. A developer desiring to lease the land shall prepare for submission to the department a plan for development. Plans shall include provisions for roads, sewers, water lines, waste disposal, water supply, and similar matters to meet the requirements of state and local laws. The plans

shall also include provision for protection of the property by insurance or otherwise, and plans for financing the development, and shall set forth details of the developer's financial responsibility.

The department may employ, as employees or consultants, persons needed to assist in reviewing the development plans. Those persons may include attorneys, financial experts, engineers, and other necessary experts. The department shall review the development plans and may enter into a lease if it finds all of the following:

(a) The best interests of the state will be promoted by entering into a lease with the developer;

(b) The development plans are satisfactory;

(c) The developer has established the developer's financial responsibility and satisfactory plans for financing the development.

The lease shall contain a provision that construction or renovation of the buildings, roads, structures, and other necessary facilities shall begin within one year after the date of the lease and shall proceed according to a schedule agreed to between the department and the developer or the lease will be terminated. The lease shall contain such conditions and stipulations as the director considers necessary to preserve the best interest of the state. Moneys received by the state pursuant to this lease shall be paid into the general revenue fund. The lease shall provide that at the end of the lease period the buildings, structures, and related improvements shall become the property of the state without cost.

(13) To manage the use of space owned and controlled by

the department by doing all of the following:

(a) Biennially implementing, by state agency location, a census of agency employees assigned space;

(b) Periodically in the discretion of the director of administrative services:

(i) Requiring each state agency to categorize the use of space allotted to the agency between office space, common areas, storage space, and other uses, and to report its findings to the department;

(ii) Creating and updating a master space utilization plan for all space allotted to state agencies. The plan shall incorporate space utilization metrics.

(iii) Conducting a cost-benefit analysis to determine the effectiveness of state-owned buildings;

(iv) Assessing the alternatives associated with consolidating the commercial leases for buildings located in Columbus.

(c) Commissioning a comprehensive space utilization and capacity study in order to determine the feasibility of consolidating existing commercially leased space used by state agencies into a new state-owned facility.

(14) To adopt rules to ensure that energy efficiency and conservation is considered in the purchase of products and equipment, except motor vehicles, by any state agency, department, division, bureau, office, unit, board, commission, authority, quasi-governmental entity, or institution. The department may require minimum energy efficiency standards for purchased products and equipment based on federal testing and

labeling if available or on standards developed by the department. When possible, the rules shall apply to the competitive selection of energy consuming systems, components, and equipment under Chapter 125. of the Revised Code.

(15) To ensure energy efficient and energy conserving purchasing practices by doing all of the following:

(a) Identifying available energy efficiency and conservation opportunities;

(b) Providing for interchange of information among purchasing agencies;

(c) Identifying laws, policies, rules, and procedures that should be modified;

(d) Monitoring experience with and the cost-effectiveness of this state's purchase and use of motor vehicles and of major energy-consuming systems, components, equipment, and products having a significant impact on energy consumption by the government;

(e) Providing technical assistance and training to state employees involved in the purchasing process;

(f) Working with the department of development to make recommendations regarding planning and implementation of purchasing policies and procedures that are supportive of energy efficiency and conservation.

(16) To require all state agencies, departments, divisions, bureaus, offices, units, commissions, boards, authorities, quasi-governmental entities, institutions, and state institutions of higher education to implement procedures to ensure that all of the passenger automobiles they acquire in

each fiscal year, except for those passenger automobiles acquired for use in law enforcement or emergency rescue work, achieve a fleet average fuel economy of not less than the fleet average fuel economy for that fiscal year as the department shall prescribe by rule. The department shall adopt the rule prior to the beginning of the fiscal year, in accordance with the average fuel economy standards established by federal law for passenger automobiles manufactured during the model year that begins during the fiscal year.

Each state agency, department, division, bureau, office, unit, commission, board, authority, quasi-governmental entity, institution, and state institution of higher education shall determine its fleet average fuel economy by dividing the total number of passenger vehicles acquired during the fiscal year, except for those passenger vehicles acquired for use in law enforcement or emergency rescue work, by a sum of terms, each of which is a fraction created by dividing the number of passenger vehicles of a given make, model, and year, except for passenger vehicles acquired for use in law enforcement or emergency rescue work, acquired during the fiscal year by the fuel economy measured by the administrator of the United States environmental protection agency, for the given make, model, and year of vehicle, that constitutes an average fuel economy for combined city and highway driving.

As used in division (A)(16) of this section, "acquired" means leased for a period of sixty continuous days or more, or purchased.

(17) To correct legal descriptions or title defects, or release fractional interests in real property, as necessary to cure title clouds reflected in public records, including those

resulting from boundary disputes, ingress or egress issues, title transfers precipitated through retirement of bond requirements, and the retention of fractional interests in real estate otherwise disposed of in previous title transfers.

(18)(a) To, with controlling board approval, sell state-owned real property that is not held for the benefit of an institution of higher education and is appraised at not more than one hundred thousand dollars by an independent third-party appraiser.

(b) To sell state-owned real property that is held for the benefit of an institution of higher education, provided all of the following are true:

(i) The board of trustees of the institution of higher education, or, in the case of a university branch district, any other managing authority, adopts a resolution approving the sale;

(ii) The real property is appraised at not more than ten million dollars by an independent third-party appraiser;

(iii) The controlling board approves the sale.

Notwithstanding any provision of law to the contrary, net proceeds from any disposition of real property made pursuant to division (A)(18) of this section shall, at the direction of the director of budget and management, be credited to a fund or funds in the state treasury, or to accounts held by an institution of higher education for purposes to be determined by the institution.

As used in division (A)(18) of this section, "institution of higher education" has the same meaning as in section 3345.12 of the Revised Code.

(B) This section and section 125.02 of the Revised Code shall not interfere with any of the following:

(1) The power of the adjutant general to purchase military supplies, or with the custody of the adjutant general of property leased, purchased, or constructed by the state and used for military purposes, or with the functions of the adjutant general as director of state armories;

(2) The power of the director of transportation in acquiring rights-of-way for the state highway system, or the leasing of lands for division or resident district offices, or the leasing of lands or buildings required in the maintenance operations of the department of transportation, or the purchase of real property for garage sites or division or resident district offices, or in preparing plans and specifications for and constructing such buildings as the director may require in the administration of the department;

(3) The power of the director of public safety and the registrar of motor vehicles to purchase or lease real property and buildings to be used solely as locations to which a deputy registrar is assigned pursuant to division (B) of section 4507.011 of the Revised Code and from which the deputy registrar is to conduct the deputy registrar's business, the power of the director of public safety to purchase or lease real property and buildings to be used as locations for division or district offices as required in the maintenance of operations of the department of public safety, and the power of the superintendent of the state highway patrol in the purchase or leasing of real property and buildings needed by the patrol, to negotiate the sale of real property owned by the patrol, to rent or lease real property owned or leased by the patrol, and to make or cause to

be made repairs to all property owned or under the control of the patrol;

(4) The power of the division of liquor control in the leasing or purchasing of retail outlets and warehouse facilities for the use of the division;

(5) The power of the director of development to enter into leases of real property, buildings, and office space to be used solely as locations for the state's foreign offices to carry out the purposes of section 122.05 of the Revised Code;

(6) The power of the director of environmental protection to enter into environmental covenants, to grant and accept easements, or to sell property pursuant to division (G) of section 3745.01 of the Revised Code;

(7) The power of the department of public safety under section 5502.01 of the Revised Code to direct security measures and operations for the Vern Riffe center and the James A. Rhodes state office tower. The department of administrative services shall implement all security measures and operations at the Vern Riffe center and the James A. Rhodes state office tower as directed by the department of public safety.

(C) Purchases for, and the custody and repair of, buildings under the management and control of the capitol square review and advisory board, the opportunities for Ohioans with disabilities agency, the bureau of workers' compensation, or the departments of public safety, job and family services, mental health and addiction services, developmental disabilities, and rehabilitation and correction; buildings of educational and benevolent institutions under the management and control of boards of trustees; and purchases or leases for, and the custody

and repair of, office space used for the purposes of any agency of the legislative branch of state government are not subject to the control and jurisdiction of the department of administrative services.

An agency of the legislative branch of state government that uses office space in a building under the management and control of the department of administrative services may exercise the agency's authority to improve the agency's office space as authorized under this division only if, upon review, the department of administrative services concludes the proposed improvements do not adversely impact the structural integrity of the building.

If an agency of the legislative branch of state government, except the capitol square review and advisory board, so requests, the agency and the director of administrative services may enter into a contract under which the department of administrative services agrees to perform any services requested by the agency that the department is authorized under this section to perform. In performing such services, the department shall not use competitive selection. As used in this division, "competitive selection" has the meaning defined in section 125.01 of the Revised Code and includes any other type of competitive process for the selection of persons producing or dealing in the services to be provided.

(D) Any instrument by which real property is acquired pursuant to this section shall identify the agency of the state that has the use and benefit of the real property as specified in section 5301.012 of the Revised Code.

Sec. 123.04. The director of administrative services shall have supervision of the public works of the state~~ and shall make~~

~~such rules and regulations for the maintenance and operation of the public works as are necessary~~.

Sec. 123.08. The director of administrative services shall appoint such forepersons, patrol officers, lock tenders, inspectors, engineers, and all other employees as are necessary for the maintenance and operation of the public works. They shall be assigned to duty under the supervision of the director~~, under rules and regulations prescribed by the director~~. Any such employee, when deemed necessary by the director, shall give proper bond to the state, conditioned for the faithful performance of the employee's duties. Such bonds may, in the discretion of the director, be individual, schedule, or blanket bonds.

Sec. 123.201. (A) There is hereby created in the state treasury the Ohio facilities construction commission fund, consisting of transfers of moneys authorized by the general assembly and revenues received by the Ohio facilities construction commission under section 123.21 of the Revised Code. Investment earnings on moneys in the fund shall be credited to the fund. Moneys in the fund may be used by the commission, in performing its duties under this chapter, to pay personnel and other administrative expenses, to pay the cost of preparing building design specifications, to pay the cost of providing project management services, and for other purposes determined by the commission to be necessary to fulfill its duties under this chapter.

(B)(1) There is hereby created in the state treasury the cultural and sports facilities building fund, consisting of proceeds of obligations authorized to pay costs of Ohio cultural facilities and Ohio sports facilities for which appropriations

are made by the general assembly. All investment earnings of the fund shall be credited to the fund.

(2) Upon the request of the executive director of the Ohio facilities construction commission and subject to applicable tax law limitations, the director of budget and management may transfer to the Ohio cultural facilities administration fund moneys credited to the cultural and sports facilities building fund to pay the costs of administering projects funded through the cultural and sports facilities building fund.

(C) There is hereby created in the state treasury the Ohio cultural facilities administration fund, consisting of transfers of money authorized by the general assembly and revenues received by the commission under division ~~(A)(9)~~ (A)(8) of section 123.21 of the Revised Code. Moneys in the fund may be used by the Ohio facilities construction commission in administering projects funded through the cultural and sports facilities building fund pursuant to sections 123.28 and 123.281 of the Revised Code. All investment earnings of that fund shall be credited to it and shall be allocated among any accounts created in the fund in the manner determined by the commission.

(D)(1) There is hereby created in the state treasury the capital donations fund, which shall be administered by the Ohio facilities construction commission. The fund consists of gifts, grants, devises, bequests, and other financial contributions made to the commission for the construction or improvement of cultural and sports facilities and shall be used in accordance with the specific purposes for which the gifts, grants, devises, bequests, or other financial contributions are made. All investment earnings of the fund shall be credited to the fund. Chapters 123., 125., 127., and 153. and section 3517.13 of the

Revised Code do not apply to contract obligations paid from the fund, notwithstanding anything to the contrary in those chapters or that section.

(2) Not later than one month following the end of each quarter of the fiscal year, the commission shall allocate the amounts credited to the fund from investment earnings during that preceding quarter of the fiscal year among the specific projects for which they are to be used.

(3) If the amounts credited to the fund for a particular project exceed what is required to complete that project, the commission may refund any of those excess amounts, including unexpended investment earnings attributable to those amounts, to the entity from which they were received.

Sec. 123.21. (A) The Ohio facilities construction commission may perform any act and ensure the performance of any function necessary or appropriate to carry out the purposes of, and exercise the powers granted under this chapter or any other provision of the Revised Code, including any of the following:

(1) Except as otherwise provided in section 123.211 of the Revised Code, prepare, or contract to be prepared, by licensed engineers or architects, surveys, general and detailed plans, specifications, bills of materials, and estimates of cost for any projects, improvements, or public buildings to be constructed by state agencies that may be authorized by legislative appropriations or any other funds made available therefor, provided that the construction of the projects, improvements, or public buildings is a statutory duty of the commission. This section does not require the independent employment of an architect or engineer as provided by section 153.01 of the Revised Code in the cases to which section 153.01

of the Revised Code applies. This section does not affect or alter the existing powers of the director of transportation.

(2) Except as otherwise provided in section 123.211 of the Revised Code, have general supervision over the construction of any projects, improvements, or public buildings constructed for a state agency and over the inspection of materials prior to their incorporation into those projects, improvements, or buildings.

(3) Except as otherwise provided in section 123.211 of the Revised Code, make contracts for and supervise the design and construction of any projects and improvements or the construction and repair of buildings under the control of a state agency. All such contracts may be based in whole or in part on the unit price or maximum estimated cost, with payment computed and made upon actual quantities or units.

(4) ~~Adopt, amend, and rescind rules pertaining to the administration of the construction of the public works of the state as required by law, in accordance with Chapter 119. of the Revised Code.~~

~~(5)~~ Contract with, retain the services of, or designate, and fix the compensation of, such agents, accountants, consultants, advisers, and other independent contractors as may be necessary or desirable to carry out the programs authorized under this chapter, or authorize the executive director to perform such powers and duties.

~~(6)~~ (5) Receive and accept any gifts, grants, donations, and pledges, and receipts therefrom, to be used for the programs authorized under this chapter.

~~(7)~~ (6) Make and enter into all contracts, commitments, and

agreements, and execute all instruments, necessary or incidental to the performance of its duties and the execution of its rights and powers under this chapter, or authorize the executive director to perform such powers and duties.

~~(8)~~ (7) Debar a contractor as provided in section 153.02 of the Revised Code.

~~(9)~~ (8) Enter into and administer cooperative agreements for cultural projects, as provided in sections 123.28 and 123.281 of the Revised Code.

(B) The commission shall appoint and fix the compensation of an executive director who shall serve at the pleasure of the commission. The executive director shall supervise the operations of the commission and perform such other duties as delegated by the commission. The executive director also shall employ and fix the compensation of such employees as will facilitate the activities and purposes of the commission, who shall serve at the pleasure of the executive director. The employees of the commission are exempt from Chapter 4117. of the Revised Code and are not considered public employees as defined in section 4117.01 of the Revised Code. Any agreement entered into prior to July 1, 2012, between the office of collective bargaining and the exclusive representative for employees of the commission is binding and shall continue to have effect.

(C) The attorney general shall serve as the legal representative for the commission and may appoint other counsel as necessary for that purpose in accordance with section 109.07 of the Revised Code.

(D) Purchases for, and the custody and repair of, buildings under the management and control of the capitol square

review and advisory board are not subject to the control and jurisdiction of the Ohio facilities construction commission.

Sec. 123.22. (A) As used in this section:

(1) "Construct" includes reconstruct, improve, renovate, enlarge, or otherwise alter.

(2) "Energy consumption analysis" means the evaluation of all energy consuming systems, components, and equipment by demand and type of energy, including the internal energy load imposed on a facility by its occupants and the external energy load imposed by climatic conditions.

(3) "Facility" means a building or other structure, or part of a building or other structure, that includes provision for a heating, refrigeration, ventilation, cooling, lighting, hot water, or other major energy consuming system, component, or equipment.

(4) "Life-cycle cost analysis" means a general approach to economic evaluation that takes into account all dollar costs related to owning, operating, maintaining, and ultimately disposing of a project over the appropriate study period.

(5) "Political subdivision" means a county, township, municipal corporation, board of education of any school district, or any other body corporate and politic that is responsible for government activities in a geographic area smaller than that of the state.

(6) "State funded" means funded in whole or in part through appropriation by the general assembly or through the use of any guarantee provided by this state.

(7) "State institution of higher education" has the same

meaning as in section 3345.011 of the Revised Code.

(8) "Cogeneration" means the simultaneous production of thermal energy and electricity for use primarily within a building or complex of buildings.

(B) The Ohio facilities construction commission shall develop energy efficiency and conservation programs for new construction design and review and for existing building audit and retrofit.

The commission may accept and administer grants from public and private sources for carrying out any of its duties under this section.

(C) No state agency, department, division, bureau, office, unit, board, commission, authority, quasi-governmental entity, or institution shall construct or cause to be constructed, within the limits prescribed in this section, a state-funded facility without a proper life-cycle cost analysis as computed or prepared by a qualified architect or engineer in accordance with the rules required by division (D) of this section.

Construction shall proceed only upon the disclosure to the commission, for the facility chosen, of the life-cycle costs as determined in this section and the capitalization of the initial construction costs of the building. The results of life-cycle cost analysis shall be a primary consideration in the selection of a building design. That analysis shall be required only for construction of buildings with an area of twenty thousand square feet or greater, except the commission may waive this requirement or may require an analysis for buildings with an area of less than twenty thousand square feet. For projects with an estimated construction cost exceeding fifty million dollars,

the analysis shall include a review of cogeneration as an energy source.

Nothing in this section shall deprive or limit any state agency that has review authority over design or construction plans from requiring a life-cycle cost analysis or energy consumption analysis.

(D) ~~For the purposes of assisting the commission in its responsibility for state-funded facilities pursuant to section 123.21 of the Revised Code and of cost-effectively reducing the energy consumption of those and any other state-funded facilities, thereby promoting fiscal, economic, and environmental benefits to this state, the commission shall promulgate rules specifying cost-effective, energy efficiency and conservation standards that may govern the design, construction, operation, and maintenance of all state-funded facilities, except facilities of state institutions of higher education or facilities operated by a political subdivision. The development services agency shall cooperate in providing information and technical expertise to the commission to ensure promulgation of rules of maximum effectiveness. The standards prescribed by rules promulgated under this division may draw from or incorporate, by reference or otherwise and in whole or in part, standards already developed or implemented by any competent, public or private standards organization or program.~~ The commission may adopt the following rules ~~also may include any of the following~~in accordance with Chapter 119. of the Revised Code:

(1) Specifications for a life-cycle cost analysis that shall determine, for the economic life of such state-funded facility, the reasonably expected costs of facility ownership,

operation, and maintenance including labor and materials. Life-cycle cost may be expressed as an annual cost for each year of the facility's use.

A life-cycle cost analysis additionally may include an energy consumption analysis that conforms to division (D)(2) of this section.

(2) Specifications for an energy consumption analysis of the facility's heating, refrigeration, ventilation, cooling, lighting, hot water, and other major energy consuming systems, components, and equipment.

A life-cycle cost analysis and energy consumption analysis shall be based on the best currently available methods of analysis, such as those of the national institute of standards and technology, the United States department of energy or other federal agencies, professional societies, and directions developed by the department.

(3) Specifications for energy performance indices, to be used to audit and evaluate competing design proposals submitted to the state.

(4) A process by which a manager of a specified state-funded facility, except a facility of a state institution of higher education or a facility operated by a political subdivision, may receive a waiver of compliance with any provision of the rules required by divisions (D)(1) to (3) of this section.

(E) Each state agency, department, division, bureau, office, unit, board, commission, authority, quasi-governmental entity, institution, and state institution of higher education shall comply with any applicable provision of this section or of

a rule promulgated pursuant to division (D) of this section.

Sec. 124.17. The director of administrative services may institute an employee awards system designed to encourage all state employees to submit suggestions that will reduce the costs, or improve the quality, of state services. Employee awards granted under the system may be either monetary or nonmonetary. The director shall provide, by rule, reasonable standards for determining the amount, not to exceed five thousand dollars per employee, of any cash award, and for determining the value of any nonmonetary award, that may be given for a suggestion. The department of administrative services shall review each adopted suggestion and determine the amount or type of award, if any, to be given.

In addition to the employees award system, the director may establish a program for the recognition of exemplary performance of employees paid in accordance with section 124.152 of the Revised Code and those employees listed in divisions (B)(2) and (4) of section 124.14 of the Revised Code. The program may include, but is not limited to, cash awards, additional leave, or other provisions as the director considers appropriate~~, and the director shall adopt rules in accordance with Chapter 119. of the Revised Code to provide for the administration of the program~~.

Sec. 124.74. (A) Division (B) of this section applies to any of the following individuals:

(1) An employee in the service of the state;

(2) A prospective employee for a position in the service of the state;

(3) A contractor of a state agency, board, or commission;

(4) A contractor, employee, or prospective employee of a board of county commissioners or a county department of job and family services, child support enforcement agency, or public children services agency.

(B) If an individual described in division (A) of this section has or, in the case of a prospective employee, will have access to or the use of federal tax information, the head of the state or county agency, department, board, or commission with which the individual is employed, will be employed, or is contracted shall request that the superintendent of the bureau of criminal identification and investigation conduct a criminal records check based on the individual's fingerprints in accordance with section 109.572 of the Revised Code. The head of the agency, department, board, or commission shall request that criminal record information from the federal bureau of investigation be obtained as part of the criminal records check.

Such an individual, and the agency, department, board, or commission with which the individual is employed, will be employed, or is contracted, shall also comply with any separate request by the federal bureau of investigation to conduct a national criminal records check.

(C) A ~~state or~~ county agency, department, board, or commission may adopt any rules or policies necessary to implement this section.

Sec. 125.14. (A) The director of administrative services shall allocate any proceeds from the transfer, sale, or lease of excess and surplus supplies in the following manner:

(1) Except as otherwise provided in division (A)(2) or (3) of this section, the proceeds of such a transfer, sale, or lease

shall be paid into the state treasury to the credit of the investment recovery fund, which is hereby created.

(2) Except as otherwise provided in division (A)(2) of this section, when supplies originally were purchased with funds from nongeneral revenue fund sources, the director shall determine what fund or account originally was used to purchase the supplies, and the credit for the proceeds from any transfer, sale, or lease of those supplies shall be transferred to that fund or account. If the director cannot determine which fund or account originally was used to purchase the supplies, if the fund or account is no longer active, or if the proceeds from the transfer, sale, or lease of a unit of supplies are less than one hundred dollars or any larger amount the director may establish with the approval of the director of budget and management, then the proceeds from the transfer, sale, or lease of such supplies shall be paid into the state treasury to the credit of the investment recovery fund.

(3) In accordance with division (H)(2) of section 125.832 of the Revised Code, when vehicles originally were purchased with moneys derived from the general revenue fund, the proceeds shall be deposited, in the director's discretion, into the state treasury to the credit of either the fleet management fund created by section 125.83 of the Revised Code or to the credit of the investment recovery fund created by this section. Any such proceeds deposited into the state treasury to the credit of the investment recovery fund may be transferred from the investment recovery fund to the fleet management fund.

(B) The investment recovery fund shall be used to pay for the operating expenses of the state surplus property program and of the federal surplus property program described in sections

125.84 to ~~125.90~~ 125.89 of the Revised Code. Any amounts in excess of these operating expenses shall periodically be transferred to the general revenue fund of the state. If proceeds paid into the investment recovery fund are insufficient to pay for the program's operating expenses, a service fee may be charged to state agencies to eliminate the deficit.

(C) Proceeds from the sale of recyclable goods and materials shall be paid into the state treasury to the credit of the recycled materials fund, which is hereby created, except that the director of environmental protection, upon request, may grant an exemption from this requirement. The director shall administer the fund for the benefit of recycling programs in state agencies.

Sec. 125.84. In conformance with the "Federal Property and Administrative Services Act of 1949," 63 Stat. 377, as amended, similar or related federal property disposal acts of congress, and sections 125.84 to ~~125.90~~ 125.89 of the Revised Code, the department of administrative services may acquire, warehouse, distribute, transfer, retransfer, recapture, revert, and dispose of federal personal property and shall assist in the acquisition, conveyance, reconveyance, recapture, reversion, and disposal of federal real and related personal property, not required for the needs and the discharge of the responsibilities of all federal departments, agencies, boards, and commissions, for the purpose of making such property available for use to eligible state civil defense, health, and educational institutions and organizations; state departments, agencies, boards, and commissions; bodies politic and corporate, political subdivisions, or other district, regional, or similar authorities established by or pursuant to law; duly authorized local tax-supported civil defense organizations; local tax-

supported health and educational institutions; local tax-supported institutions and organizations; private nonprofit federally tax-exempt health and educational institutions and organizations in the state; private nonprofit federally tax-exempt institutions, organizations, and activities in the state; and to such other institutions, organizations, or activities in the state as may hereafter become eligible to receive such property.

Any instrument by which real property is acquired pursuant to this section shall identify the agency of the state that has the use and benefit of the real property as specified in section 5301.012 of the Revised Code.

Sec. 125.87. Transferees, recipients, and entities referred to in sections 125.84 to ~~125.90~~ 125.89 of the Revised Code shall be required to pay to the department of administrative services such service charges or fees as the department may require in connection with federal property acquired, warehoused, distributed, transferred, conveyed, or reconveyed by the department and may be required to pay service charges or fees, if any, on property recaptured, reverted, or disposed of by the department when such action pertains to that property on which title is restricted by: the United States; the rules or orders of the department; ~~the rules issued in conformance with section 5502.25 of the Revised Code;~~ or sections 125.84 to ~~125.90~~ 125.89 of the Revised Code. All service charges or fees collected by the department under this section shall be paid into the state treasury to the credit of the investment recovery fund created under section 125.14 of the Revised Code.

Sec. 125.88. The governing body of any public authority,

office, organization, or semiautonomous entity referred to in section 125.84 of the Revised Code may appropriate, authorize the expenditure of, obligate and expend funds for service charges or fees assessed by the department of administrative services for federal property acquired, retransferred, recaptured, reverted, or disposed of under sections 125.84 to ~~125.90~~ 125.89 of the Revised Code and may accept federal personal property for redistribution in the state, and if accepted shall redistribute such property to any eligible class, division, or unit of government authorized by the department to acquire retransferable property and shall collect and reimburse the department for such departmental service charges as may be levied in connection with such retransfers; but those entities receiving property that may be or is to be retransferred or loaned, shall, as the department may require, be held accountable for the use of such property and for maintaining records thereof. Federal personal property transferred to a body politic and corporate or a political subdivision or transferred for use or redistribution by a public office or a district or regional or similar authority~~, for the purpose of complying with the applicable provisions of the rules promulgated by authority of section 5502.25 of the Revised Code,~~ also may be loaned on a nonprofit basis, by assignment, to approved organized and supporting agencies and auxiliaries.

Sec. 128.63. The tax commissioner may adopt rules in accordance with Chapter 119. of the Revised Code ~~to carry out this chapter, including rules~~ prescribing the necessary accounting for the collection fee under division (B) of section 128.46 of the Revised Code.

Sec. 131.024. (A) The attorney general may, not later than the first day of February of each year, send to the director of

commerce a request containing the name, address, and social security number of any person who owes a claim that has been certified to the attorney general under section 131.02 of the Revised Code and request that the director provide information to the attorney general as required in division (B) of this section. If the information the director provides identifies or results in identifying unclaimed funds held by the state for an obligor in default, the attorney general may file a claim under section 169.08 of the Revised Code to recover the unclaimed funds. If the director allows the claim, the director shall pay the claim directly to the attorney general. The director shall not disallow a claim made by the attorney general because the attorney general is not the owner of the unclaimed funds according to the report made under section 169.03 of the Revised Code.

(B) The director of commerce shall provide the attorney general, not later than the first day of March of each year, the name, address, social security number, if the social security number is available, and any other identifying information for any individual included in a request sent by the attorney general pursuant to division (A) of this section who has unclaimed funds delivered or reported to the state under Chapter 169. of the Revised Code.

~~(C) The attorney general, in consultation with the department of commerce, may adopt rules under Chapter 119. of the Revised Code to aid in the implementation of this section.~~

Sec. 131.33. (A) No state agency shall incur an obligation which exceeds the agency's current appropriation authority. Except as provided in division (D) of this section, unexpended balances of appropriations shall, at the close of the period for

which the appropriations are made, revert to the funds from which the appropriations were made, except that the director of budget and management shall transfer such unexpended balances from the first fiscal year to the second fiscal year of an agency's appropriations to the extent necessary for voided warrants to be reissued pursuant to division (C) of section 126.37 of the Revised Code.

Except as provided in this section, appropriations made to a specific fiscal year shall be expended only to pay liabilities incurred within that fiscal year.

(B) All payrolls shall be charged to the allotments of the fiscal quarters in which the applicable payroll vouchers are certified by the director of budget and management in accordance with section 126.07 of the Revised Code. As used in this division, "payrolls" means any payment made in accordance with section 125.21 of the Revised Code.

(C) Legal liabilities from prior fiscal years for which there is no reappropriation authority shall be discharged from the unencumbered balances of current appropriations.

(D)(1) Federal grant funds obligated by the department of job and family services or the department of children and youth for financial allocations to county family services agencies and local boards may, at the discretion of the director of job and family services or the director of children and youth, be available for expenditure for the duration of the federal grant period of obligation and liquidation, as follows:

(a) At the end of the state fiscal year, all unexpended county family services agency and local board financial allocations obligated from federal grant funds may continue to

be valid for expenditure during subsequent state fiscal years.

(b) The financial allocations described in division (D)(1)(a) of this section shall be reconciled at the end of the federal grant period of availability or as required by federal law, regardless of the state fiscal year of the appropriation.

(2) ~~The director of job and family services and the director of children and youth may adopt rules in accordance with section 111.15 of the Revised Code, as if they were internal management rules, as necessary to implement division (D) of this section.~~

~~(3)~~ As used in division (D) of this section:

(a) "County family services agency" has the same meaning as in section 307.981 of the Revised Code.

(b) "Local board" has the same meaning as in section 6301.01 of the Revised Code.

Sec. 135.182. (A) As used in this section:

(1) "Public depository" means that term as defined in section 135.01 of the Revised Code, but also means an institution that receives or holds any public deposits as defined in section 135.31 of the Revised Code.

(2) "Public depositor" means that term as defined in section 135.01 of the Revised Code, but also includes a county and any municipal corporation that has adopted a charter under Article XVIII, Ohio Constitution.

(3) "Public deposits," "public moneys," and "treasurer" mean those terms as defined in section 135.01 of the Revised Code, but also have the same meanings as are set forth in section 135.31 of the Revised Code, but for purposes of this

section does not include the moneys of metropolitan housing authorities.

(B)(1) Not later than July 1, 2017, the treasurer of state shall create the Ohio pooled collateral program. Under this program, each institution designated as a public depository that selects the pledging method prescribed in division (A)(2) of section 135.18 or division (A)(2) of section 135.37 of the Revised Code shall pledge to the treasurer of state a single pool of eligible securities for the benefit of all public depositors at the public depository to secure the repayment of all uninsured public deposits at the public depository, provided that at all times the total market value of the securities so pledged is at least equal to either of the following:

(a) One hundred two per cent of the total amount of all uninsured public deposits;

(b) An amount determined by rules adopted by the treasurer of state that set forth the criteria for determining the aggregate market value of the pool of eligible securities pledged by a public depository pursuant to division (B) of this section. Such criteria shall include, but are not limited to, prudent capital and liquidity management by the public depository and the safety and soundness of the public depository as determined by a third-party rating organization.

(2) The treasurer of state shall monitor the eligibility, market value, and face value of the pooled securities pledged by the public depository. Each public depository shall carry in its accounting records at all times a general ledger or other appropriate account of the total amount of all public deposits to be secured by the pool, as determined at the opening of business each day, and the total market value of securities

pledged to secure such deposits, and report such information to the treasurer of state in a manner and frequency as determined by the treasurer of state pursuant to rules adopted by the treasurer of state. A public depositor shall be responsible for periodically confirming the accuracy of its account balances with the treasurer of state; otherwise, the treasurer of state shall be the sole public depositor responsible for monitoring and ensuring the sufficiency of securities pledged under this section.

(3) If, on any day, the total market value of the securities pledged by the public depository is less than that specified in division (B)(1)(a) or (b) of this section, whichever is applicable, the public depository shall have two business days to pledge additional eligible securities having a market value sufficient, when combined with the market value of eligible securities already pledged, to satisfy the requirement of division (B)(1)(a) or (b) of this section, as applicable, to secure the repayment of all uninsured public deposits at the public depository.

(C) The public depository shall designate a qualified trustee approved by the treasurer of state and place with such trustee for safekeeping the eligible securities pledged pursuant to division (B) of this section. The trustee shall hold the eligible securities in an account indicating the treasurer of state's security interest in the eligible securities. The treasurer of state shall give written notice of the trustee to all public depositors for which such securities are pledged. The trustee shall report to the treasurer of state information relating to the securities pledged to secure such public deposits in a manner and frequency as determined by the treasurer of state.

(D) In order for a public depository to receive public moneys under this section, the public depository and the treasurer of state shall first execute an agreement that sets forth the entire arrangement among the parties and that meets the requirements described in 12 U.S.C. 1823(e). In addition, the agreement shall authorize the treasurer of state to obtain control of the collateral pursuant to division (D) of section 1308.24 of the Revised Code.

(E) The securities or other obligations described in division (D) of section 135.18 of the Revised Code shall be eligible as collateral for the purposes of division (B) of this section, provided no such securities or obligations pledged as collateral are at any time in default as to either principal or interest.

(F) Any federal reserve bank or branch thereof located in this state or federal home loan bank, without compliance with Chapter 1111. of the Revised Code and without becoming subject to any other law of this state relative to the exercise by corporations of trust powers generally, is qualified to act as trustee for the safekeeping of securities, under this section. Any institution mentioned in section 135.03 or 135.32 of the Revised Code that holds a certificate of qualification issued by the superintendent of financial institutions or any institution complying with sections 1111.04, 1111.05, and 1111.06 of the Revised Code is qualified to act as trustee for the safekeeping of securities under this section, other than those belonging to itself or to an affiliate as defined in section 1101.01 of the Revised Code.

(G) The public depository may substitute, exchange, or release eligible securities deposited with the qualified trustee

pursuant to this section, provided that such substitution, exchange, or release is effectuated pursuant to written authorization from the treasurer of state, and such action does not reduce the total market value of the securities to an amount that is less than the amount established pursuant to division (B) of this section.

(H) Notwithstanding the fact that a public depository is required to pledge eligible securities in certain amounts to secure public deposits, a qualified trustee has no duty or obligation to determine the eligibility, market value, or face value of any securities deposited with the trustee by a public depository. This applies in all situations including, but not limited to, a substitution or exchange of securities, but excluding those situations effectuated by division (I) of this section in which the trustee is required to determine face and market value.

(I) The qualified trustee shall enter into a custodial agreement with the treasurer of state and public depository in which the trustee agrees to comply with entitlement orders originated by the treasurer of state without further consent by the public depository or, in the case of collateral held by the public depository in an account at a federal reserve bank, the treasurer of state shall have the treasurer's security interest marked on the books of the federal reserve bank where the account for the collateral is maintained. If the public depository fails to pay over any part of the public deposits made therein as provided by law and secured pursuant to division (B) of this section, the treasurer of state shall give written notice of this failure to the qualified trustee holding the pool of securities pledged against the public deposits, and at the same time shall send a copy of this notice to the public

depository. Upon receipt of this notice, the trustee shall transfer to the treasurer of state for sale, the pooled securities that are necessary to produce an amount equal to the public deposits made by the public depositor and not paid over, less the portion of the deposits covered by any federal deposit insurance, plus any accrued interest due on the deposits. The treasurer of state shall sell any of the bonds or other securities so transferred. When a sale of bonds or other securities has been so made and upon payment to the public depositor of the purchase money, the treasurer of state shall transfer such bonds or securities whereupon the absolute ownership of such bonds or securities shall pass to the purchasers. Any surplus after deducting the amount due to the public depositor and expenses of sale shall be paid to the public depository.

(J) Any charges or compensation of a qualified trustee for acting as such under this section shall be paid by the public depository and in no event shall be chargeable to the public depositor or to any officer of the public depositor. The charges or compensation shall not be a lien or charge upon the securities deposited for safekeeping prior or superior to the rights to and interests in the securities of the public depositor. The treasurer and the treasurer's bonders or surety shall be relieved from any liability to the public depositor or to the public depository for the loss or destruction of any securities deposited with a qualified trustee pursuant to this section.

(K) A public depositor, treasurer, or the public depositor's or treasurer's bonders or surety are not liable for the loss of funds if a public depository fails to comply with the terms set forth in the agreement provided for in division

(D) of this section for the appropriate level of collateral, as required under division (B)(1)(a) or (b) of this section, to secure the public deposits made under that agreement.

(L)(1) The following information is confidential and not a public record under section 149.43 of the Revised Code:

(a) All reports or other information obtained or created about a public depository for purposes of division (B)(1)(b) of this section;

(b) The identity of a public depositor's public depository;

(c) The identity of a public depository's public depositors.

(2) Nothing in this section prevents the treasurer of state from releasing or exchanging such confidential information as required by law or for the operation of the pooled collateral program.

(M) The treasurer of state may impose reasonable fees, including late fees, upon public depositories participating in the pooled collateral program to defray the actual and necessary expenses incurred by the treasurer in connection with the program. All such fees collected by the treasurer shall be deposited into the state treasury to the credit of the administrative fund created in section 113.20 of the Revised Code.

~~(N) The treasurer of state may adopt rules necessary for the implementation of this section and sections 135.18 and 135.181 of the Revised Code. Such rules shall be adopted in accordance with Chapter 119. of the Revised Code.~~

Sec. 135.22. (A) For purposes of this section:

(1) "Treasurer" has the same meaning as in section 135.01 of the Revised Code, but does not include a county treasurer or the treasurer of state. "Treasurer" includes any person whose duties include making investment decisions with respect to the investment or deposit of interim moneys.

(2) "Subdivision" has the same meaning as in section 135.01 of the Revised Code.

(B) To enhance the background and working knowledge of treasurers in investments, cash management, the collection of taxes, ethics, and in any other subject area that the treasurer of state determines is reasonably related to the duties of a treasurer, the treasurer of state shall provide annual continuing education programs for treasurers. A treasurer annually shall complete the continuing education programs described in this section, unless the treasurer annually provides a notice of exemption described in division (E) of this section.

(C) The treasurer of state shall determine the manner, content, and length of the continuing education programs after consultation with appropriate statewide organizations of local government officials.

(D) Upon successful completion of a continuing education program required by this section, the treasurer of state shall issue a certificate indicating that the treasurer has successfully completed the continuing education program prescribed by the treasurer of state. The treasurer of state shall forward to the auditor of state any certificates issued pursuant to this division by the treasurer of state. The auditor

of state shall maintain in the auditor's records any certificates forwarded by the treasurer of state pursuant to this division. As part of the auditor of state's audit of the subdivision conducted in accordance with section 117.11 of the Revised Code, the auditor of state shall report whether the treasurer is in compliance with this section of the Revised Code.

(E) Division (B) of this section does not apply to any treasurer who annually provides a notice of exemption to the auditor of state. The notice shall be certified by the treasurer of state and shall provide that the treasurer is not subject to the continuing education requirements set forth in division (B) of this section, because the treasurer invests or deposits public moneys in the following investments only:

(1) Interim deposits pursuant to division (B)(3) of section 135.14 or section 135.145 of the Revised Code;

(2) No-load money market mutual funds pursuant to division (B)(5) of section 135.14 of the Revised Code;

(3) The Ohio subdivision's fund pursuant to division (B)(6) of section 135.14 of the Revised Code.

(F) In carrying out the duties required by this section, the treasurer of state may charge the subdivision served by the treasurer a registration fee that will meet actual and necessary expenses in connection with the training of the treasurer, including instruction fees, site acquisition costs, and the cost of course materials. Any necessary personal expenses of a treasurer incurred as a result of attending the continuing education courses shall be borne by the subdivision represented by the treasurer.

(G) The treasurer of state may allow any other interested person to attend any of the continuing education programs that are held pursuant to this section, provided that before attending any such continuing education program, the interested person has paid to the treasurer of state the full registration fee set for the continuing education program.

(H) All funds collected pursuant to this section shall be paid into the county treasurer education fund created pursuant to section 321.46 of the Revised Code, and the actual and necessary expenses of the treasurer of state in conducting the continuing education programs required by this section shall be paid from this fund.

~~(I) The treasurer of state may adopt reasonable rules not inconsistent with this section for the implementation of this section.~~

Sec. 135.45. (A) Subject to division (B) of this section, a treasurer, governing board, or investing authority of a subdivision may pay public moneys of the subdivision into the Ohio subdivision's fund, which may be established in the custody of the treasurer of state. The treasurer of state shall invest the moneys in the fund in separately managed accounts and pooled accounts, including the state treasurer's investment pool, in the same manner, in the same types of instruments, and subject to the same limitations provided for the deposit and investment of interim moneys of the state, except that the fund shall not be invested in the linked deposits authorized under section 135.61 of the Revised Code.

(B)(1) On and after July 1, 1997, a treasurer, governing board, or investing authority of a subdivision that has not entered into an agreement with the treasurer of state under

division (C) of this section shall not invest public moneys of the subdivision in a pooled account of the Ohio subdivision's fund under division (B)(6) of section 135.14 of the Revised Code or division (A)(6) of section 135.35 of the Revised Code if the pool does not maintain the highest letter or numerical rating provided by at least one nationally recognized statistical rating organization.

(2) Upon receipt of notice that the pool does not maintain the highest letter or numerical rating required under division (B)(1) of this section, the treasurer of state shall have ninety days to obtain the required highest letter or numerical rating. If the treasurer of state fails to obtain the required highest letter or numerical rating, the treasurer of state shall have an additional one hundred eighty days to develop a plan to dissolve the pool. The plan shall include reasonable standards for the equitable return of public moneys in the pool to those subdivisions participating in the pool.

(3) Treasurers, governing boards, or investing authorities of subdivisions participating in the pool shall not be required to divest in the pool during the initial one hundred eighty days following the treasurer of state's receipt of notice under division (B)(2) of this section.

(C) A treasurer, governing board, or investing authority of a subdivision that wishes to invest public moneys of the subdivision in a separately managed account or pooled account of the Ohio subdivision's fund may enter into an agreement with the treasurer of state that sets forth the manner in which the money is to be invested. The treasurer of state shall invest the moneys in accordance with the agreement, subject to the limitations set forth in division (A) of this section. For

purposes of this division, the limitation on investments in debt interests provided in division (A)(11)(a) of section 135.143 of the Revised Code shall not apply to a subdivision's excess reserves.

(D) The treasurer of state shall adopt ~~such~~ rules ~~as are necessary for the implementation of this section, including the efficient administration of and~~ accounting for the separately managed accounts and pooled accounts, including the state treasurer's investment pool, and the specification of minimum amounts that may be paid into such pools and minimum periods of time for which such payments shall be retained in the pools. The rules shall provide for the administrative expenses of the separately managed accounts and pooled accounts, including the state treasurer's investment pool, to be paid from the earnings and for the interest earnings in excess of such expenses to be credited to the several treasurers, governing boards, and investing authorities participating in a pool in a manner which equitably reflects the differing amounts of their respective investments in the pool and the differing periods of time for which such amounts are in the pool.

(E) The treasurer of state shall give bond with sufficient sureties, payable to the treasurers, governing boards, and investing authorities of subdivisions participating in the fund, for the benefit of the subdivisions whose moneys are paid into the fund for investment, in the total penal sum of two hundred fifty thousand dollars, conditioned for the faithful discharge of the treasurer of state's duties in relation to the fund.

(F) The treasurer of state and the treasurer of state's bonders or surety are liable for the loss of any interim moneys of the state and subdivisions invested under this section to the

same extent the treasurer of state and the treasurer of state's bonders or surety are liable for the loss of public moneys under section 135.19 of the Revised Code.

(G) As used in this section:

(1) "Interim moneys" and "governing board" have the same meanings as in section 135.01 of the Revised Code.

(2)(a) "Subdivision" has the same meaning as in section 135.01 of the Revised Code, but also includes a county, a municipal corporation that has adopted a charter under Article XVIII, Ohio Constitution, or any government entity for which the fund is a permissible investment.

(b) "Public moneys of a subdivision" has the same meaning as in section 135.01 of the Revised Code, but also includes "public moneys" as defined in section 135.31 of the Revised Code, and funds held in the custody of the treasurer of state notwithstanding any limitations on the permissible investments of such funds.

(3) "Treasurer" has the same meaning as in sections 135.01 and 135.31 of the Revised Code.

(4) "Investing authority" has the same meaning as in section 135.31 of the Revised Code.

(5) "Excess reserves" means the amount of a subdivision's public moneys that exceed the average of a subdivision's annual operating expenses in the immediately preceding three fiscal years.

Sec. 135.46. (A) The treasurer of state may create a taxable investment pool or a tax-exempt investment pool, or both, for the purpose of providing a procedure for the temporary

investment of bond proceeds. The pool shall be in the custody of the treasurer of state.

(B) A treasurer, governing board, or investing authority of a subdivision, or any agency of the state that has debt-issuing authority may pay bond proceeds into either or both of the pools authorized under division (A) of this section.

(C) The treasurer of state shall invest the funds of the taxable investment pool authorized under division (A) of this section in the same manner, in the same types of instruments, and subject to the same limitations provided for the deposit and investment of interim moneys of the state and subdivisions under sections 135.14 and 135.143 of the Revised Code. The treasurer also may invest in any other taxable obligations issued by any political subdivision of the state.

(D) The treasurer of state shall invest the funds of the tax-exempt investment pool in debt obligations and participation interests in such obligations, if all of the following apply:

(1) The obligations are issued by or on behalf of any state of the United States, or any political subdivision, agency, or instrumentality of any such state;

(2) The interest on such obligations is exempt from federal income taxation;

(3) The obligations are rated in either of the two highest classifications established by at least one nationally recognized statistical rating organization.

(E)(1) The treasurer of state shall, pursuant to Chapter 119. of the Revised Code, adopt ~~such~~ rules ~~as are necessary to carry out the purposes of this section and~~ for ~~the efficient administration and~~ accounting of a pool established pursuant to

division (A) of this section.

(2) The rules shall provide for the administrative expenses of such pool to be paid from its earnings and for the interest earnings in excess of such expenses to be credited to the several treasurers, governing boards, investing authorities, and agencies of the state participating in the pool in a manner that equitably reflects the differing amounts of their respective investments in the pool and the differing periods of time for which such amounts are in the pool.

(3) The rules shall establish standards governing pools authorized under division (A) of this section, taking into consideration all federal rebate and yield restrictions and the objective of maintaining a high degree of safety and liquidity.

(F) Upon creating a pool authorized under division (A) of this section, the treasurer of state shall give bond with sufficient sureties, payable to the treasurers, governing boards, and investing authorities of subdivisions and agencies of the state participating in the pool, for the benefit of the participating subdivisions and agencies, in the total penal sum of two hundred fifty thousand dollars, conditioned for the faithful discharge of the treasurer of state's duties in relation to the pool.

(G) The treasurer of state and the treasurer of state's bonders or surety are liable for the loss of any moneys of the state invested under this section through a pool established under division (A) of this section to the same extent the treasurer of state and the treasurer of state's bonders or surety are liable for the loss of public moneys under section 135.19 of the Revised Code.

(H) As used in this section:

(1) "Governing board" has the same meaning as in section 135.01 of the Revised Code.

(2) "Interim moneys" has the same meaning as in section 135.01 of the Revised Code.

(3) "Investing authority" has the same meaning as in section 135.31 of the Revised Code.

(4) "Public moneys of a subdivision" has the same meaning as in section 135.01 of the Revised Code, but also includes "public moneys" as defined in section 135.31 of the Revised Code, and funds held in the custody of the treasurer of state notwithstanding any limitations on the permissible investments of such funds.

(5) "Subdivision" has the same meaning as in section 135.01 of the Revised Code, but also includes a county, or a municipal corporation that has adopted a charter under Article XVIII, Ohio Constitution.

(6) "Treasurer" has the same meaning as in sections 135.01 and 135.31 of the Revised Code.

Sec. 135.61. (A) For the purposes of this section:

(1) "Eligible borrower," "eligible credit union," and "eligible lending institution" have the same meanings as in section 135.62 of the Revised Code.

(2) "Eligible participant" and "eligible savings institution" have the same meanings as in section 135.70 of the Revised Code.

(B) The treasurer of state may invest in linked deposits

under sections 135.61 to 135.66 and 135.70 to 135.71 of the Revised Code, provided that at the time any such linked deposits are placed, purchased, or designated, the combined amount of investments of public money of the state in linked deposits of any kind is not more than twelve per cent of the state's total average investment portfolio, as determined by the treasurer of state. When deciding whether to invest in any linked deposits, the treasurer of state shall give priority to the investment, liquidity, and cash flow needs of the state.

(C) The treasurer of state may, in accordance with section 111.15 of the Revised Code, adopt rules ~~necessary~~ for the implementation and administration of linked deposits authorized by this section~~,~~ ~~including, but not limited to,~~ that establish the manner in which an eligible lending institution or eligible savings institution is designated, and the manner in which linked deposits are placed, purchased, designated, held, and collateralized.

(D) Notwithstanding any contrary provision of the Revised Code, the treasurer of state may require an eligible credit union that holds linked deposits authorized under this section to pay interest at a rate not lower than the product of the interest rate set in the deposit agreement, as required by sections 135.623 and 135.703 of the Revised Code, multiplied by the sum of one plus the treasurer of state's assessment rate. ~~The treasurer of state may, in accordance with section 119.03 of the Revised Code, adopt rules necessary for the implementation of this division.~~

(E)(1) Records of the treasurer of state, an eligible lending institution, or an eligible savings institution are not public records within the meaning of section 149.43 of the

Revised Code if any of the following apply:

(a) The record is provided by an eligible borrower to an eligible lending institution, or by an eligible participant to an eligible savings institution, to obtain a financial service or product from such institution.

(b) The record results from a transaction between the eligible borrower and the eligible lending institution, or the eligible participant and the eligible savings institution, involving a financial product or service.

(c) An eligible lending institution or eligible savings institution otherwise obtains the record about an eligible borrower or eligible participant in connection with providing a financial product or service.

(2) The records specified in division (E)(1) of this section may include names, addresses, telephone numbers, social security numbers, income, credit scores, information obtained through cookies and other internet collection devices, loan amounts, contributors to a linked deposit savings account, and amounts contributed to, earned by, or distributed from a linked deposit savings account.

Sec. 145.038. (A) A public employer who on or after January 7, 2013, begins to receive personal services from an individual it classifies as an independent contractor or another classification other than public employee shall inform the individual of the classification and that no contributions will be made to the public employees retirement system for the services. Not later than thirty days after the services begin, the employer to whom the personal services will be rendered shall require the individual to acknowledge, in writing on a

form provided by the system, that the individual has been informed that the employer does not consider the individual a public employee and no contributions will be made to the public employees retirement system for the services. The employer shall retain the acknowledgement for a period of five years after the date the services begin and immediately transmit a copy of it to the public entity responsible for submitting to the system the reports required by section 145.47 of the Revised Code. The public entity shall transmit a copy of the acknowledgement to the system.

(B)(1) Regardless of whether the individual has made an acknowledgement under division (A) of this section and, except as provided in division (B)(2) of this section, an individual may request that the public employees retirement board determine whether the individual is a public employee for purposes of this chapter.

(2) Division (B)(1) of this section does not apply to an individual employed by a business entity under contract with a public employer to provide personal services to the employer.

(C) A request for a determination must be made not later than five years after the individual begins to provide personal services to the public employer, unless the individual demonstrates to the board's satisfaction through medical records that at the time the five-year period ended the individual was physically or mentally incapacitated and unable to request a determination.

(D) On receipt of a request under division (B)(1) of this section, the board shall determine whether the individual is a public employee for the purposes of this chapter. If the board determines that the individual is not a public employee for the

services, for the purposes of this chapter, the individual shall not be considered a public employee with regard to the services in question. The board's determination is final.

The board shall notify the individual and the public employer of its determination. The determination shall apply to services performed before, on, or after January 7, 2013, for the same employer in the same capacity.

~~(E) The board may adopt rules under section 145.09 of the Revised Code to implement this section and sections 145.036 and 145.037 of the Revised Code.~~

Sec. 145.09. The public employees retirement board shall elect from its membership a chairperson. The board shall appoint an executive director who shall serve as secretary to the board, an actuary, and other employees as necessary for the transaction of the business of the public employees retirement system. The compensation of all persons so appointed shall be fixed by the board. Such persons appointed by the board are not employees of the state and are not subject to Chapter 124. of the Revised Code.

Effective ninety days after September 15, 2004, the board may not employ a state retirement system investment officer, as defined in section 1707.01 of the Revised Code, who does not hold a valid state retirement system investment officer license issued by the division of securities in the department of commerce.

Every expense voucher of an employee, officer, or board member of the public employees retirement system shall itemize all purchases and expenditures.

The board shall perform other functions, except adopt

rules unless specifically required to do so, as required for the proper execution of this chapter~~, and may adopt rules in accordance with section 111.15 of the Revised Code for the proper administration and management of this chapter~~.

The board may take all appropriate action to avoid payment by the system or its members of federal or state income taxes on contributions to the system or amounts earned on such contributions.

Notice of proposed rules shall be given to interested parties and rules adopted by the board shall be published and otherwise made available. When it files a rule with the joint committee on agency rule review pursuant to section 111.15 of the Revised Code, the board shall submit to the Ohio retirement study council a copy of the full text of the rule, and if applicable, a copy of the rule summary and fiscal analysis required by division (B) of section 106.024 of the Revised Code.

The board may sue and be sued, plead and be impleaded, contract and be contracted with. All of its business shall be transacted, all of its funds invested, all warrants for money drawn and payments made, and all of its cash and securities and other property shall be held in the name of the board, or in the name of its nominee, provided that nominees are authorized by retirement board resolution for the purpose of facilitating the ownership and transfer of investments.

If the Ohio retirement study council establishes a uniform format for any report the board is required to submit to the council, the board shall submit the report in that format.

Sec. 145.092. (A) The public employees retirement board, in consultation with the Ohio ethics commission, shall review

any existing policy regarding the travel and payment of travel expenses of members and employees of the public employees retirement board and adopt rules in accordance with section ~~145.09~~ 111.15 of the Revised Code establishing a new or revised policy regarding travel and payment of travel expenses. Not less than sixty days before adopting a new or revised policy, the board shall submit the policy to the Ohio retirement study council for review.

(B) If the board intends to award a bonus to any employee of the board, it shall adopt rules in accordance with section ~~145.09~~ 111.15 of the Revised Code establishing a policy regarding employee bonuses.

(C) The board shall provide copies of the rules adopted under divisions (A) and (B) of this section to each member of the Ohio retirement study council;

(D) The board shall submit both of the following to the Ohio retirement study council:

(1) A proposed operating budget, including an administrative budget for the board, for the next immediate fiscal year and adopt that budget not earlier than sixty days after it is submitted to the council;

(2) A plan describing how the board will improve the dissemination of public information pertaining to the board.

Sec. 145.196. (A) As used in this section:

(1) "Individual account" means the account maintained for a member of the PERS combined plan in the defined contribution fund created in section 145.23 of the Revised Code, in which the member's contributions under section 145.85 of the Revised Code are deposited and credited.

(2) "PERS combined plan" means the hybrid plan established under section 145.81 of the Revised Code that includes a PERS defined benefit plan component and a PERS defined contribution plan component that includes definitely determinable benefits as described in section 145.82 of the Revised Code.

(B) The public employees retirement system may, in accordance with rules it adopts under ~~this~~ section 111.15 of the Revised Code, consolidate the PERS combined plan with the PERS defined benefit plan for the purpose of administering the definitely determinable benefits under the PERS combined plan and the allowance payable under section 145.335 of the Revised Code.

(C) If the system consolidates the PERS combined plan with the PERS defined benefit plan as permitted under division (B) of this section, all of the following apply:

(1) The PERS combined plan ceases to be a separate legal entity, and all members participating in the PERS combined plan at the time of consolidation shall be members of the PERS defined benefit plan.

(2) The system shall do all of the following regarding a member's individual account:

(a) Maintain the individual account of each member who was participating in the PERS combined plan at the time of consolidation;

(b) Deposit and credit the member's contributions under section 145.47 of the Revised Code into the member's individual account;

(c) If the system maintains the member's individual account in the defined contribution fund for purposes of

investing the account's funds, treat the individual account as deposited and credited to the PERS defined benefit plan for accounting purposes;

(d) Administer the member's individual account in accordance with rules adopted by the public employees retirement board in accordance with section 111.15 of the Revised Code and in a manner consistent with the PERS defined contribution plan.

(3) The system shall deposit and credit the employer contributions under section 145.48 of the Revised Code for a member participating in the PERS combined plan at the time of consolidation into the employers' accumulation fund created in section 145.23 of the Revised Code to pay the definitely determinable benefits under the plan.

(4) All members participating in the PERS combined plan at the time of consolidation shall be entitled to the rights and benefits to which the member was entitled under the PERS combined plan as of the date of consolidation, subject to future amendments to the PERS defined benefit plan.

(D) The eligibility of members participating in the PERS combined plan at the time of consolidation under this section for age and service retirement, disability, survivor, or death benefits shall be determined under sections 145.32, 145.35, 145.36, 145.361, 145.45, and 145.451 of the Revised Code. A member's retirement allowance shall be an amount determined in accordance with section 145.335 of the Revised Code.

(E) The following sections of Chapter 145. of the Revised Code do not apply to the individual account of a member participating in the PERS combined plan at the time of consolidation under this section: sections 145.222, 145.297,

145.298, 145.2914, 145.31, 145.311, 145.312, 145.33, 145.332, 145.334, 145.37, 145.382, 145.383, 145.385, 145.40, 145.401, 145.472, 145.49, 145.581, 145.582, 145.62, 145.63, 145.64, and 145.65 of Revised Code.

Sec. 145.28. (A) As used in this section, "paying system" and "transferring system" have the same meanings as in section 145.37 of the Revised Code.

(B)(1) Except as provided in division (B)(2) of this section, a member of the public employees retirement system with at least eighteen months of contributing service in the system, the state teachers retirement system, or the school employees retirement system who exempted self from membership in one or more of the systems pursuant to section 145.03 or 3309.23 of the Revised Code, or former section 3307.25 or 3309.25 of the Revised Code, or was exempt under section 3307.24 of the Revised Code, may purchase credit for each year or portion of a year of service for which the member was exempted.

(2) A member may not purchase credit under this section for exempted service if the service was exempted from contribution under section 145.03 of the Revised Code and subject to the tax on wages imposed by the "Federal Insurance Contributions Act," 68A Stat. 415 (1954), 26 U.S.C.A. 3101, as amended.

(C) Credit shall be purchased under this section in accordance with section 145.29 of the Revised Code.

(D) Credit purchasable under this section shall not exceed one year of service for any twelve-month period. If the period of service for which credit is purchasable under this section is concurrent with a period of service that will be used to

calculate a retirement benefit from this system, the state teachers retirement system, or school employees retirement system, the amount of the credit shall be adjusted in accordance with rules adopted by the public employees retirement board.

A member who is also a member of the state teachers retirement system or the school employees retirement system shall purchase credit for any service for which the member exempted self under section 145.03 or 3309.23 of the Revised Code, or former section 3307.25 or 3309.25 of the Revised Code, or was exempt under section 3307.24 of the Revised Code, from the retirement system in which the member has the greatest number of years of service credit. If the member receives benefits under section 145.37 of the Revised Code, the system that is the paying system under that section shall receive from the system or systems that are transferring systems the amounts paid by the member for purchase of credit for exempt service plus interest at the actuarial assumption rate of the transferring system. The interest shall be for the period beginning on the date of the member's last payment for purchase of the credit and ending on the date of the member's retirement.

~~(E) The retirement board shall adopt rules to implement this section.~~

Sec. 145.2913. (A) As used in this section, "transferred service credit" means service credit purchased or obtained under section 742.21, 742.214, 742.375, 5505.201, 5505.40, or 5505.41 of the Revised Code prior to the date a member commenced the employment covered by the public employees retirement system for which the member is currently contributing to the system.

(B) A member of the public employees retirement system who has contributions on deposit with, but is no longer contributing

to, a uniform retirement system shall, in computing years of service, be given full credit for transferred service credit if a transfer to the public employees retirement system is made under this division. At the request of a member a transfer shall be made if all of the following conditions are met:

(1) The member is eligible, or with the credit will be eligible, for a retirement or disability benefit.

(2) The member agrees to retire or accept a disability benefit not later than ninety days after receiving notice from the public employees retirement system that the credit has been obtained.

(3) For each year of service, the uniform system transfers to the public employees retirement system the sum of the following:

(a) An amount equal to the amounts transferred to the uniform system under section 742.21, 742.214, 742.375, 5505.201, 5505.40, or 5505.41 of the Revised Code;

(b) Interest, determined as provided in division (E) of this section, on the amount specified in division (B)(3)(a) of this section for the period from the last day of the year in which the transfer under section 742.21, 742.214, 742.375, 5505.201, 5505.40, or 5505.41 of the Revised Code was made to the date a transfer is made under this section.

(C) A member of the public employees retirement system with at least eighteen months of contributing service credit with the public employees retirement system who has received a refund of contributions to a uniform retirement system shall, in computing years of service, be given full credit for transferred service credit if all of the following conditions are met:

(1) The member is eligible, or with the credit will be eligible, for a retirement or disability benefit.

(2) The member agrees to retire or accept a disability benefit not later than ninety days after receiving notice from the public employees retirement system that the credit has been obtained.

(3) For each year of service, the public employees retirement system receives the sum of the following:

(a) An amount, which shall be paid by the member, equal to the amount refunded by the uniform system to the member for that year for transferred service credit, with interest on that amount from the date of the refund to the date a payment is made under this section;

(b) Interest, which shall be transferred by the uniform system, on the amount refunded to the member for the period from the last day of the year in which the transfer under section 742.21, 742.214, 742.375, 5505.201, 5505.40, or 5505.41 of the Revised Code was made to the date the refund was made;

(c) If the uniform system retained any portion of the amount transferred under section 742.21, 742.214, 742.375, 5505.201, 5505.40, or 5505.41 of the Revised Code, an amount, which shall be transferred by the uniform system, equal to the amount retained, with interest on that amount for the period from the last day of the year in which the transfer under section 742.21, 742.214, 742.375, 5505.201, 5505.40, or 5505.41 of the Revised Code was made to the date a transfer is made under this section.

On receipt of payment from the member, the public employees retirement system shall notify the uniform system,

which, on receipt of the notice, shall make the transfer required by this division. Interest shall be determined as provided in division (E) of this section.

(D) Service credit purchased or obtained under this section shall be considered the equivalent of Ohio service credit. A member may choose to purchase only part of the credit the member is eligible to purchase under division (C) of this section, subject to rules adopted by the public employees retirement board. A member is ineligible to purchase or obtain service credit under this section for service to be used in the calculation of any retirement benefit currently being paid or payable to the member in the future under any other retirement program or for service credit that may be purchased or obtained under section 145.295 of the Revised Code.

(E) Interest charged under this section shall be calculated separately for each year of service credit at the lesser of the actuarial assumption rate for that year of the public employees retirement system or of the uniform retirement system to which the credit was transferred under section 742.21, 742.214, 742.375, 5505.201, 5505.40, or 5505.41 of the Revised Code. The interest shall be compounded annually.

(F) Any amounts transferred or paid under divisions (B) and (C) of this section that are attributable to contributions made by the member or to amounts paid to purchase service credit shall be credited to the employees' savings fund created under section 145.23 of the Revised Code. Any remaining amounts shall be credited to one or more of the funds created under that section as determined by the board.

(G) At the request of the public employees retirement system, the uniform retirement system shall certify to the

public employees retirement system a copy of the records of the service and contributions of a public employees retirement system member who seeks service credit under this section. The uniform retirement system shall specify the portions of the amounts transferred that are attributable to employee contributions, employer contributions, and interest.

(H) If a member of the public employees retirement system who is not a current contributor elects to receive service credit under section 742.214 or 5505.41 of the Revised Code for transferred service credit, as defined in those sections, the system shall transfer to the uniform retirement system, as applicable, the amount specified in division (B) or (C) of section 742.214 or division (B) or (C) of section 5505.41 of the Revised Code.

(I) The public employees retirement system shall withdraw the credit and refund all amounts paid or transferred under this section if either of the following occurs:

(1) The member fails to retire or accept a disability benefit not later than ninety days after receiving notice from the public employees retirement system that credit has been obtained under this section.

(2) The member's application for a disability benefit is denied.

~~(J) The board may adopt rules to implement this section.~~

Sec. 145.2914. (A) The public employees retirement board may adopt rules in accordance with section ~~145.09~~ 111.15 of the Revised Code to establish a program under which service credit earned under section 145.33 of the Revised Code or division (A)(2), (B)(1)(b), or (C)(2) of section 145.332 of the Revised Code

is treated as service credit earned under division (A)(1), (B)(1)(a), or (C)(1) of section 145.332 of the Revised Code if the member elects to do one of the following:

(1) Have the amount of service credit earned under section 145.33 of the Revised Code or division (A)(2), (B)(1)(b), or (C)(2) of section 145.332 of the Revised Code reduced so there is no additional liability to the public employees retirement system;

(2) Make payment to the public employees retirement system in accordance with the rules. The number of years of service credit earned under section 145.33 of the Revised Code or division (A)(2), (B)(1)(b), or (C)(2) of section 145.332 of the Revised Code that may be treated as service credit earned under division (A)(1), (B)(1)(a), or (C)(1) of section 145.332 of the Revised Code shall not exceed five.

(B) If the board adopts rules under division (A) of this section, all of the following apply to payments made under division (A)(2) of this section:

(1) For each year or portion of a year of service credit earned under section 145.33 of the Revised Code or division (A)(2), (B)(1)(b), or (C)(2) of section 145.332 of the Revised Code that is to be treated as service credit earned under division (A)(1), (B)(1)(a), or (C)(1) of section 145.332 of the Revised Code, the member shall pay to the retirement system an amount specified by the retirement board that is not less than one hundred per cent of the additional liability resulting from the purchase of that year, or portion of a year, of service.

(2) Any amounts paid under this section shall be credited to the employees' savings fund.

(3) The amounts paid by the member under this section are subject to the limits established by division (n) of section 415 of the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C. 415(n), as amended.

(C) A member may make the election authorized by this section if the member is eligible to retire under this chapter or will become eligible to retire as a result of the election. The member shall agree to retire not later than ninety days after making the election under division (A)(1) of this section or receiving notice of the additional liability specified under division (B)(1) of this section. If the member makes the election under division (A)(2) of this section, payment shall be made in full for any credit earned under section 145.33 of the Revised Code or division (A)(2), (B)(1)(b), or (C)(2) of section 145.332 of the Revised Code that is to be treated as service credit earned under division (A)(1), (B)(1)(a), or (C)(1) of section 145.332 of the Revised Code, but the member may choose to make payment for only part of the credit for which the member is eligible.

(D) If the member does not retire not later than ninety days after making the election under division (A)(1) of this section or the payment under division (A)(2) of this section, the system shall refund any payment and shall not treat the credit as service credit earned under division (A)(1), (B)(1)(a), or (C)(1) of section 145.332 of the Revised Code.

~~(E) The board's rules may deal with any other matter necessary to implement this section.~~

Sec. 145.311. (A) A member of the public employees retirement system who has at least eighteen months of contributing service credit in the system, the Ohio police and

fire pension fund, school employees retirement system, state teachers retirement system, or state highway patrol retirement system, and is a former member of or no longer contributing to the school employees retirement system or state teachers retirement system may restore service credit under section 3307.71 or 3309.26 of the Revised Code by making payments pursuant to this section through a payroll deduction plan established under section 145.294 of the Revised Code. A member seeking to restore this service credit shall notify the public employees retirement system on a form approved by the public employees retirement board. After receiving the notice, the public employees retirement system shall request that the former retirement system calculate under section 3307.712 or 3309.262 of the Revised Code the cost to the member to restore service credit for each year or portion of a year of service for which the member seeks to restore the service credit. The amount the former retirement system certifies as the cost of restoring the service credit, plus interest described in division (B) of this section, is the cost to the member of restoring the service credit. On receiving the certification from the former retirement system, the public employees retirement system shall notify the member of the cost.

(B) For each year or portion of a year of service credit restored under section 3307.71 or 3309.26 of the Revised Code, a member shall pay to the public employees retirement system the amount certified by the former retirement system plus interest at a rate specified by the former retirement system under section 3307.712 or 3309.262 of the Revised Code for the period during which deductions are made under section 145.294 of the Revised Code.

(C) The public employees retirement board shall at least

annually transmit to the former retirement system notice and any payments made to restore service credit under section 3307.71 or 3309.26 of the Revised Code. The former retirement system shall restore the service credit for the year or portion of a year for which the payment was made.

~~(D) The board shall adopt rules to implement this section.~~

Sec. 145.323. (A) Except as otherwise provided in this section, the public employees retirement board shall annually increase each allowance, pension, or benefit payable under this chapter.

Until the last day of December of the fifth full calendar year after ~~the effective date of this amendment~~January 7, 2013, the increase shall be three per cent. For each succeeding calendar year, the increase shall be as follows:

(1) For each allowance, pension, or benefit granted not later than ~~the effective date of this amendment~~January 7, 2013, three per cent;

(2) For each allowance, pension, or benefit granted on or after ~~the effective date of this amendment~~January 7, 2013, the percentage increase in the consumer price index, not exceeding three per cent, as determined by the United States bureau of labor statistics (U.S. city average for urban wage earners and clerical workers: "all items 1982-84=100") for the twelve-month period ending on the thirtieth day of June of the immediately preceding calendar year. If the consumer price index for that period did not increase, no increase shall be made under division (A)(2) of this section.

No allowance, pension, or benefit shall exceed the limit established by section 415 of the "Internal Revenue Code of

1986," 100 Stat. 2085, 26 U.S.C. 415, as amended.

The first increase is payable to all persons becoming eligible after June 30, 1971, upon such persons receiving an allowance for twelve months. The increased amount is payable for the ensuing twelve-month period or until the next increase is granted under this section, whichever is later. Subsequent increases shall be determined from the date of the first increase paid to the former member in the case of an allowance being paid a beneficiary under an option, or from the date of the first increase to the survivor first receiving an allowance or benefit in the case of an allowance or benefit being paid to the subsequent survivors of the former member.

The date of the first increase under this section becomes the anniversary date for any future increases.

The allowance or benefit used in the first calculation of an increase under this section shall remain as the base for all future increases, unless a new base is established.

(B) If payment of a portion of a benefit is made to an alternate payee under section 145.571 of the Revised Code, increases under this section granted while the order is in effect shall be apportioned between the alternate payee and the benefit recipient in the same proportion that the amount being paid to the alternate payee bears to the amount paid to the benefit recipient.

If payment of a portion of a benefit is made to one or more beneficiaries under a multiple-life plan under section 145.46 of the Revised Code, each increase under this section granted while the plan of payment is in effect shall be divided among the designated beneficiaries in accordance with the

portion each beneficiary has been allocated.

~~(C) The board shall make all rules necessary to carry out this section.~~

Sec. 145.381. (A) This section applies in the case of a person who is or most recently has been employed by a public employer in a position that is customarily filled by a vote of members of a board or commission or by the legislative authority of a county, municipal corporation, or township.

(B) A board, commission, or legislative authority that proposes to continue the employment as a reemployed retirant or rehire as a reemployed retirant to the same position an individual described in division (A) of this section shall do both of the following ~~in accordance with rules adopted under division (C) of this section~~:

(1) Not less than sixty days before the employment as a reemployed retirant is to begin, give public notice that the person is or will be retired and is seeking employment with the public employer;

(2) Between fifteen and thirty days before the employment as a reemployed retirant is to begin and after complying with division (B)(1) of this section, hold a public meeting on the issue of the person being employed by the public employer.

The notice regarding division (B)(1) of this section shall include the time, date, and location at which the public meeting is to take place.

~~(C) The public employees retirement board shall adopt rules as necessary to implement this section.~~

Sec. 145.391. The public employees retirement board may

establish and maintain a qualified governmental excess benefit arrangement that meets the requirements of division (m) of section 415 of the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 415, as amended, and any regulations adopted thereunder. If established, the arrangement shall be a separate portion of the public employees retirement system and be maintained solely for the purpose of providing to retired members that part of a benefit otherwise payable under this chapter that exceeds the limits established by section 415 of the "Internal Revenue Code of 1986," as amended. If established, the amounts required to fund the arrangement shall be included in the employer's contribution required by sections 145.48 and 145.51 of the Revised Code.

Members participating in an arrangement established under this section shall not be permitted to elect to defer compensation to the arrangement. Contributions to and benefits paid under an arrangement shall not be payable from a trust that is part of the system unless the trust is maintained solely for the purpose of providing such benefits.

~~The board shall adopt rules to administer an arrangement established under this section.~~

Sec. 145.401. (A) As used in this section, "service credit" means service credit earned for periods for which contributions were made under section 145.47 of the Revised Code and, if applicable, periods for which service credit was purchased or restored under section 145.302 or 145.31 of the Revised Code.

(B) If a member has, or at the time of death had, at least five years of service credit, the public employees retirement board shall include the amount specified in rules adopted by the

board in the amount payable under section 145.40 of the Revised Code to the member, or under division (B) of section 145.43 of the Revised Code to a beneficiary or beneficiaries of the member, unless at the time of death the member was a disability benefit recipient. The amount specified in rules shall be paid from the employers' accumulation fund.

(C) The public employees retirement board shall adopt rules under section ~~145.09~~ 111.15 of the Revised Code specifying the additional amounts that may be provided a member under section 145.40 of the Revised Code or a beneficiary or beneficiaries under division (B) of section 145.43 of the Revised Code. The additional amounts may vary depending on the amount of service credit the member has accrued.

Sec. 145.43. (A) As used in this section and in section 145.45 of the Revised Code:

(1) "Child" means a biological or legally adopted child of a deceased member. If a court hearing for an interlocutory decree for adoption was held prior to the member's death, "child" includes the child who was the subject of the hearing notwithstanding the fact that the final decree of adoption, adjudging the surviving spouse as the adoptive parent, is made subsequent to the member's death.

(2) "Parent" is a parent or legally adoptive parent of a deceased member.

(3) "Dependent" means a beneficiary who receives one-half of the beneficiary's support from a member during the twelve months prior to the member's death.

(4) "Surviving spouse" means an individual who establishes a valid marriage to a member at the time of the member's death

by marriage certificate or pursuant to division (E) of this section.

(5) "Survivor" means a surviving spouse, child, or parent.

(6) "Accumulated contributions" has the meaning given in section 145.01 of the Revised Code, except that, notwithstanding that section, it does not include additional amounts deposited in the employees' savings fund pursuant to the version of division (C) of section 145.23 of the Revised Code as it existed immediately prior to April 6, 2007, or pursuant to section 145.62 of the Revised Code.

(B) Except as provided in division (C)(1) of section 145.45 of the Revised Code, should a member die before age and service retirement, the member's accumulated contributions and any applicable amount calculated under section 145.401 of the Revised Code, shall be paid to the person or persons the member has designated under section 145.431 of the Revised Code. A member may designate two or more persons as beneficiaries to be paid the accumulated account in a lump sum. Subject to rules adopted by the public employees retirement board, a member who designates two or more persons as beneficiaries shall specify the percentage of the lump sum that each beneficiary is to be paid. If the member has not specified the percentages, the lump sum shall be divided equally among the beneficiaries.

The last designation of any beneficiary revokes all previous designations. The member's marriage, divorce, marriage dissolution, legal separation, or withdrawal of account, or the birth of the member's child, or adoption of a child, shall constitute an automatic revocation of the member's previous designation. If a deceased member was also a member of the school employees retirement system or the state teachers

retirement system and a survivor benefit may be paid under section 145.37, 3307.57, or 3309.35 of the Revised Code, the beneficiary last established among the systems shall be the sole beneficiary in all the systems.

If the accumulated contributions of a deceased member are not claimed by a beneficiary or by the estate of the deceased member within five years after the death, the contributions shall remain in the employees' savings fund or may be transferred to the income fund and thereafter shall be paid to the beneficiary or to the member's estate upon application to the board. The board, in accordance with section 111.15 of the Revised Code, shall formulate and adopt the necessary rules governing all designations of beneficiaries.

(C) Except as provided in division (C)(1) of section 145.45 of the Revised Code, if a member dies before age and service retirement and is not survived by a designated beneficiary, the following shall qualify, with all attendant rights and privileges, in the following order of precedence, the member's:

(1) Surviving spouse;

(2) Children, share and share alike;

(3) A dependent parent, if that parent takes survivor benefits under division (B) of section 145.45 of the Revised Code;

(4) Parents, share and share alike;

(5) Estate.

If the beneficiary is deceased or is not located within ninety days, the beneficiary ceases to qualify for any benefit

and the beneficiary next in order of precedence shall qualify as a beneficiary.

Any payment made to a beneficiary as determined by the board shall be a full discharge and release to the board from any future claims.

(D) Any amount due a retirant or disability benefit recipient receiving a monthly benefit and unpaid to the retirant or recipient at death shall be paid to the beneficiary designated in writing duly executed on a form provided by the board, signed by the retirant or recipient, and filed with the board. If no such designation has been filed, or if the designated beneficiary is not located within ninety days, any amounts payable under this chapter due to the death of the retirant or recipient shall be paid in the following order of precedence to the retirant's or recipient's:

(1) Surviving spouse;

(2) Children, share and share alike;

(3) Parents, share and share alike;

(4) Estate.

The payment shall be a full discharge and release to the board from any future claim for the payment.

Any amount due a beneficiary receiving a monthly benefit and unpaid to the beneficiary at the beneficiary's death shall be paid to the beneficiary's estate.

(E) If the validity of marriage cannot be established to the satisfaction of the board for the purpose of disbursing any amount due under this section or section 145.45 of the Revised Code, the board may accept a decision rendered by a court having

jurisdiction in the state in which the member was domiciled at the time of death that the relationship constituted a valid marriage at the time of death, or the "spouse" would have the same status as a widow or widower for purposes of sharing the distribution of the member's intestate personal property.

(F) As used in this division, "recipient" means an individual who is receiving or may be eligible to receive an allowance or benefit under this chapter based on the individual's service to a public employer.

If the death of a member, a recipient, or any individual who would be eligible to receive an allowance or benefit under this chapter by virtue of the death of a member or recipient is caused by one of the following beneficiaries, no amount due under this chapter to the beneficiary shall be paid to the beneficiary in the absence of a court order to the contrary filed with the board:

(1) A beneficiary who is convicted of, pleads guilty to, or is found not guilty by reason of insanity of a violation of or complicity in the violation of either of the following:

(a) Section 2903.01, 2903.02, or 2903.03 of the Revised Code;

(b) An existing or former law of any other state, the United States, or a foreign nation that is substantially equivalent to section 2903.01, 2903.02, or 2903.03 of the Revised Code.

(2) A beneficiary who is indicted for a violation of or complicity in the violation of the sections or laws described in division (F)(1)(a) or (b) of this section and is adjudicated incompetent to stand trial;

(3) A beneficiary who is a juvenile found to be a delinquent child by reason of committing an act that, if committed by an adult, would be a violation of or complicity in the violation of the sections or laws described in division (F)(1)(a) or (b) of this section.

Sec. 145.58. (A) The public employees retirement board shall adopt rules in accordance with section 111.15 of the Revised Code establishing eligibility for any coverage provided under this section. The rules shall base eligibility on years and types of service credit earned by members. Eligibility determinations shall be made in accordance with the rules, except that an individual who, as a result of making a false statement in an attempt to secure a benefit under this section, is convicted of violating section 2921.13 of the Revised Code is ineligible for coverage.

(B) The board may enter into agreements with insurance companies, health insuring corporations, or government agencies authorized to do business in the state for issuance of a policy or contract of health, medical, hospital, or surgical coverage, or any combination thereof, for eligible individuals receiving age and service retirement or a disability or survivor benefit subscribing to the plan, or for PERS retirants employed under section 145.38 of the Revised Code, for coverage in accordance with division (D)(2) of section 145.38 of the Revised Code. Notwithstanding any other provision of this chapter, the policy or contract may also include coverage for any eligible individual's spouse and dependent children and for any of the eligible individual's sponsored dependents as the board determines appropriate. If all or any portion of the policy or contract premium is to be paid by any individual receiving age and service retirement or a disability or survivor benefit, the

individual shall, by written authorization, instruct the board to deduct the premium agreed to be paid by the individual to the company, corporation, or agency.

The board may contract for coverage on the basis of part or all of the cost of the coverage to be paid from appropriate funds of the public employees retirement system. The cost paid from the funds of the system shall be included in the employer's contribution rate provided by sections 145.48 and 145.51 of the Revised Code. The board may by rule adopted in accordance with section 111.15 of the Revised Code provide coverage to individuals who are not eligible under the rules adopted under division (A) of this section if the coverage is provided at no cost to the retirement system. The board shall not pay or reimburse the cost for coverage under this section or section 145.584 of the Revised Code for any such individual.

The board may provide for self-insurance of risk or level of risk as set forth in the contract with the companies, corporations, or agencies, and may provide through the self-insurance method specific coverage as authorized by rules of the board.

(C) The board shall, beginning the month following receipt of satisfactory evidence of the payment for coverage, pay monthly to each recipient of service retirement, or a disability or survivor benefit under the public employees retirement system who is eligible for coverage under part B of the medicare program established under Title XVIII of "The Social Security Act Amendments of 1965," 79 Stat. 301 (1965), 42 U.S.C.A. 1395j, as amended, an amount determined by the board for such coverage, except that the board shall make no such payment to any individual who is not eligible for coverage under the rules

adopted under division (A) of this section or pay an amount that exceeds the amount paid by the recipient for the coverage.

At the request of the board, the recipient shall certify to the retirement system the amount paid by the recipient for coverage described in this division.

(D) The board shall establish by rule requirements for the coordination of any coverage or payment provided under this section or section 145.584 of the Revised Code with any similar coverage or payment made available to the same individual by the Ohio police and fire pension fund, state teachers retirement system, school employees retirement system, or state highway patrol retirement system.

~~(E) The board shall make all other necessary rules pursuant to the purpose and intent of this section.~~

Sec. 145.583. The PERS defined benefit plan or a PERS defined contribution plan may include a program under which a member participating in the plan, the member's employer, or a retirant is permitted to make deposits for the purpose of providing funds to the member or retirant for the payment of health, medical, hospital, surgical, dental, vision care, or drug expenses, including insurance premiums, deductible amounts, or copayments. Deposits made under this section are in addition to contributions required by this chapter and any other deposits made under it.

A program established under this section may be a voluntary employees' beneficiary association, as described in section 501(c)(9) of the Internal Revenue Code, 26 U.S.C. 501(c)(9), as amended; an account described in section 401(h) of the Internal Revenue Code, 26 U.S.C. 401(h), as amended; a medical

savings account; or a similar type of program under which an individual may accumulate funds for the purpose of paying such expenses. To implement the program, the public employees retirement board may enter into agreements with insurance companies or other entities authorized to conduct business in this state.

~~If the PERS defined benefit plan or a PERS defined contribution plan includes a program described in this section, the board shall adopt rules to establish and administer the program.~~

Sec. 145.584. (A) Except as otherwise provided in division (B) of this section, the board of the public employees retirement system shall make available to each retirant or disability benefit recipient receiving a monthly allowance or benefit on or after January 1, 1968, who has attained the age of sixty-five years, and who is not eligible to receive hospital insurance benefits under the federal old age, survivors, and disability insurance program without payment of premiums, one of the following:

(1) Hospital insurance coverage substantially equivalent to the federal hospital insurance benefits, Social Security Amendments of 1965, 79 Stat. 291, 42 U.S.C.A. 1395c, as amended;

(2) An amount, determined by the board, to reimburse the retirant or disability benefit recipient for payment of premiums for federal hospital insurance benefits described in this division, which amount shall not exceed the premiums paid.

This coverage or amount shall also be made available to the spouse, widow, or widower of such retirant or disability benefit recipient provided such spouse, widow, or widower has

attained age sixty-five and is not eligible to receive hospital insurance benefits under the federal old age, survivors, and disability insurance program without payment of premiums. The widow or widower of a retirant or disability benefit recipient shall be eligible for such coverage or amount only if he or she is the recipient of a monthly allowance or benefit from this system. A portion of the cost of the premium or amount for the spouse may be paid from the appropriate funds of the system. The remainder of the cost shall be paid by the recipient of the allowance or benefit.

The cost of such coverage or amount, paid from the funds of the system, shall be included in the employer's rate provided by section 145.48 of the Revised Code. The retirement board ~~is authorized to make all necessary rules pursuant to the purpose and intent of this section, and~~ may contract for such coverage as provided in section 145.58 of the Revised Code.

At the request of the board, the recipient of reimbursement under this section shall certify to the retirement system the premium paid for the federal insurance benefits described in division (A) of this section. Payment of the amount described in division (A)(2) of this section shall begin for the first month that the recipient is participating in both the federal hospital insurance benefits and a health care arrangement offered by the system.

(B) The board need not make the hospital insurance coverage or amount described in division (A) of this section available to any person for whom it is prohibited by section 145.58 of the Revised Code from paying or reimbursing the premium cost of such insurance.

Sec. 145.62. Subject to rules adopted by the public

employees retirement system under section ~~145.09~~ 111.15 of the Revised Code, a contributor participating in the PERS defined benefit plan or contributing under section 145.38 or 145.383 of the Revised Code may deposit additional amounts in the employees' savings fund established under section 145.23 of the Revised Code. The additional deposits may be made either directly to the retirement system or by payroll deduction under section 145.294 of the Revised Code. The contributor shall receive in return either an annuity, as provided in section 145.64 of the Revised Code, having a reserve equal to the amount deposited or a refund under section 145.63 of the Revised Code of the amount deposited, together with earnings on the amount deposited as the public employees retirement board determines appropriate. If the annuity under the plan of payment selected by the contributor under section 145.64 of the Revised Code would be less than fifty dollars per month, the contributor shall receive the refund.

Sec. 145.65. (A) As used in this section, "child," "parent," and "surviving spouse" have the same meanings as in section 145.43 of the Revised Code.

(B) Should a contributor die before commencement of a benefit under section 145.64 of the Revised Code, any deposits made under section 145.62 or the version of division (C) of section 145.23 of the Revised Code as it existed immediately prior to ~~the effective date of this section~~April 6, 2007, plus earnings shall be paid to the person or persons the contributor has designated in writing duly executed on a form provided by the public employees retirement system, signed by the contributor, and filed with the system prior to the contributor's death. A contributor may designate two or more persons as beneficiaries. Subject to rules adopted by the public

employees retirement board, a contributor who designates two or more persons as beneficiaries under this division shall specify the percentage of the deposits that each beneficiary is to be paid. If the contributor has not specified the percentage, the deposits shall be divided equally among the beneficiaries.

The last designation of any beneficiary revokes all previous designations. The contributor's marriage, divorce, marriage dissolution, legal separation, or refund under section 145.63 of the Revised Code, or the birth of the contributor's child, or adoption of a child, shall constitute an automatic revocation of the contributor's previous designation.

If the deposits of a deceased contributor are not claimed by a beneficiary or by the estate of the deceased contributor within five years, the deposits shall be transferred to the income fund and thereafter paid to the beneficiary or to the contributor's estate on application to the system. The board, in accordance with section 111.15 of the Revised Code, shall formulate and adopt the necessary rules governing all designations of beneficiaries.

(C) If a contributor dies before commencement of a benefit under section 145.64 of the Revised Code and is not survived by a designated beneficiary, the following shall qualify with all attendant rights and privileges, in the following order of precedence, the contributor's:

(1) Surviving spouse;

(2) Children, share and share alike;

(3) Parents, share and share alike;

(4) Estate.

If the beneficiary is deceased or is not located within ninety days, the beneficiary ceases to qualify for any benefit and the beneficiary next in order of precedence shall qualify as a beneficiary.

Any payment made to a beneficiary as determined by the board shall be a full discharge and release to the board from any future claims.

(D) If the validity of marriage cannot be established to the satisfaction of the board for the purpose of disbursing any amount due under section 145.63 or 145.64 of the Revised Code, the board may accept a decision rendered by a court having jurisdiction in the state in which the contributor was domiciled at the time of death that the relationship constituted a valid marriage at the time of death, or the "spouse" would have the same status as a widow or widower for purposes of sharing the distribution of the contributor's intestate personal property.

(E) If the death of a contributor or any individual who would be eligible to receive a refund under section 145.63 of the Revised Code or an annuity payment under section 145.64 of the Revised Code by virtue of the death of a contributor is caused by a beneficiary, as described in division (F) of section 145.43 of the Revised Code, no amount due under section 145.63 or 145.64 of the Revised Code to that beneficiary shall be paid to that beneficiary in the absence of a court order to the contrary filed with the board.

Sec. 145.81. The public employees retirement board shall establish the PERS defined contribution plans, which shall be one or more plans consisting of benefit options that provide for an individual account for each participating member and under which benefits are based solely on the amounts that have

accumulated in the account. The plans may include options under which a member participating in a plan may receive definitely determinable benefits.

Each plan established under this section shall meet the requirements of sections 145.81 to 145.98 of the Revised Code~~ and any rules adopted in accordance with section 145.80 of the Revised Code~~. It may include life insurance, annuities, variable annuities, regulated investment trusts, pooled investment funds, or other forms of investment. Each plan may also permit a participant to transfer participation to another plan created under this chapter. Transfers must be made in accordance with section 145.814 of the Revised Code.

The board may administer the plans, enter into contracts with other entities to administer the plans, or both.

Sec. 145.814. (A) As used in this section, "eligible member" means a member who was eligible to make an election under section 145.19 or 145.191 of the Revised Code, regardless of whether the member elected to participate in a PERS defined contribution plan.

(B) If permitted to do so by the plan documents for a PERS defined contribution plan or rules governing the PERS defined benefit plan, an eligible member may elect, at intervals specified by the plan document or rules, to participate in a different defined contribution plan or in the PERS defined benefit plan. ~~The election is subject to this section and rules adopted by the public employees retirement board under sections 145.09 and 145.80 of the Revised Code.~~ An election to participate in a different plan shall be made in writing on a form provided by the public employees retirement system and filed with the system. The election shall take effect on the

first day of the month following the date the election is filed and, except as provided in the plan documents or rules governing the PERS defined benefit plan, is irrevocable on receipt by the system.

(C) Except as provided in division (D) of this section, an election to participate in a different plan shall apply only to employee and employer contributions made and, if applicable, service credit earned after the effective date of the election.

(D) An eligible member may elect to have the member's amount on deposit for the prior plan and, if applicable, service credit earned prior to the effective date of the election deposited and credited in accordance with the member's new plan if the member, by the election, will begin participating in the PERS defined benefit plan or a PERS defined contribution plan with definitely determinable benefits. The amount on deposit is the amount the member would be entitled to receive as a refund from the prior plan if the member ceased to be a public employee.

If a member makes the election described in this division and service credit is transferred, the board's actuary shall determine the additional liability to the system, if any. The additional liability is the amount that, when added to the amount on deposit, will provide the remaining portion of the pension reserve for the period of the member's service as a public employee in the prior plan.

If the actuary determines that there is an additional liability, the member shall elect one of the following:

(1) To receive the total amount of service credit that the member would have received had the member been participating in

the new plan, pay to the system an amount equal to the additional liability;

(2) To receive an amount of service credit in the new plan that corresponds to the amount on deposit for the prior plan.

For each member who makes the election described in this division, the system shall deposit and credit to the new plan the amount on deposit for the prior plan and, if applicable, the amount paid by the member. The board may specify in rules adopted under ~~sections 145.09 and 145.80~~ section 111.15 of the Revised Code how service credit in the defined benefit plan may be converted to amounts on deposit in the defined contribution plan.

Sec. 145.97. Each PERS defined contribution plan shall permit a member participating in the plan to do both of the following:

(A) If the member has withdrawn the amounts that have accumulated on behalf of the member under the plan, returns to employment covered under this chapter, and is participating in a plan that includes definitely determinable benefits, pay to the system the amounts withdrawn ~~in accordance with rules adopted under section 145.80 of the Revised Code~~;

(B) Make additional deposits as permitted by the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 1, as amended.

Sec. 147.62. (A) The secretary of state shall adopt rules under Chapter 119. of the Revised Code ~~necessary~~ to ~~implement,~~ set~~,~~ and maintain standards for online notarizations and online notaries public. Such rules shall address~~, at a minimum,~~ all of the following:

(1) The standards, procedures, application forms, and fees for the authorization of a notary public to act as an online notary public;

(2) The means of performing online notarizations;

(3) Standards for the technology to be used in online notarizations;

(4) Standards for remote presentation, credential analysis, and identity proofing;

(5) Standards for the retention of records relating to online notarizations;

(6) The modification of forms of notarial certificates for any notarial act that is an online notarization;

(7) Standards and requirements for the termination of a notary public's authorization to perform online notarizations.

(B) The office of information technology in the department of administrative services shall provide assistance to the secretary of state relating to the equipment, security, and technological aspects of the standards established under this section.

Sec. 148.04. (A) The public employees retirement board shall initiate, plan, expedite, and, subject to an appropriate assurance of the approval of the internal revenue service, promulgate and offer to all eligible employees, and thereafter administer on behalf of all participating employees and continuing members, and alter as required, a program for deferral of compensation, including a reasonable number of options to the employee for the investment of deferred funds, always in such form as will assure the desired tax treatment of

such funds. The members of the board are the trustees of any deferred funds and shall discharge their duties with respect to the funds solely in the interest of and for the exclusive benefit of participating employees, continuing members, and their beneficiaries. With respect to such deferred funds, section 148.09 of the Revised Code shall apply to claims against participating employees or continuing members and their employers.

(B) Every employer of an eligible employee shall enroll the employee in a deferred compensation program offered by the board on the employee's application to participate, on the employee's election under section 148.041 of the Revised Code, or by automatic enrollment under section 148.042 of the Revised Code.

(C) The board shall take all actions necessary to ensure that the program qualifies as an eligible deferred compensation plan under section 457(b) of the Internal Revenue Code of 1986, 26 U.S.C. 457. The board shall, subject to any applicable provisions of the Ohio public employees deferred compensation program plan, undertake to obtain as favorable conditions of tax treatment as possible, both in the initial programs and any permitted alterations of them or additions to them, as to such matters as terms of distribution, designation of beneficiaries, withdrawal upon disability, financial hardship, or termination of public employment, and other optional provisions.

The board may establish a designated Roth account feature or any other feature in which an employee may make tax-deferred or nontax-deferred contributions to an eligible government plan in accordance with 26 U.S.C. 457, as amended.

(D) In no event shall the total of the amount of deferred

compensation to be set aside under a deferred compensation program and the employee's nondeferred income for any year exceed the total annual salary or compensation under the existing salary schedule or classification plan applicable to the employee in that year.

Such a deferred compensation program shall be in addition to any retirement or any other benefit program provided by law for employees of this state. The board shall adopt rules pursuant to Chapter 119. of the Revised Code to ~~provide any necessary standards or conditions for the administration of its programs, including~~ establish any limits on the portion of a participating employee's compensation that may be deferred in order to avoid adverse treatment of the program by the internal revenue service or the occurrence of deferral, withholding, or other deductions in excess of the compensation available for any pay period.

Both of the following apply to a deferred compensation program established under this section:

(1) Any income deferred under the program shall continue to be included as regular compensation for the purpose of computing the contributions to and benefits from the retirement system of an employee;

(2) Any sums deferred shall not be included in the computation of any federal and state income taxes withheld on behalf of an employee. Sums contributed to a Roth account feature or other feature to which nontax-deferred contributions are made shall be included in the computation of any federal and state income taxes withheld on behalf of an employee.

(E) This section does not limit the authority of any

municipal corporation, county, township, park district, conservancy district, sanitary district, health district, public library, county law library, public institution of higher education, or school district to provide separate authorized plans or programs for deferring compensation of their officers and employees in addition to the program for the deferral of compensation offered by the board. Any municipal corporation, township, public institution of higher education, or school district that offers such plans or programs shall include a reasonable number of options to its officers or employees for the investment of the deferred funds, including annuities, variable annuities, regulated investment trusts, or other forms of investment approved by the municipal corporation, township, public institution of higher education, or school district, that will assure the desired tax treatment of the funds.

Sec. 149.331. The state records program of the department of administrative services shall do all of the following:

(A) Establish and promulgate in consultation with the state archivist standards, procedures, and techniques for the effective management of state records;

(B) Review applications for one-time records disposal and schedules of records retention and destruction submitted by state agencies in accordance with section 149.333 of the Revised Code;

(C) Establish "general schedules" proposing the disposal, after the lapse of specified periods of time, of records of specified form or character common to several or all agencies that either have accumulated or may accumulate in such agencies and that apparently will not, after the lapse of the periods specified, have sufficient administrative, legal, fiscal, or

other value to warrant their further preservation by the state;

(D) Establish and maintain a records management training program, and provide a basic consulting service, for personnel involved in record-making and record-keeping functions of departments, offices, and institutions;

(E) Provide for the disposition of any remaining records of any state agency, board, or commission, whether in the executive, judicial, or legislative branch of government, that has terminated its operations. After the closing of the Ohio veterans' children's home, the resident records of the home and the resident records of the home when it was known as the soldiers' and sailors' orphans' home required to be maintained by approved records retention schedules shall be administered by the state department of education and workforce pursuant to this chapter, the administrative records of the home required to be maintained by approved records retention schedules shall be administered by the department of administrative services pursuant to this chapter, and historical records of the home shall be transferred to an appropriate archival institution in this state prescribed by the state records program.

(F) Establish a centralized program coordinating micrographics standards, training, and services for the benefit of all state agencies;

(G) Establish and publish in accordance with the applicable law necessary procedures ~~and rules~~ for the retention and disposal of state records.

This section does not apply to the records of state-supported institutions of higher education, which shall keep their own records.

Sec. 153.71. (A) Any public authority that is not the state or a state institution of higher education and that is planning to contract for professional design services or design-build services may adopt, amend, or rescind rules, in accordance with Chapter 119. of the Revised Code, to implement sections 153.66 to 153.70 of the Revised Code.

(B) Sections 153.66 to 153.70 of the Revised Code do not apply to any of the following:

(1) Any project with an estimated professional design fee of twenty-five thousand dollars or less;

(2) Any project with an estimated professional design fee of more than twenty-five thousand dollars but less than fifty thousand dollars if both of the following requirements are met:

(a) The public authority selects a single design professional or firm from among those that have submitted a current statement of qualifications within the immediately preceding year, as provided under section 153.68 of the Revised Code, based on the public authority's determination that the selected design professional or firm is the most qualified to provide the required professional design services;

(b) The public authority and the selected design professional or firm comply with division (B) of section 153.69 of the Revised Code with respect to the negotiation of a contract.

(3) Any project determined in writing by the public authority head to be an emergency requiring immediate action including, but not limited to, any projects requiring multiple contracts let as part of a program requiring a large number of professional design firms of the same type.

Sec. 156.05. In accordance with Chapter 119. of the Revised Code, the executive director of the Ohio facilities construction commission shall adopt~~, and enforce~~ rules ~~necessary to administer sections 156.01 to 156.04 of the Revised Code. Rules adopted under this section shall~~ to establish procedures by which the executive director may authorize in the executive director's stead the manager of any building owned by the state to enter into contracts authorized under sections 156.01 to 156.04 of the Revised Code.

Sec. 163.58. ~~(A) Except as otherwise provided in rules adopted under division (B) of this section, the~~ The head of each displacing agency is authorized to establish such regulations and procedures as ~~he~~the head of the displacing agency may determine to be necessary to assure:

~~(1)~~ (A) That the payments and assistance authorized by sections 163.51 to 163.62 of the Revised Code shall be administered in a manner which is fair and reasonable, and as uniform as practicable;

~~(2)~~ (B) That a displaced person who makes proper application for a payment authorized for such person by sections 163.51 to 163.62 of the Revised Code shall be paid promptly after a move or, in hardship cases, be paid in advance;

~~(3)~~ (C) That any person aggrieved by a determination as to eligibility for a payment authorized by such sections, or the amount of a payment, may have ~~his~~the person's application reviewed by the head of the displacing agency having authority over the applicable program or project.

~~(B) Notwithstanding any provision of the Revised Code to the contrary, the lead agency shall adopt such rules as may be~~

~~necessary to implement sections 163.51 to 163.62 of the Revised Code in a manner which is as fair, reasonable, and uniform as practicable. As used in this section, "lead agency" means the state agency that the governor shall designate to carry out the duties prescribed by this division.~~

Sec. 166.02. (A) The general assembly finds that many local areas throughout the state are experiencing economic stagnation or decline, and that the economic development programs provided for in this chapter will constitute deserved, necessary reinvestment by the state in those areas, materially contribute to their economic revitalization, and result in improving the economic welfare of all the people of the state. Accordingly, it is declared to be the public policy of the state, through the operations of this chapter and other applicable laws adopted pursuant to Section 2p or 13 of Article VIII, Ohio Constitution, and other authority vested in the general assembly, to assist in and facilitate the establishment or development of eligible projects or assist and cooperate with any governmental agency in achieving such purpose.

(B) In furtherance of such public policy and to implement such purpose, the director of development may:

(1) After consultation with appropriate governmental agencies, enter into agreements with persons engaged in industry, commerce, distribution, development of tourism attractions or professional sports facilities, or research and with governmental agencies to induce such persons to acquire, construct, reconstruct, rehabilitate, renovate, enlarge, improve, equip, or furnish, or otherwise develop, eligible projects and make provision therein for project facilities and governmental actions, as authorized by this chapter and other

applicable laws, subject to any required actions by the general assembly or the controlling board and subject to applicable local government laws and regulations;

(2) Provide for the guarantees and loans as provided for in sections 166.06 and 166.07 of the Revised Code;

(3) Subject to release of such moneys by the controlling board, contract for labor and materials needed for, or contract with others, including governmental agencies, to provide, project facilities the allowable costs of which are to be paid for or reimbursed from moneys in the facilities establishment fund, and contract for the operation of such project facilities;

(4) Subject to release thereof by the controlling board, from moneys in the facilities establishment fund acquire or contract to acquire by gift, exchange, or purchase, including the obtaining and exercise of purchase options, property, and convey or otherwise dispose of, or provide for the conveyance or disposition of, property so acquired or contracted to be acquired by sale, exchange, lease, lease purchase, conditional or installment sale, transfer, or other disposition, including the grant of an option to purchase, to any governmental agency or to any other person without necessity for competitive bidding and upon such terms and conditions and manner of consideration pursuant to and as the director determines to be appropriate to satisfy the objectives of sections 166.01 to 166.11 of the Revised Code;

(5) Retain the services of or employ financial consultants, appraisers, consulting engineers, superintendents, managers, construction and accounting experts, attorneys, and employees, agents, and independent contractors as are necessary in the director's judgment and fix the compensation for their

services;

(6) Receive and accept from any person grants, gifts, and contributions of money, property, labor, and other things of value, to be held, used and applied only for the purpose for which such grants, gifts, and contributions are made;

(7) Enter into appropriate arrangements and agreements with any governmental agency for the taking or provision by that governmental agency of any governmental action;

(8) Do all other acts and enter into contracts and execute all instruments necessary or appropriate to carry out the provisions of this chapter~~;~~

~~(9) Adopt rules to implement any of the provisions of this chapter applicable to the director~~.

(C) The determinations by the director that facilities constitute eligible projects, that facilities are project facilities, that costs of such facilities are allowable costs, and all other determinations relevant thereto or to an action taken or agreement entered into shall be conclusive for purposes of the validity and enforceability of rights of parties arising from actions taken and agreements entered into under this chapter.

(D) Except as otherwise prescribed in this chapter, all expenses and obligations incurred by the director in carrying out the director's powers and in exercising the director's duties under this chapter, shall be payable solely from, as appropriate, moneys in the facilities establishment fund, the loan guarantee fund, the innovation Ohio loan guarantee fund, the innovation Ohio loan fund, the research and development loan fund, the logistics and distribution infrastructure fund, or

moneys appropriated for such purpose by the general assembly. This chapter does not authorize the director or the issuing authority under section 166.08 of the Revised Code to incur bonded indebtedness of the state or any political subdivision thereof, or to obligate or pledge moneys raised by taxation for the payment of any bonds or notes issued or guarantees made pursuant to this chapter.

(E) Any governmental agency may enter into an agreement with the director, any other governmental agency, or a person to be assisted under this chapter, to take or provide for the purposes of this chapter any governmental action it is authorized to take or provide, and to undertake on behalf and at the request of the director any action which the director is authorized to undertake pursuant to divisions (B)(3), (4), and (5) of this section or divisions (B)(3), (4), and (5) of section 166.12 of the Revised Code. Governmental agencies of the state shall cooperate with and provide assistance to the director of development and the controlling board in the exercise of their respective functions under this chapter.

Sec. 166.12. (A) The general assembly finds that in order to maintain and enhance the competitiveness of the Ohio economy and to improve the economic welfare of all of the people of the state, it is necessary to ensure that high-value jobs based on research, technology, and innovation will be available to the people of this state. Further, the general assembly finds that the attraction of such jobs and their presence in this state will materially contribute to the economic welfare of all of the people of the state. Accordingly, it is declared to be the public policy of this state, through the operations under sections 166.01 and 166.12 to 166.16 of the Revised Code, and the loan and loan guarantee provisions contained in those

sections, applicable laws adopted pursuant to Section 13 of Article VIII, Ohio Constitution, and other authority vested in the general assembly, to assist in and facilitate the establishment or development of eligible innovation projects or assist and cooperate with any governmental agency in achieving that purpose.

(B) In furtherance of that public policy and to implement that purpose, the director of development may:

(1) After consultation with appropriate governmental agencies, enter into agreements with persons engaged in industry, commerce, distribution, development of tourism attractions or professional sports facilities, or research and with governmental agencies to induce such persons to acquire, construct, reconstruct, rehabilitate, renovate, enlarge, improve, equip, or furnish, or otherwise develop, eligible innovation projects and make provision therein for project facilities and governmental actions, as authorized by sections 166.01 and 166.12 to 166.16 of the Revised Code and other applicable laws;

(2) Provide for innovation Ohio loan guarantees and loans under sections 166.15 and 166.16 of the Revised Code;

(3) Subject to the release of such moneys by the controlling board, contract for labor and materials needed for, or contract with others, including governmental agencies, to provide, eligible innovation projects the allowable innovation costs of which are to be paid for or reimbursed from moneys in the innovation Ohio loan fund, and contract for the operation of such eligible innovation projects;

(4) Subject to release thereof by the controlling board,

from moneys in the innovation Ohio loan fund, acquire or contract to acquire by gift, exchange, or purchase, including the obtaining and exercise of purchase options, innovation property, and convey or otherwise dispose of, or provide for the conveyance or disposition of, innovation property so acquired or contracted to be acquired by sale, exchange, lease, lease purchase, conditional or installment sale, transfer, or other disposition, including the grant of an option to purchase, to any governmental agency or to any other person without necessity for competitive bidding and upon such terms and conditions and manner of consideration pursuant to, and as the director determines to be appropriate to satisfy the objectives of, Chapter 166. of the Revised Code;

(5) Retain the services of or employ financial consultants, appraisers, consulting engineers, superintendents, managers, construction and accounting experts, attorneys, and employees, agents, and independent contractors as are necessary in the director's judgment and fix the compensation for their services;

(6) Receive and accept from any person grants, gifts, and contributions of money, property, labor, and other things of value, to be held, used, and applied only for the purpose for which such grants, gifts, and contributions are made;

(7) Enter into appropriate arrangements and agreements with any governmental agency for the taking or provision by that governmental agency of any governmental action with respect to innovation projects;

(8) Do all other acts and enter into contracts and execute all instruments necessary or appropriate to carry out the provisions of sections 166.01 and 166.12 to 166.16 of the

Revised Code;

(9) With respect to property, including but not limited to innovation property, take such interests, including but not limited to mortgages, security interests, assignments, and exclusive or non-exclusive licenses, as may be necessary or appropriate under the circumstances, to ensure that innovation property is used within this state and that products or services associated with that innovation property are produced or, in the case of services, delivered, by persons employed within this state~~;~~

~~(10) Adopt rules necessary to implement any of the provisions of sections 166.01 and 166.12 to 166.16 of the Revised Code applicable to the director~~.

(C) The determinations by the director that facilities or property constitute eligible innovation projects and that costs of such facilities or property are allowable innovation costs, and all other determinations relevant thereto or to an action taken or agreement entered into, shall be conclusive for purposes of the validity and enforceability of rights of parties arising from actions taken and agreements entered into under sections 166.01 and 166.12 to 166.16 of the Revised Code.

Sec. 166.17. (A) The general assembly finds that in order to enhance the economic opportunities available to and improve the economic welfare of all the people of the state, and to maintain and enhance the competitiveness of the Ohio economy, it is necessary to ensure that the people of the state will continue to have access to high-value jobs in technology, and that, to facilitate such continued access, it is necessary to provide incentives to retain and attract businesses that will develop new or improved technologies, processes, and products,

or apply existing technologies in new ways. Further, the general assembly finds that the attraction of such jobs and their presence in this state will materially contribute to the economic welfare of all the people of the state. Accordingly, it is declared to be the public policy of this state, through operations under sections 166.17 to 166.21, 5733.352, and 5747.331 of the Revised Code and the provisions for financial assistance contained in those sections, other applicable laws adopted pursuant to Section 13 of Article VIII, Ohio Constitution, and other authority vested in the general assembly, to assist in and facilitate the establishment or development of eligible research and development projects or assist and cooperate with any governmental agency in achieving that purpose.

(B) In furtherance of that public policy and to implement that purpose, the director of development may do any of the following:

(1) After consultation with appropriate governmental agencies, enter into agreements with persons engaged in industry, commerce, distribution, development of tourism attractions or professional sports facilities, or research and with governmental agencies, to induce such persons to acquire, construct, reconstruct, rehabilitate, renovate, enlarge, improve, equip, furnish, or develop eligible research and development projects, or to enable governmental agencies to acquire, construct, reconstruct, rehabilitate, renovate, enlarge, improve, equip, furnish, or develop eligible research and development projects for lease to persons engaged in industry, commerce, distribution, development of tourism attractions or professional sports facilities, or research;

(2) Provide for loans under section 166.21 of the Revised Code to finance eligible research and development projects;

(3) Subject to the release of moneys in the research and development loan fund by the controlling board, contract for labor and materials needed for, or contract with others, including governmental agencies, to provide, eligible research and development projects, the allowable costs of which are to be paid for or reimbursed from such moneys, and contract for the operation of those projects;

(4) From moneys in the research and development loan fund, subject to release thereof by the controlling board, acquire or contract to acquire property by gift, exchange, or purchase, including by obtaining and exercising purchase options, and convey or otherwise dispose of, or provide for the conveyance or disposition of, that property by sale, exchange, lease, lease purchase, conditional or installment sale, transfer, or other disposition, including the grant of an option to purchase, to any governmental agency or to any other person without necessity for competitive bidding and upon such terms and conditions and manner of consideration pursuant to, and as the director determines to be appropriate to satisfy the objectives of, Chapter 166. of the Revised Code;

(5) Retain the services of or employ financial consultants, appraisers, consulting engineers, superintendents, managers, construction and accounting experts, attorneys, employees, agents, and independent contractors as are necessary in the director's judgment, and fix the compensation for their services;

(6) Receive and accept from any person, grants, gifts, and contributions of money, property, labor, and other things of

value, to be held, used, and applied only for the purpose for which such grants, gifts, and contributions are made;

(7) Enter into arrangements and agreements with any governmental agency for the agency to take or provide any governmental action with respect to eligible research and development projects;

(8) Do all other acts, enter into contracts, execute all instruments, and make all certifications necessary or appropriate to carry out sections 166.01, 166.17 to 166.21, 5733.352, and 5747.331 of the Revised Code;

(9) With respect to property that is the subject of or related to research and development financial assistance, take such interests, including, but not limited to, mortgages, security interests, leasehold interests, assignments, and exclusive or nonexclusive licenses, as may be necessary or appropriate under the circumstances, to ensure that the property is used within this state and that products or services associated with that property are produced or, in the case of services, delivered, by persons employed within this state~~;~~

~~(10) Adopt rules necessary to implement any of the provisions of sections 166.17 to 166.21, 5733.352, and 5747.331 of the Revised Code that are applicable to the director~~.

(C) The determination by the director that facilities or property constitute an eligible research and development project and that the costs of such facilities or property are allowable costs related to the project, and all other determinations relevant thereto, or to an action taken or agreement entered into, shall be conclusive for purposes of the validity and enforceability of rights of parties arising from actions taken

and agreements entered into under sections 166.17 to 166.21, 5733.352, and 5747.331 of the Revised Code.

Sec. 169.09. The director of commerce shall make, in accordance with Chapter 119. of the Revised Code, ~~necessary~~ rules that prescribe uniform methods for conducting unclaimed funds audits under section 169.03 of the Revised Code and for determining when such an audit is appropriate~~, and may make necessary rules to carry out any other duty imposed upon the director by this chapter~~.

Sec. 173.02. The department of aging ~~shall adopt, and may rescind, rules as necessary to carry out the provisions of Chapter 173. of the Revised Code and~~ may:

(A) Provide technical assistance and consultation to public and private nonprofit agencies with respect to programs, services, and activities for elderly people;

(B) Cooperate with federal agencies, other state agencies or departments, and organizations to conduct studies and surveys on the special problems of the aged in such matters as mental and physical health, housing, transportation, family relationships, employment, income, vocational rehabilitation, recreation, and education; make such reports as are appropriate to the governor and other federal and state agencies; and develop recommendations for administrative or legislative action to alleviate such problems;

(C) Develop and strengthen the services available for the aging in the state by coordinating the existing services provided by federal, state, and local departments and agencies, and private agencies and facilities;

(D) Extend and expand services for the aged through

coordinating the interests and efforts of local communities in studying the problems of the aged citizens of this state;

(E) Encourage, promote, and aid in the establishment of programs and services on the local level for the betterment of the living conditions of the aged by making it possible for the aged to more fully enjoy and participate in family and community life;

(F) Sponsor voluntary community rehabilitation and recreational facilities for the purpose of improving the general welfare of the elderly;

(G) Stimulate the training of workers in the field of aging;

(H) Provide consultants to agencies, associations, or individuals providing services supported by the department;

(I) Provide support which shall include, but not be limited to, financial support for the Martin Janis multipurpose senior center in Columbus;

(J) Recommend methods of improving the effectiveness of state services for elderly citizens;

(K) Adopt rules pursuant to Chapter 119. of the Revised Code to request fees, if not prohibited by any federal or state law, from persons using services or facilities for the elderly that are provided, operated, contracted for, or supported by the department, provided that requesting the fees will not disqualify the department from receiving federal or state funds;

(L) Publish a description of the organization and functions of the department so that all interested agencies and individuals may receive information about, and be better able to

solicit assistance from, the department.

Sec. 173.27. (A) As used in this section:

(1) "Applicant" means a person who is under final consideration for employment by a responsible party in a full-time, part-time, or temporary position that involves providing ombudsman services to residents and recipients. "Applicant" includes a person who is under final consideration for employment as the state long-term care ombudsman or the head of a regional long-term care ombudsman program. "Applicant" does not include a person seeking to provide ombudsman services to residents and recipients as a volunteer without receiving or expecting to receive any form of remuneration other than reimbursement for actual expenses.

(2) "Criminal records check" has the same meaning as in section 109.572 of the Revised Code.

(3) "Disqualifying offense" means any of the offenses listed or described in divisions (A)(3)(a) to (e) of section 109.572 of the Revised Code.

(4) "Employee" means a person employed by a responsible party in a full-time, part-time, or temporary position that involves providing ombudsman services to residents and recipients. "Employee" includes the person employed as the state long-term care ombudsman and a person employed as the head of a regional long-term care ombudsman program. "Employee" does not include a person who provides ombudsman services to residents and recipients as a volunteer without receiving or expecting to receive any form of remuneration other than reimbursement for actual expenses.

(5) "Responsible party" means the following:

(a) In the case of an applicant who is under final consideration for employment as the state long-term care ombudsman or the person employed as the state long-term care ombudsman, the director of aging;

(b) In the case of any other applicant who is under final consideration for employment with the state long-term care ombudsman program or any other employee of the state long-term care ombudsman program, the state long-term care ombudsman;

(c) In the case of an applicant who is under final consideration for employment with a regional long-term care ombudsman program (including as the head of the regional program) or an employee of a regional long-term care ombudsman program (including the head of a regional program), the regional long-term care ombudsman program.

(B) A responsible party may not employ an applicant or continue to employ an employee in a position that involves providing ombudsman services to residents and recipients if any of the following apply:

(1) A review of the databases listed in division (D) of this section reveals any of the following:

(a) That the applicant or employee is included in one or more of the databases listed in divisions (D)(1) to (5) of this section;

(b) That there is in the state nurse aide registry established under section 3721.32 of the Revised Code a statement detailing findings by the director of health that the applicant or employee abused, neglected, or exploited a long-term care facility or residential care facility resident or misappropriated property of such a resident;

(c) That the applicant or employee is included in one or more of the databases, if any, specified in rules adopted under this section and the rules prohibit the responsible party from employing an applicant or continuing to employ an employee included in such a database in a position that involves providing ombudsman services to residents and recipients.

(2) After the applicant or employee is provided, pursuant to division (E)(2)(a) of this section, a copy of the form prescribed pursuant to division (C)(1) of section 109.572 of the Revised Code and the standard impression sheet prescribed pursuant to division (C)(2) of that section, the applicant or employee fails to complete the form or provide the applicant's or employee's fingerprint impressions on the standard impression sheet.

(3) Unless the applicant or employee meets standards specified in rules adopted under this section, the applicant or employee is found by a criminal records check required by this section to have been convicted of, pleaded guilty to, or been found eligible for intervention in lieu of conviction for a disqualifying offense.

(C) A responsible party or a responsible party's designee shall inform each applicant of both of the following at the time of the applicant's initial application for employment in a position that involves providing ombudsman services to residents and recipients:

(1) That a review of the databases listed in division (D) of this section will be conducted to determine whether the responsible party is prohibited by division (B)(1) of this section from employing the applicant in the position;

(2) That, unless the database review reveals that the applicant may not be employed in the position, a criminal records check of the applicant will be conducted and the applicant is required to provide a set of the applicant's fingerprint impressions as part of the criminal records check.

(D) As a condition of any applicant's being employed by a responsible party in a position that involves providing ombudsman services to residents and recipients, the responsible party or designee shall conduct a database review of the applicant in accordance with rules adopted under this section. If rules adopted under this section so require, the responsible party or designee shall conduct a database review of an employee in accordance with the rules as a condition of the responsible party continuing to employ the employee in a position that involves providing ombudsman services to residents and recipients. A database review shall determine whether the applicant or employee is included in any of the following:

(1) The excluded parties list system that is maintained by the United States general services administration pursuant to subpart 9.4 of the federal acquisition regulation and available at the federal web site known as the system for award management;

(2) The list of excluded individuals and entities maintained by the office of inspector general in the United States department of health and human services pursuant to section 1128 of the "Social Security Act," 94 Stat. 2619 (1980), 42 U.S.C. 1320a-7, as amended, and section 1156 of the "Social Security Act," 96 Stat. 388 (1982), 42 U.S.C. 1320c-5, as amended;

(3) The registry of developmental disabilities employees

established under section 5123.52 of the Revised Code;

(4) The internet-based sex offender and child-victim offender database established under division ~~(A)(11)~~(A)(10) of section 2950.13 of the Revised Code;

(5) The internet-based database of inmates established under section 5120.66 of the Revised Code;

(6) The state nurse aide registry established under section 3721.32 of the Revised Code;

(7) Any other database, if any, specified in rules adopted under this section.

(E)(1) As a condition of any applicant's being employed by a responsible party in a position that involves providing ombudsman services to residents and recipients, the responsible party or designee shall request that the superintendent of the bureau of criminal identification and investigation conduct a criminal records check of the applicant. If rules adopted under this section so require, the responsible party or designee shall request that the superintendent conduct a criminal records check of an employee at times specified in the rules as a condition of the responsible party continuing to employ the employee in a position that involves providing ombudsman services to residents and recipients. However, the responsible party or designee is not required to request the criminal records check of the applicant or employee if the responsible party is prohibited by division (B)(1) of this section from employing the applicant or continuing to employ the employee in a position that involves providing ombudsman services to residents and recipients. If an applicant or employee for whom a criminal records check request is required by this section does not present proof of having

been a resident of this state for the five-year period immediately prior to the date the criminal records check is requested or provide evidence that within that five-year period the superintendent has requested information about the applicant or employee from the federal bureau of investigation in a criminal records check, the responsible party or designee shall request that the superintendent obtain information from the federal bureau of investigation as part of the criminal records check. Even if an applicant or employee for whom a criminal records check request is required by this section presents proof of having been a resident of this state for the five-year period, the responsible party or designee may request that the superintendent include information from the federal bureau of investigation in the criminal records check.

(2) A responsible party or designee shall do all of the following:

(a) Provide to each applicant and employee for whom a criminal records check request is required by this section a copy of the form prescribed pursuant to division (C)(1) of section 109.572 of the Revised Code and a standard impression sheet prescribed pursuant to division (C)(2) of that section;

(b) Obtain the completed form and standard impression sheet from the applicant or employee;

(c) Forward the completed form and standard impression sheet to the superintendent.

(3) A responsible party shall pay to the bureau of criminal identification and investigation the fee prescribed pursuant to division (C)(3) of section 109.572 of the Revised Code for each criminal records check the responsible party or

the responsible party's designee requests under this section. The responsible party may charge an applicant a fee not exceeding the amount the responsible party pays to the bureau under this section if the responsible party or designee notifies the applicant at the time of initial application for employment of the amount of the fee.

(F)(1) A responsible party may employ conditionally an applicant for whom a criminal records check is required by this section prior to obtaining the results of the criminal records check if both of the following apply:

(a) The responsible party is not prohibited by division (B)(1) of this section from employing the applicant in a position that involves providing ombudsman services to residents and recipients;

(b) The responsible party or designee requests the criminal records check in accordance with division (E) of this section before conditionally employing the applicant.

(2) A responsible party shall terminate the employment of an applicant employed conditionally under division (F)(1) of this section if the results of the criminal records check, other than the results of any request for information from the federal bureau of investigation, are not obtained within the period ending sixty days after the date the request for the criminal records check is made. Regardless of when the results of the criminal records check are obtained, if the results indicate that the applicant has been convicted of, pleaded guilty to, or been found eligible for intervention in lieu of conviction for a disqualifying offense, the responsible party shall terminate the applicant's employment unless the applicant meets standards specified in rules adopted under this section that permit the

responsible party to employ the applicant and the responsible party chooses to employ the applicant. Termination of employment under this division shall be considered just cause for discharge for purposes of division (D)(2) of section 4141.29 of the Revised Code if the applicant makes any attempt to deceive the responsible party or designee about the applicant's criminal record.

(G) The report of any criminal records check conducted pursuant to a request made under this section is not a public record for the purposes of section 149.43 of the Revised Code and shall not be made available to any person other than the following:

(1) The applicant or employee who is the subject of the criminal records check or the applicant's or employee's representative;

(2) The responsible party or designee;

(3) In the case of a criminal records check conducted for an applicant who is under final consideration for employment with a regional long-term care ombudsman program (including as the head of the regional program) or an employee of a regional long-term care ombudsman program (including the head of a regional program), the state long-term care ombudsman or a representative of the office of the state long-term care ombudsman program who is responsible for monitoring the regional program's compliance with this section;

(4) A court or hearing officer involved in a case dealing with any of the following:

(a) A denial of employment of the applicant or employee;

(b) Employment or unemployment benefits of the applicant

or employee;

(c) A civil or criminal action regarding the medicaid program or a program the department of aging administers.

(5) Pursuant to a lawful subpoena or valid court order, any necessary individual not identified in division (G)(4) of this section who is involved in a case dealing with any issue, matter, or action described in division (G)(4)(a), (b), or (c) of this section.

(H) In a tort or other civil action for damages that is brought as the result of an injury, death, or loss to person or property caused by an applicant or employee who a responsible party employs in a position that involves providing ombudsman services to residents and recipients, all of the following shall apply:

(1) If the responsible party employed the applicant or employee in good faith and reasonable reliance on the report of a criminal records check requested under this section, the responsible party shall not be found negligent solely because of its reliance on the report, even if the information in the report is determined later to have been incomplete or inaccurate.

(2) If the responsible party employed the applicant in good faith on a conditional basis pursuant to division (F) of this section, the responsible party shall not be found negligent solely because it employed the applicant prior to receiving the report of a criminal records check requested under this section.

(3) If the responsible party in good faith employed the applicant or employee because the applicant or employee meets standards specified in rules adopted under this section, the

responsible party shall not be found negligent solely because the applicant or employee has been convicted of, pleaded guilty to, or been found eligible for intervention in lieu of conviction for a disqualifying offense.

(I) The state long-term care ombudsman may not act as the director of aging's designee for the purpose of this section. The head of a regional long-term care ombudsman program may not act as the regional program's designee for the purpose of this section if the head is the employee for whom a database review or criminal records check is being conducted.

(J)(1) The director of aging ~~shall~~ may adopt rules in accordance with Chapter 119. of the Revised Code ~~to implement this section.~~

~~(1) The rules may~~ to do the following:

(a) Require employees to undergo database reviews and criminal records checks under this section;

(b) If the rules require employees to undergo database reviews and criminal records checks under this section, exempt one or more classes of employees from the requirements;

(c) For the purpose of division (D)(7) of this section, specify other databases that are to be checked as part of a database review conducted under this section.

(2) The director shall adopt rules ~~shall~~ under Chapter 119. of the Revised Code to specify all of the following:

(a) The procedures for conducting database reviews under this section;

(b) If the rules require employees to undergo database reviews and criminal records checks under this section, the

times at which the database reviews and criminal records checks are to be conducted;

(c) If the rules specify other databases to be checked as part of the database reviews, the circumstances under which a responsible party is prohibited from employing an applicant or continuing to employ an employee who is found by a database review to be included in one or more of those databases;

(d) Standards that an applicant or employee must meet for a responsible party to be permitted to employ the applicant or continue to employ the employee in a position that involves providing ombudsman services to residents and recipients if the applicant or employee is found by a criminal records check required by this section to have been convicted of, pleaded guilty to, or been found eligible for intervention in lieu of conviction for a disqualifying offense.

Sec. 173.38. (A) As used in this section:

(1) "Applicant" means a person who is under final consideration for employment with a responsible party in a full-time, part-time, or temporary direct-care position or is referred to a responsible party by an employment service for such a position. "Applicant" does not include a person being considered for a direct-care position as a volunteer.

(2) "Area agency on aging" has the same meaning as in section 173.14 of the Revised Code.

(3) "Community-based long-term care services" means community-based long-term care services, as defined in section 173.14 of the Revised Code, that are provided under a program the department of aging administers.

(4) "Consumer" means an individual who receives community-

based long-term care services.

(5) "Criminal records check" has the same meaning as in section 109.572 of the Revised Code.

(6)(a) "Direct-care position" means an employment position in which an employee has either or both of the following:

(i) In-person contact with one or more consumers;

(ii) Access to one or more consumers' personal property or records.

(b) "Direct-care position" does not include any of the following:

(i) A person whose sole duties are transporting individuals under Chapter 306. of the Revised Code;

(ii) An attorney licensed to practice law in this state;

(iii) A person who is not licensed to practice law in this state, but, at the direction of an attorney licensed to practice law in this state, assists the attorney in the attorney's provision of legal services.

(7) "Disqualifying offense" means any of the offenses listed or described in divisions (A)(3)(a) to (e) of section 109.572 of the Revised Code.

(8) "Employee" means a person employed by a responsible party in a full-time, part-time, or temporary direct-care position and a person who works in such a position due to being referred to a responsible party by an employment service. "Employee" does not include a person who works in a direct-care position as a volunteer.

(9) "PASSPORT administrative agency" has the same meaning

as in section 173.42 of the Revised Code.

(10) "Provider" has the same meaning as in section 173.39 of the Revised Code.

(11) "Responsible party" means the following:

(a) An area agency on aging in the case of either of the following:

(i) A person who is an applicant because the person is under final consideration for employment with the agency in a full-time, part-time, or temporary direct-care position or is referred to the agency by an employment service for such a position;

(ii) A person who is an employee because the person is employed by the agency in a full-time, part-time, or temporary direct-care position or works in such a position due to being referred to the agency by an employment service.

(b) A PASSPORT administrative agency in the case of either of the following:

(i) A person who is an applicant because the person is under final consideration for employment with the agency in a full-time, part-time, or temporary direct-care position or is referred to the agency by an employment service for such a position;

(ii) A person who is an employee because the person is employed by the agency in a full-time, part-time, or temporary direct-care position or works in such a position due to being referred to the agency by an employment service.

(c) A provider in the case of either of the following:

(i) A person who is an applicant because the person is under final consideration for employment with the provider in a full-time, part-time, or temporary direct-care position or is referred to the provider by an employment service for such a position;

(ii) A person who is an employee because the person is employed by the provider in a full-time, part-time, or temporary direct-care position or works in such a position due to being referred to the provider by an employment service.

(d) A subcontractor in the case of either of the following:

(i) A person who is an applicant because the person is under final consideration for employment with the subcontractor in a full-time, part-time, or temporary direct-care position or is referred to the subcontractor by an employment service for such a position;

(ii) A person who is an employee because the person is employed by the subcontractor in a full-time, part-time, or temporary direct-care position or works in such a position due to being referred to the subcontractor by an employment service.

(12) "Subcontractor" has the meaning specified in rules adopted under this section.

(13) "Volunteer" means a person who serves in a direct-care position without receiving or expecting to receive any form of remuneration other than reimbursement for actual expenses.

(14) "Waiver agency" has the same meaning as in section 5164.342 of the Revised Code.

(B) This section does not apply to any of the following:

(1) A person who is subject to a database review or criminal records check under section 173.381 or 3740.11 of the Revised Code;

(2) A person who is subject to a criminal records check under section 3721.121 of the Revised Code;

(3) A participant-directed provider, but only if the director of aging has conducted a database review of the provider in the same manner that other database reviews are conducted under this section;

(4) An ambulette driver employed by an organization licensed under Chapter 4766. of the Revised Code.

(C) No responsible party shall employ an applicant or continue to employ an employee in a direct-care position if any of the following apply:

(1) A review of the databases listed in division (E) of this section reveals any of the following:

(a) That the applicant or employee is included in one or more of the databases listed in divisions (E)(1) to (5) of this section;

(b) That there is in the state nurse aide registry established under section 3721.32 of the Revised Code a statement detailing findings by the director of health that the applicant or employee abused, neglected, or exploited a long-term care facility or residential care facility resident or misappropriated property of such a resident;

(c) That the applicant or employee is included in one or more of the databases, if any, specified in rules adopted under this section and the rules prohibit the responsible party from

employing an applicant or continuing to employ an employee included in such a database in a direct-care position.

(2) After the applicant or employee is provided, pursuant to division (F)(2)(a) of this section, a copy of the form prescribed pursuant to division (C)(1) of section 109.572 of the Revised Code and the standard impression sheet prescribed pursuant to division (C)(2) of that section, the applicant or employee fails to complete the form or provide the applicant's or employee's fingerprint impressions on the standard impression sheet.

(3) Unless the applicant or employee meets standards specified in rules adopted under this section, the applicant or employee is found by a criminal records check required by this section to have been convicted of, pleaded guilty to, or been found eligible for intervention in lieu of conviction for a disqualifying offense.

(D) Except as provided by division (G) of this section, the chief administrator of a responsible party shall inform each applicant of both of the following at the time of the applicant's initial application for employment or referral to the responsible party by an employment service for a direct-care position:

(1) That a review of the databases listed in division (E) of this section will be conducted to determine whether the responsible party is prohibited by division (C)(1) of this section from employing the applicant in the direct-care position;

(2) That, unless the database review reveals that the applicant may not be employed in the direct-care position, a

criminal records check of the applicant will be conducted and the applicant is required to provide a set of the applicant's fingerprint impressions as part of the criminal records check.

(E) As a condition of employing any applicant in a direct-care position, the chief administrator of a responsible party shall conduct a database review of the applicant in accordance with rules adopted under this section. If rules adopted under this section so require, the chief administrator of a responsible party shall conduct a database review of an employee in accordance with the rules as a condition of continuing to employ the employee in a direct-care position. However, a chief administrator is not required to conduct a database review of an applicant or employee if division (G) of this section applies. A database review shall determine whether the applicant or employee is included in any of the following:

(1) The excluded parties list system that is maintained by the United States general services administration pursuant to subpart 9.4 of the federal acquisition regulation and available at the federal web site known as the system for award management;

(2) The list of excluded individuals and entities maintained by the office of inspector general in the United States department of health and human services pursuant to the "Social Security Act," sections 1128 and 1156, 42 U.S.C. 1320a-7 and 1320c-5;

(3) The registry of developmental disabilities employees established under section 5123.52 of the Revised Code;

(4) The internet-based sex offender and child-victim offender database established under division ~~(A)(11)~~ (A)(10) of

section 2950.13 of the Revised Code;

(5) The internet-based database of inmates established under section 5120.66 of the Revised Code;

(6) The state nurse aide registry established under section 3721.32 of the Revised Code;

(7) Any other database, if any, specified in rules adopted under this section.

(F)(1) As a condition of employing any applicant in a direct-care position, the chief administrator of a responsible party shall request that the superintendent of the bureau of criminal identification and investigation conduct a criminal records check of the applicant. If rules adopted under this section so require, the chief administrator of a responsible party shall request that the superintendent conduct a criminal records check of an employee at times specified in the rules as a condition of continuing to employ the employee in a direct-care position. However, the chief administrator is not required to request the criminal records check of the applicant or employee if division (G) of this section applies or the responsible party is prohibited by division (C)(1) of this section from employing the applicant or continuing to employ the employee in a direct-care position. If an applicant or employee for whom a criminal records check request is required by this section does not present proof of having been a resident of this state for the five-year period immediately prior to the date the criminal records check is requested or provide evidence that within that five-year period the superintendent has requested information about the applicant or employee from the federal bureau of investigation in a criminal records check, the chief administrator shall request that the superintendent obtain

information from the federal bureau of investigation as part of the criminal records check. Even if an applicant or employee for whom a criminal records check request is required by this section presents proof of having been a resident of this state for the five-year period, the chief administrator may request that the superintendent include information from the federal bureau of investigation in the criminal records check.

(2) The chief administrator shall do all of the following:

(a) Provide to each applicant and employee for whom a criminal records check request is required by this section a copy of the form prescribed pursuant to division (C)(1) of section 109.572 of the Revised Code and a standard impression sheet prescribed pursuant to division (C)(2) of that section;

(b) Obtain the completed form and standard impression sheet from the applicant or employee;

(c) Forward the completed form and standard impression sheet to the superintendent.

(3) A responsible party shall pay to the bureau of criminal identification and investigation the fee prescribed pursuant to division (C)(3) of section 109.572 of the Revised Code for each criminal records check the responsible party requests under this section. A responsible party may charge an applicant a fee not exceeding the amount the responsible party pays to the bureau under this section if both of the following apply:

(a) The responsible party notifies the applicant at the time of initial application for employment of the amount of the fee and that, unless the fee is paid, the applicant will not be considered for employment.

(b) The medicaid program does not pay the responsible party for the fee it pays to the bureau under this section.

(G) Divisions (D) to (F) of this section do not apply with regard to an applicant or employee if the applicant or employee is referred to a responsible party by an employment service that supplies full-time, part-time, or temporary staff for direct-care positions and both of the following apply:

(1) The chief administrator of the responsible party receives from the employment service confirmation that a review of the databases listed in division (E) of this section was conducted of the applicant or employee.

(2) The chief administrator of the responsible party receives from the employment service, applicant, or employee a report of the results of a criminal records check of the applicant or employee that has been conducted by the superintendent within the one-year period immediately preceding the following:

(a) In the case of an applicant, the date of the applicant's referral by the employment service to the responsible party;

(b) In the case of an employee, the date by which the responsible party would otherwise have to request a criminal records check of the employee under division (F) of this section.

(H)(1) A responsible party may employ conditionally an applicant for whom a criminal records check request is required by this section prior to obtaining the results of the criminal records check if the responsible party is not prohibited by division (C)(1) of this section from employing the applicant in

a direct-care position and either of the following applies:

(a) The chief administrator of the responsible party requests the criminal records check in accordance with division (F) of this section before conditionally employing the applicant.

(b) The applicant is referred to the responsible party by an employment service, the employment service or the applicant provides the chief administrator of the responsible party a letter that is on the letterhead of the employment service, the letter is dated and signed by a supervisor or another designated official of the employment service, and the letter states all of the following:

(i) That the employment service has requested the superintendent to conduct a criminal records check regarding the applicant;

(ii) That the requested criminal records check is to include a determination of whether the applicant has been convicted of, pleaded guilty to, or been found eligible for intervention in lieu of conviction for a disqualifying offense;

(iii) That the employment service has not received the results of the criminal records check as of the date set forth on the letter;

(iv) That the employment service promptly will send a copy of the results of the criminal records check to the chief administrator of the responsible party when the employment service receives the results.

(2) If a responsible party employs an applicant conditionally pursuant to division (H)(1)(b) of this section, the employment service, on its receipt of the results of the

criminal records check, promptly shall send a copy of the results to the chief administrator of the responsible party.

(3) A responsible party that employs an applicant conditionally pursuant to division (H)(1)(a) or (b) of this section shall terminate the applicant's employment if the results of the criminal records check, other than the results of any request for information from the federal bureau of investigation, are not obtained within the period ending sixty days after the date the request for the criminal records check is made. Regardless of when the results of the criminal records check are obtained, if the results indicate that the applicant has been convicted of, pleaded guilty to, or been found eligible for intervention in lieu of conviction for a disqualifying offense, the responsible party shall terminate the applicant's employment unless the applicant meets standards specified in rules adopted under this section that permit the responsible party to employ the applicant and the responsible party chooses to employ the applicant. Termination of employment under this division shall be considered just cause for discharge for purposes of division (D)(2) of section 4141.29 of the Revised Code if the applicant makes any attempt to deceive the responsible party about the applicant's criminal record.

(I) The report of any criminal records check conducted pursuant to a request made under this section is not a public record for the purposes of section 149.43 of the Revised Code and shall not be made available to any person other than the following:

(1) The applicant or employee who is the subject of the criminal records check or the applicant's or employee's representative;

(2) The chief administrator of the responsible party requesting the criminal records check or the administrator's representative;

(3) The administrator of any other facility, agency, or program that provides community-based long-term care services that is owned or operated by the same entity that owns or operates the responsible party that requested the criminal records check;

(4) The employment service that requested the criminal records check;

(5) The director of aging or a person authorized by the director to monitor a responsible party's compliance with this section;

(6) The medicaid director and the staff of the department of medicaid who are involved in the administration of the medicaid program if any of the following apply:

(a) In the case of a criminal records check requested by a provider or subcontractor, the provider or subcontractor also is a waiver agency;

(b) In the case of a criminal records check requested by an employment service, the employment service makes the request for an applicant or employee the employment service refers to a provider or subcontractor that also is a waiver agency.

(7) A court or hearing officer involved in a case dealing with any of the following:

(a) A denial of employment of the applicant or employee;

(b) Employment or unemployment benefits of the applicant or employee;

(c) A civil or criminal action regarding the medicaid program or a program the department of aging administers.

(8) Pursuant to a lawful subpoena or valid court order, any necessary individual not identified in division (I)(7) of this section who is involved in a case dealing with any issue, matter, or action described in division (I)(7)(a), (b), or (c) of this section.

(J) In a tort or other civil action for damages that is brought as the result of an injury, death, or loss to person or property caused by an applicant or employee who a responsible party employs in a direct-care position, all of the following shall apply:

(1) If the responsible party employed the applicant or employee in good faith and reasonable reliance on the report of a criminal records check requested under this section, the responsible party shall not be found negligent solely because of its reliance on the report, even if the information in the report is determined later to have been incomplete or inaccurate.

(2) If the responsible party employed the applicant in good faith on a conditional basis pursuant to division (H) of this section, the responsible party shall not be found negligent solely because it employed the applicant prior to receiving the report of a criminal records check requested under this section.

(3) If the responsible party in good faith employed the applicant or employee because the applicant or employee meets standards specified in rules adopted under this section, the responsible party shall not be found negligent solely because the applicant or employee has been convicted of, pleaded guilty

to, or been found eligible for intervention in lieu of conviction for a disqualifying offense.

(K) The director of aging shall adopt rules in accordance with Chapter 119. of the Revised Code to implement this section.

(1) The rules may do the following:

(a) Require employees to undergo database reviews and criminal records checks under this section;

(b) If the rules require employees to undergo database reviews and criminal records checks under this section, exempt one or more classes of employees from the requirements;

(c) For the purpose of division (E)(7) of this section, specify other databases that are to be checked as part of a database review conducted under this section.

(2) The rules shall specify all of the following:

(a) The meaning of the term "subcontractor";

(b) The procedures for conducting database reviews under this section;

(c) If the rules require employees to undergo database reviews and criminal records checks under this section, the times at which the database reviews and criminal records checks are to be conducted;

(d) If the rules specify other databases to be checked as part of the database reviews, the circumstances under which a responsible party is prohibited from employing an applicant or continuing to employ an employee who is found by a database review to be included in one or more of those databases;

(e) Standards that an applicant or employee must meet for

a responsible party to be permitted to employ the applicant or continue to employ the employee in a direct-care position if the applicant or employee is found by a criminal records check required by this section to have been convicted of, pleaded guilty to, or been found eligible for intervention in lieu of conviction for a disqualifying offense.

Sec. 173.381. (A) As used in this section:

(1) "Community-based long-term care services" means community-based long-term care services, as defined in section 173.14 of the Revised Code, that are provided under a program the department of aging administers.

(2) "Community-based long-term care services certificate" means a certificate issued under section 173.391 of the Revised Code.

(3) "Community-based long-term care services contract or grant" means a contract or grant awarded under section 173.392 of the Revised Code.

(4) "Criminal records check" has the same meaning as in section 109.572 of the Revised Code.

(5) "Disqualifying offense" means any of the offenses listed or described in divisions (A)(3)(a) to (e) of section 109.572 of the Revised Code.

(6) "Provider" has the same meaning as in section 173.39 of the Revised Code.

(7) "Self-employed provider" means a provider who works for the provider's self and has no employees.

(B) This section does not apply to any of the following:

(1) An applicant as defined in section 3740.11 of the Revised Code or an employee as defined in section 3740.01 of the Revised Code;

(2) An ambulette driver employed by an organization licensed under Chapter 4766. of the Revised Code;

(3) An attorney licensed to practice law in this state;

(4) A person who is not licensed to practice law in this state, but who, at the direction of an attorney licensed to practice law in this state, assists the attorney in the attorney's provision of legal services.

(C)(1) The department of aging or its designee shall take the following actions when the circumstances specified in division (C)(2) of this section apply:

(a) Refuse to issue a community-based long-term care services certificate to a self-employed provider;

(b) Revoke a self-employed provider's community-based long-term care services certificate;

(c) Refuse to award a community-based long-term care services contract or grant to a self-employed provider;

(d) Terminate a self-employed provider's community-based long-term care services contract or grant awarded on or after September 15, 2014.

(2) The following are the circumstances that require the department of aging or its designee to take action under division (C)(1) of this section:

(a) A review of the databases listed in division (E) of this section reveals any of the following:

(i) That the self-employed provider is included in one or more of the databases listed in divisions (E)(1) to (5) of this section;

(ii) That there is in the state nurse aide registry established under section 3721.32 of the Revised Code a statement detailing findings by the director of health that the self-employed provider abused, neglected, or exploited a long-term care facility or residential care facility resident or misappropriated property of such a resident;

(iii) That the self-employed provider is included in one or more of the databases, if any, specified in rules adopted under this section and the rules require the department or its designee to take action under division (C)(1) of this section if a self-employed provider is included in such a database.

(b) After the self-employed provider is provided, pursuant to division (F)(2)(a) of this section, a copy of the form prescribed pursuant to division (C)(1) of section 109.572 of the Revised Code and the standard impression sheet prescribed pursuant to division (C)(2) of that section, the self-employed provider fails to complete the form or provide the self-employed provider's fingerprint impressions on the standard impression sheet.

(c) Unless the self-employed provider meets standards specified in rules adopted under this section, the self-employed provider is found by a criminal records check required by this section to have been convicted of, pleaded guilty to, or been found eligible for intervention in lieu of conviction for a disqualifying offense.

(D) The department of aging or its designee shall inform

each self-employed provider of both of the following at the time of the self-employed provider's initial application for a community-based long-term care services certificate or initial bid for a community-based long-term care services contract or grant:

(1) That a review of the databases listed in division (E) of this section will be conducted to determine whether the department or its designee is required by division (C) of this section to refuse to issue or award a community-based long-term care services certificate or community-based long-term care services contract or grant to the self-employed provider;

(2) That, unless the database review reveals that the department or its designee is required to refuse to issue or award a community-based long-term care services certificate or community-based long-term care services contract or grant to the self-employed provider, a criminal records check of the self-employed provider will be conducted and the self-employed provider is required to provide a set of the self-employed provider's fingerprint impressions as part of the criminal records check.

(E) As a condition of issuing or awarding a community-based long-term care services certificate or community-based long-term care services contract or grant to a self-employed provider, the department of aging or its designee shall conduct a database review of the self-employed provider in accordance with rules adopted under this section. If rules adopted under this section so require, the department or its designee shall conduct a database review of a self-employed provider in accordance with the rules as a condition of not revoking or terminating the self-employed provider's community-based long-

term care services certificate or community-based long-term care services contract or grant. A database review shall determine whether the self-employed provider is included in any of the following:

(1) The excluded parties list system that is maintained by the United States general services administration pursuant to subpart 9.4 of the federal acquisition regulation and available at the federal web site known as the system for award management;

(2) The list of excluded individuals and entities maintained by the office of inspector general in the United States department of health and human services pursuant to the "Social Security Act," 42 U.S.C. 1320a-7 and 1320c-5;

(3) The registry of developmental disabilities employees established under section 5123.52 of the Revised Code;

(4) The internet-based sex offender and child-victim offender database established under division ~~(A)(11)~~ (A)(10) of section 2950.13 of the Revised Code;

(5) The internet-based database of inmates established under section 5120.66 of the Revised Code;

(6) The state nurse aide registry established under section 3721.32 of the Revised Code;

(7) Any other database, if any, specified in rules adopted under this section.

(F)(1) As a condition of issuing or awarding a community-based long-term care services certificate or community-based long-term care services contract or grant to a self-employed provider, the department of aging or its designee shall request

that the superintendent of the bureau of criminal identification and investigation conduct a criminal records check of the self-employed provider. If rules adopted under this section so require, the department or its designee shall request that the superintendent conduct a criminal records check of a self-employed provider at times specified in the rules as a condition of not revoking or terminating the self-employed provider's community-based long-term care services certificate or community-based long-term care services contract or grant. However, the department or its designee is not required to request the criminal records check of the self-employed provider if the department or its designee, because of circumstances specified in division (C)(2)(a) of this section, is required to refuse to issue or award a community-based long-term care services certificate or community-based long-term care services contract or grant to the self-employed provider or to revoke or terminate the self-employed provider's certificate or contract or grant.

If a self-employed provider for whom a criminal records check request is required by this section does not present proof of having been a resident of this state for the five-year period immediately prior to the date the criminal records check is requested or provide evidence that within that five-year period the superintendent has requested information about the self-employed provider from the federal bureau of investigation in a criminal records check, the department or its designee shall request that the superintendent obtain information from the federal bureau of investigation as part of the criminal records check. Even if a self-employed provider for whom a criminal records check request is required by this section presents proof of having been a resident of this state for the five-year

period, the department or its designee may request that the superintendent include information from the federal bureau of investigation in the criminal records check.

(2) The department or its designee shall do all of the following:

(a) Provide to each self-employed provider for whom a criminal records check request is required by this section a copy of the form prescribed pursuant to division (C)(1) of section 109.572 of the Revised Code and a standard impression sheet prescribed pursuant to division (C)(2) of that section;

(b) Obtain the completed form and standard impression sheet from the self-employed provider;

(c) Forward the completed form and standard impression sheet to the superintendent.

(3) The department or its designee shall pay to the bureau of criminal identification and investigation the fee prescribed pursuant to division (C)(3) of section 109.572 of the Revised Code for each criminal records check of a self-employed provider the department or its designee requests under this section. The department or its designee may charge the self-employed provider a fee that does not exceed the amount the department or its designee pays to the bureau.

(G) The report of any criminal records check of a self-employed provider conducted pursuant to a request made under this section is not a public record for the purposes of section 149.43 of the Revised Code and shall not be made available to any person other than the following:

(1) The self-employed provider or the self-employed provider's representative;

(2) The department of aging, the department's designee, or a representative of the department or its designee;

(3) The medicaid director and the staff of the department of medicaid who are involved in the administration of the medicaid program if the self-employed provider is to provide, or provides, community-based long-term care services under a component of the medicaid program that the department of aging administers;

(4) A court or hearing officer involved in a case dealing with any of the following:

(a) A refusal to issue or award a community-based long-term services certificate or community-based long-term care services contract or grant to the self-employed provider;

(b) A revocation or termination of the self-employed provider's community-based long-term care services certificate or community-based long-term care services contract or grant;

(c) A civil or criminal action regarding a program the department of aging administers.

(5) Pursuant to a lawful subpoena or valid court order, any necessary individual not identified in division (G)(4) of this section who is involved in a case dealing with any issue, matter, or action described in division (G)(4)(a), (b), or (c) of this section.

(H) In a tort or other civil action for damages that is brought as the result of an injury, death, or loss to person or property caused by a self-employed provider, both of the following shall apply:

(1) If the department of aging or its designee, in good

faith and reasonable reliance on the report of a criminal records check requested under this section, issued or awarded a community-based long-term care services certificate or community-based long-term care services contract or grant to the self-employed provider or did not revoke or terminate the self-employed provider's certificate or contract or grant, the department and its designee shall not be found negligent solely because of its reliance on the report, even if the information in the report is determined later to have been incomplete or inaccurate.

(2) If the department or its designee in good faith issued or awarded a community-based long-term care services certificate or community-based long-term care services contract or grant to the self-employed provider or did not revoke or terminate the self-employed provider's certificate or contract or grant because the self-employed provider meets standards specified in rules adopted under this section, the department and its designee shall not be found negligent solely because the self-employed provider has been convicted of, pleaded guilty to, or been found eligible for intervention in lieu of conviction for a disqualifying offense.

(I)(1) The director of aging shall adopt rules in accordance with Chapter 119. of the Revised Code to ~~implement this section.~~

~~(1) The rules may~~ do the following:

(a) Require self-employed providers who have been issued or awarded community-based long-term care services certificates or community-based long-term care services contracts or grants to undergo database reviews and criminal records checks under this section;

(b) If the rules require self-employed providers who have been issued or awarded community-based long-term care services certificates or community-based long-term care services contracts or grants to undergo database reviews and criminal records checks under this section, exempt one or more classes of such self-employed providers from the requirements;

(c) For the purpose of division (E)(7) of this section, specify other databases that are to be checked as part of a database review conducted under this section.

(2) The director shall adopt rules ~~shall~~ in accordance with Chapter 119. of the Revised Code to specify all of the following:

(a) The procedures for conducting database reviews under this section;

(b) If the rules require self-employed providers who have been issued or awarded community-based long-term care services certificates or community-based long-term care services contracts or grants to undergo database reviews and criminal records checks under this section, the times at which the database reviews and criminal records checks are to be conducted;

(c) If the rules specify other databases to be checked as part of the database reviews, the circumstances under which the department of aging or its designee is required to refuse to issue or award a community-based long-term care services certificate or community-based long-term care services contract or grant to a self-employed provider or to revoke or terminate a self-employed provider's certificate or contract or grant when the self-employed provider is found by a database review to be

included in one or more of those databases;

(d) Standards that a self-employed provider must meet for the department or its designee to be permitted to issue or award a community-based long-term care services certificate or community-based long-term care services contract or grant to the self-employed provider or not to revoke or terminate the self-employed provider's certificate or contract or grant if the self-employed provider is found by a criminal records check required by this section to have been convicted of, pleaded guilty to, or been found eligible for intervention in lieu of conviction for a disqualifying offense.

Sec. 173.42. (A) As used in sections 173.42 to ~~173.434~~ 173.433 of the Revised Code:

(1) "Area agency on aging" means a public or private nonprofit entity designated under section 173.011 of the Revised Code to administer programs on behalf of the department of aging.

(2) "Department of aging-administered medicaid waiver component" means each of the following:

(a) The medicaid-funded component of the PASSPORT program created under section 173.52 of the Revised Code;

(b) The medicaid-funded component of the assisted living program created under section 173.54 of the Revised Code;

(c) Any other medicaid waiver component, as defined in section 5166.01 of the Revised Code, that the department of aging administers pursuant to an interagency agreement with the department of medicaid under section 5162.35 of the Revised Code.

(3) "Home and community-based services covered by medicaid components the department of aging administers" means all of the following:

(a) Medicaid waiver services available to a participant in a department of aging-administered medicaid waiver component;

(b) The following medicaid state plan services available to a participant in a department of aging-administered medicaid waiver component as specified in rules adopted under section 5164.02 of the Revised Code:

(i) Home health services;

(ii) Private duty nursing services;

(iii) Durable medical equipment;

(iv) Services of a clinical nurse specialist;

(v) Services of a certified nurse practitioner.

(c) Services available to a participant of the PACE program.

(4) "Long-term care consultation" or "consultation" means the consultation service made available by the department of aging or a program administrator through the long-term care consultation program established pursuant to this section.

(5) "Nursing facility" has the same meaning as in section 5165.01 of the Revised Code.

(6) "PACE program" means the component of the medicaid program the department of aging administers pursuant to section 173.50 of the Revised Code.

(7) "PASSPORT administrative agency" means an entity under contract with the department of aging to provide administrative

services regarding the PASSPORT program.

(8) "Program administrator" means an area agency on aging or other entity under contract with the department of aging to administer the long-term care consultation program in a geographic region specified in the contract.

(9) "Representative" means a person acting on behalf of an individual who is the subject of a long-term care consultation. A representative may be a family member, attorney, hospital social worker, or any other person chosen to act on behalf of the individual.

(B) The department of aging shall develop a long-term care consultation program whereby individuals or their representatives are provided with long-term care consultations and receive through these professional consultations information about options available to meet long-term care needs and information about factors to consider in making long-term care decisions. The long-term care consultations may be provided at any appropriate time, including either prior to or after the individual who is the subject of a consultation has been admitted to a nursing facility or granted assistance in receiving home and community-based services covered by medicaid components the department of aging administers.

(C) The long-term care consultation program shall be administered by the department of aging, except that the department may have the program administered on a regional basis by one or more program administrators. The department and each program administrator shall administer the program in such a manner that all of the following are included:

(1) Coordination and collaboration with respect to all

available funding sources for long-term care services;

(2) Assessments of individuals regarding their long-term care service needs;

(3) Assessments of individuals regarding their on-going eligibility for long-term care services;

(4) Procedures for assisting individuals in obtaining access to, and coordination of, health and supportive services, including department of aging-administered medicaid waiver components;

(5) Priorities for using available resources efficiently and effectively.

(D) The program's long-term care consultations shall be provided by individuals certified by the department under section 173.422 of the Revised Code.

(E) The information provided through a long-term care consultation shall be appropriate to the individual's needs and situation and shall address all of the following:

(1) The availability of any long-term care options open to the individual;

(2) Sources and methods of both public and private payment for long-term care services;

(3) Factors to consider when choosing among the available programs, services, and benefits;

(4) Opportunities and methods for maximizing independence and self-reliance, including support services provided by the individual's family, friends, and community;

(5) If the individual is a veteran, as defined in section

5901.01 of the Revised Code, or the spouse, surviving spouse, or representative of the veteran, both of the following:

(a) The availability of health care or financial benefits through the United States department of veterans affairs;

(b) Information about congressionally chartered veterans service organizations or the county veterans service office that can assist with investigating and applying for benefits through the United States department of veterans affairs.

(F) An individual's long-term care consultation may include an assessment of the individual's functional capabilities. The consultation may incorporate portions of the determinations required under sections 5119.40, 5123.021, and 5165.03 of the Revised Code and may be provided concurrently with the assessment required under section 173.546 or 5165.04 of the Revised Code.

(G) Except as provided in division (I) of this section, a long-term care consultation shall be provided to each individual for whom the department or a program administrator determines such a consultation is appropriate.

(H) A long-term care consultation shall be completed within the applicable time frames specified in rules adopted under this section.

(I) An individual is not required to be provided a long-term care consultation if any of the following is the case:

(1) The department or a program administrator has attempted to provide the consultation, but the individual or the individual's representative refuses to cooperate;

(2) The individual is to receive care in a nursing

facility under a contract for continuing care, as defined in section 173.13 of the Revised Code;

(3) The individual has a contractual right to admission to a nursing facility operated as part of a system of continuing care in conjunction with one or more facilities that provide a less intensive level of services, including a residential care facility licensed under Chapter 3721. of the Revised Code, a residential facility licensed under section 5119.34 of the Revised Code that provides accommodations, supervision, and personal care services for three to sixteen unrelated adults, or an independent living arrangement;

(4) The individual is to receive continual care in a home for the aged exempt from taxation under section 5701.13 of the Revised Code;

(5) The individual is seeking admission to a facility that is not a nursing facility with a provider agreement under section 5165.07, 5165.511, or 5165.512 of the Revised Code;

(6) Pursuant to rules that may be adopted under this section, the department or a program administrator has exempted the individual from receiving the long-term care consultation.

(J) As part of the long-term care consultation program, the department or a program administrator may assist an individual or individual's representative in accessing all sources of care and services that are appropriate for the individual and for which the individual is eligible, including all available home and community-based services covered by medicaid components the department of aging administers. The assistance may include providing for the conduct of assessments or other evaluations and the development of individualized plans

of care or services under section 173.424 of the Revised Code.

(K) No nursing facility for which an operator has a provider agreement under section 5165.07, 5165.511, or 5165.512 of the Revised Code shall admit as a resident any individual described in division (G) of this section, unless the nursing facility has received evidence that a long-term care consultation has been completed for the individual or division (I) of this section is applicable to the individual.

(L) The director of aging shall adopt rules for the implementation and administration of this section. The rules shall be adopted in accordance with Chapter 119. of the Revised Code. The rules may specify any or all of the following:

(1) Procedures for providing long-term care consultations;

(2) Information to be provided through long-term care consultations regarding long-term care services that are available;

(3) Criteria and procedures to be used to identify and recommend appropriate service options for an individual receiving a long-term care consultation;

(4) Criteria for exempting individuals from receiving a long-term care consultation;

(5) Circumstances under which it may be appropriate to provide an individual's long-term care consultation after the individual's admission to a nursing facility rather than before admission;

(6) Criteria for identifying individuals for whom a long-term care consultation is appropriate, including nursing facility residents who would benefit from the consultation;

(7) A description of the types of information from a nursing facility that is needed under the long-term care consultation program to assist a resident with relocation from the facility;

(8) Standards to prevent conflicts of interest relative to the referrals made by a person who performs a long-term care consultation, including standards that prohibit the person from being employed by a provider of long-term care services;

(9) Procedures for providing notice and an opportunity for a hearing under division (N) of this section;

(10) Time frames for providing or completing a long-term care consultation;

(11) Any other standards or procedures the director considers necessary for the program.

(M) To assist the department and each program administrator with identifying individuals for whom a long-term care consultation is appropriate, the department and program administrator may ask to be given access to nursing facility resident assessment data collected through the use of the resident assessment instrument specified in rules authorized by section 5165.191 of the Revised Code for purposes of the medicaid program. Except when prohibited by state or federal law, the department of health, department of medicaid, or nursing facility holding the data shall grant access to the data on receipt of the request from the department of aging or program administrator.

(N)(1) The director of aging, after providing notice and an opportunity for a hearing, may fine a nursing facility an amount determined by rules the director shall adopt in

accordance with Chapter 119. of the Revised Code for any of the following reasons:

(a) The nursing facility violates division (K) of this section;

(b) The nursing facility denies a person attempting to provide a long-term care consultation access to the facility or a resident of the facility;

(c) The nursing facility denies the department of aging or a program administrator access to the facility or a resident of the facility, as the department or administrator considers necessary to administer the program.

(2) In accordance with section 5162.66 of the Revised Code, all fines collected under division (N)(1) of this section shall be deposited into the state treasury to the credit of the residents protection fund.

Sec. 173.43. (A) The department of aging shall enter into an interagency agreement with the department of medicaid under section 5162.35 of the Revised Code under which the department of aging is required to establish for each biennium a unified long-term care budget for home and community-based services covered by medicaid components the department of aging administers. The interagency agreement shall require the department of aging to do all of the following:

(1) Administer the unified long-term care budget in accordance with sections 173.43 to ~~173.434~~ 173.433 of the Revised Code and the general assembly's appropriations for home and community-based services covered by medicaid components the department of aging administers for the applicable biennium;

(2) Contract with each PASSPORT administrative agency for

assistance in the administration of the unified long-term care budget;

(3) Provide individuals who are eligible for home and community-based services covered by medicaid components the department of aging administers a choice of services that meet the individuals' needs and improve their quality of life;

(4) Provide a continuum of services that meet the life-long needs of individuals who are eligible for home and community-based services covered by medicaid components the department of aging administers.

(B) The director of budget and management shall create new appropriation items as necessary for establishment of the unified long-term care budget.

Sec. 173.45. As used in this section and in sections 173.46 to ~~173.49~~ 173.48 of the Revised Code:

(A) "Residential facility" means a residential facility licensed under section 5119.34 of the Revised Code that provides accommodations, supervision, and personal care services for three to sixteen unrelated adults.

(B) "Community-based long-term care services" has the same meaning as in section 173.14 of the Revised Code.

(C) "Long-term care facility" means a nursing home or residential care facility.

(D) "Nursing home" and "residential care facility" have the same meanings as in section 3721.01 of the Revised Code.

(E) "Nursing facility" has the same meaning as in section 5165.01 of the Revised Code.

Sec. 173.46. (A) The department of aging shall develop and publish a guide to long-term care facilities for use by individuals considering long-term care facility admission and their families, friends, and advisors. The guide, which shall be titled the Ohio long-term care consumer guide, may be published in printed form or in electronic form for distribution over the internet. The guide may be developed as a continuation or modification of the guide published by the department prior to September 29, 2005~~, under rules adopted under section 173.02 of the Revised Code~~.

(B) The Ohio long-term care consumer guide shall include information on each long-term care facility in this state. For each facility, the guide shall include the following information, as applicable to the facility:

(1) Information regarding the facility's compliance with state statutes and rules and federal statutes and regulations;

(2) Information generated by the centers for medicare and medicaid services of the United States department of health and human services from the quality measures developed as part of its nursing home quality initiative;

(3) Results of the customer satisfaction surveys conducted under section 173.47 of the Revised Code~~;~~

~~(4) Any other information the department specifies in rules adopted under section 173.49 of the Revised Code~~.

(C) The Ohio long-term care consumer guide may include information on residential facilities and providers of community-based long-term care services. ~~The department may adopt rules under section 173.49 of the Revised Code to specify the information to be included in the guide pursuant to this~~

~~division.~~

Sec. 173.502. (A) As used in this section:

(1) "CMS" means the United States Centers for Medicare and Medicaid Services.

(2) "Entity" has the same meaning as in 42 C.F.R. 460.10.

(3) "PACE center," "PACE organization," "participant," and "state administering agency" have the same meanings as in 42 C.F.R. 460.6.

(B)(1) Not later than one hundred twenty days after the effective date of this section, the Department of Aging shall issue a request for proposals from any entity interested in becoming a PACE organization, including for service areas in the counties, or contiguous zip codes within the counties, or extending from the counties, of Franklin, Hamilton, Montgomery, Lorain, Lucas, and Summit. Proposals shall be submitted to the Department not later than ninety days after the date the Department issues the request for proposals.

(2) Division (B)(1) of this section does not prevent the Department from expanding the PACE program outside of the process required by that division, including by issuing other requests for proposals.

(C) To be eligible for approval by the Department to become a PACE organization, an entity that submits a proposal pursuant to division (B)(1) of this section shall meet all of the following requirements:

(1) The entity provides a feasibility study of its proposed service area to the Department.

(2) The entity has a current, valid provider agreement, as

defined in section 5164.01 of the Revised Code, or will be eligible to enter into a provider agreement by the time that the entity will begin providing services under the PACE program.

(3) The entity meets all federal requirements applicable to PACE organizations.

(4) The entity demonstrates to the satisfaction of the Department that the organization has experience providing health care services to frail older adults and that each member of the entity's staff, including employees and contractors, complies with 42 C.F.R. 460.64.

(5) The entity has a facility suitable to be a PACE center, or plans to acquire, build, or expand a facility suitable to be a PACE center prior to beginning services, in its proposed service area, as described in the request for proposals process.

~~(6) The entity meets any additional requirements in rules adopted by the Department pursuant to division (G) of this section.~~

(D) The Department shall review all proposals submitted in accordance with division (B)(1) of this section. For at least each of the six service areas identified in division (C) of this section, the Department shall determine from the proposals which entities it considers qualified to become PACE organizations for each service area. The determination shall be made not later than nine months after the date the Department issues the request for proposals.

(E) An entity considered by the Department as qualified to become a PACE organization may apply to CMS to become a PACE organization. The Department shall provide support to any such

organization that applies to CMS, by complying with federal requirements.

(F) Each entity approved to become a PACE organization by CMS shall begin providing services to participants not later than two years after the entity receives notice of its approval from CMS, consistent with federal financial participation.

~~(G) The Director of Aging may adopt rules to implement this section. The rules shall be adopted in accordance with Chapter 119. of the Revised Code.~~

Sec. 173.52. (A) The department of medicaid shall create the medicaid-funded component of the PASSPORT program. In creating the medicaid-funded component, the department of medicaid shall collaborate with the department of aging.

(B) All of the following apply to the medicaid-funded component of the PASSPORT program:

(1) The department of aging shall administer the medicaid-funded component through a contract entered into with the department of medicaid under section 5162.35 of the Revised Code.

(2) The medicaid-funded component shall be operated as a separate medicaid waiver component.

(3) For an individual to be eligible for the medicaid-funded component, the individual must be a medicaid recipient and meet ~~the~~ additional eligibility requirements applicable to the individual established in rules adopted ~~under division (B)(4) of this section.~~

~~(4) To the extent authorized~~ by ~~rules authorized by section 5162.021 of the Revised Code,~~ the director of aging

~~shall adopt rules~~ in accordance with Chapter 119. of the Revised Code~~ to implement the medicaid-funded component~~.

Sec. 173.522. (A) The department of aging shall create and administer the state-funded component of the PASSPORT program. The state-funded component shall not be administered as part of the medicaid program.

(B) For an individual to be eligible for the state-funded component of the PASSPORT program, the individual must meet one of the following requirements and meet the additional eligibility requirements applicable to the individual established in rules adopted under division (D) of this section:

(1) The individual must have been enrolled in the state-funded component on September 1, 1991, (as the state-funded component was authorized by uncodified law in effect at that time) and have had one or more applications for enrollment in the medicaid-funded component of the PASSPORT program denied.

(2) The individual must have an application for the medicaid-funded component of the PASSPORT program pending and the department or the department's designee must have determined that the individual meets the nonfinancial eligibility requirements of the medicaid-funded component and not have reason to doubt that the individual meets the financial eligibility requirements of the medicaid-funded component.

(C) An individual who is eligible for the state-funded component of the PASSPORT program because the individual meets the requirement of division (B)(2) of this section may participate in the component on that basis for a period of time specified in rules adopted under division (D) of this section.

(D)(1) The director of aging shall adopt rules in

accordance with section 111.15 of the Revised Code to ~~implement the state-funded component of the PASSPORT program.~~

~~The rules shall include all~~ address both of the following:

(a) Additional eligibility requirements for an individual to be eligible for the state-funded component of the PASSPORT program;

(b) The duration that an individual eligible for the state-funded component of the PASSPORT program under division (B)(2) of this section may participate in that component~~;~~

~~(c) Any other rules the director considers appropriate to implement the state-funded component of the PASSPORT program~~.

(2) The additional eligibility requirements established in the rules may vary for the different groups of individuals specified in divisions (B)(1) and (2) of this section.

Sec. 173.524. An individual enrolled in the PASSPORT program may request that home-delivered meals provided to the individual under the PASSPORT program be kosher. If such a request is made, the department of aging or the department's designee shall ensure that each home-delivered meal provided to the individual under the PASSPORT program is kosher. In complying with this requirement, the department or department's designee shall require each entity that provides home-delivered meals to the individual to provide the individual with meals that meet, as much as possible, ~~the~~ requirements established ~~in rules~~ by rule adopted by the director of aging under ~~sections 173.52 and 173.522~~ section 111.15 of the Revised Code governing the home-delivered meal service while complying with kosher practices for meal preparation and dietary restrictions.

An entity that provides a kosher home-delivered meal to a

PASSPORT program enrollee pursuant to this section shall be reimbursed for the meal at a rate equal to the rate for home-delivered meals furnished to PASSPORT program enrollees requiring a therapeutic diet.

Sec. 173.543. The department of aging shall create and administer the state-funded component of the assisted living program. The state-funded component shall not be administered as part of the medicaid program.

An individual who is eligible for the state-funded component may participate in the component for a period of time specified ~~in rules~~ by rule adopted ~~under this section.~~

~~The~~ by the director of aging ~~shall adopt rules~~ in accordance with section 111.15 of the Revised Code~~ to implement the state-funded component. The rules shall specify the period that an individual eligible for the state-funded component may participate in the component~~.

Sec. 173.60. (A) As used in this section:

(1) "Nursing home" has the same meaning as in section 3721.01 of the Revised Code.

(2) "Person-centered care" means a relationship-based approach to care that honors and respects the opinions of individuals receiving care and those working closely with them.

(B) The department of aging shall implement a nursing home quality initiative to improve the provision of person-centered care in nursing homes. The office of the state long-term care ombudsman program shall assist the department with the initiative. The initiative shall include quality improvement projects that provide nursing homes with resources and on-site education promoting person-centered care strategies and positive

resident outcomes, as well as other assistance designed to improve the quality of nursing home services. The department may offer any of the projects.

(C)(1) The department shall make available a list of quality improvement projects that may be used by nursing homes in meeting the requirements of section 3721.072 of the Revised Code. In addition to any of the projects offered by the department pursuant to division (B) of this section, the list may include projects offered by any of the following:

(a) Other state agencies;

(b) A quality improvement organization under contract with the United States secretary of health and human services to carry out in this state the functions described in the "Social Security Act," section 1154, 42 U.S.C. 1320c-3;

(c) The Ohio person-centered care coalition;

(d) Any other academic, research, or health care entity identified by the department.

(2) The department shall offer to nursing homes and other long-term care facility settings infection prevention and control and facility technical assistance, including services, programs, and content expertise, as a project authorized under division (C)(1) of this section to improve quality of care and quality of life, subject to the availability of funds.

~~(D) The director of aging may adopt rules in accordance with Chapter 119. of the Revised Code as necessary to implement this section.~~

Sec. 175.05. (A) The Ohio housing finance agency shall do all of the following related to the agency's operation:

(1) Adopt bylaws for the conduct of its business;

(2) Employ and fix the compensation of the executive director who serves at the pleasure of the agency to administer the agency's programs and activities. The executive director may employ and fix the compensation of employees in the unclassified civil service as necessary to carry out this chapter and may employ other personnel who are governed by collective bargaining law and classified under that law. The executive director shall carry out all duties as described in section 175.053 of the Revised Code.

(3) Establish an operating budget for the agency and administer funds appropriated for the agency's use;

(4) Notwithstanding any other provision of the Revised Code, hold all moneys, funds, properties, and assets the agency acquires or that are directly or indirectly within the agency's control, including proceeds from the sale of bonds, revenues, and otherwise, in trust for the purpose of exercising its powers and carrying out its duties pursuant to this chapter. Notwithstanding any other provision of the Revised Code other than section 175.051 of the Revised Code, at no time shall the agency's moneys, funds, properties, or assets be considered public moneys, public funds, public properties, or public assets or subject to Chapters 131. and 135. of the Revised Code.

(5) Maintain a principal office and other offices within the state.

(B) The Ohio housing finance agency may do any of the following related to the agency's operation:

(1) Except as otherwise provided in section 174.04 of the Revised Code, determine income limits for low- and moderate-

income persons and establish periodic reviews of income limits. In determining income limits, the agency shall take into consideration the amount of income available for housing, family size, the cost and condition of available housing, ability to pay the amounts the private market charges for decent, safe, and sanitary housing without federal subsidy or state assistance, and the income eligibility standards of federal programs. Income limits may vary from area to area within the state.

(2) Provide technical information, advice, and assistance related to obtaining federal and state aid to assist in the planning, construction, rehabilitation, refinancing, and operation of housing;

(3) Provide information, assistance, or instruction concerning agency programs, eligibility requirements, application procedures, and other related matters;

(4) Procure or require the procurement of insurance and pay the premium against loss in connection with the agency's operations, to include the repayment of a loan, in amounts and from insurers, including the federal government, as the agency determines;

(5) Contract with, retain, or designate financial consultants, accountants, and other consultants and independent contractors, other than attorneys, whom the agency determines are necessary or appropriate;

(6) Charge, alter, and collect interest and other charges for program services including, but not limited to, the allocation of loan funds, the purchase of mortgage loans, and the provision of services that include processing, inspecting, and monitoring of housing units financed and the financial

records for those units;

(7) Conduct or authorize studies and analyses of housing needs and conditions to the extent that those activities are not carried out by other agencies in a manner that is satisfactory for the agency's needs;

(8)(a) Acquire by gift, purchase, foreclosure, investment, or other means, and hold, assign, pledge, lease, transfer, or otherwise dispose of real and personal property or any interest in that property in the exercise of its powers and the performance of its duties;

(b) Any instrument by which real property is acquired pursuant to this section shall identify the state agency that has the use and benefit of the real property as specified in section 5301.012 of the Revised Code.

(9)(a) Borrow money, receive gifts, grants, loans, or other assistance from any federal, state, local, or other government source, including the housing development fund and the housing trust fund, and enter into contracts in connection with those sources of assistance;

(b) Receive assistance or contributions from any nongovernment source to include money, property, labor, or things of value, to be held, used, and applied only for the purposes for which the grants and contributions are made and within the purposes of this chapter.

(10) Sue and be sued in its own name with respect to its contracts, obligations, and covenants, or the enforcement of this chapter. Any actions against the agency shall be brought in a court of competent jurisdiction located in Franklin county, Ohio.

(11) Enter into any contract, commitment, or agreement and execute any instrument necessary or incidental to the performance of duties and the execution of powers;

(12) Adopt an official seal;

(13)(a) Contract with any private or government entity to administer programs for which the agency receives sufficient revenues for its services or the agency supports with uncommitted agency resources that pay the agency's operating costs;

(b) Administer state and federal programs for which the governor designates the agency to act as administrator. The agency may charge administrative fees to the state, the federal government, or a program recipient.

(14) Notwithstanding any other provision of the Revised Code, establish, maintain, administer, and close funds and accounts as convenient or appropriate to the agency's operations;

(15) Establish a policy to permit the investment of agency funds in securities and obligations;

(16) Establish rules and procedures that the agency determines are appropriate to appeal the agency's actions and decisions;

(17) Serve housing needs in instances that the agency determines necessary as a public purpose;

(18) Provide coverage for its employees under Chapters 145., 4123., and 4141. of the Revised Code;

(19) ~~Adopt rules pursuant to Chapter 119. of the Revised Code;~~

~~(20)~~ Do anything necessary or appropriate to exercise the powers of this chapter and carry out the purposes of this chapter and Section 14, Article VIII and Section 16, Article VIII, Ohio Constitution.

(C) The attorney general shall serve as the legal representative for the Ohio housing finance agency and may appoint special counsel for that purpose in accordance with section 109.07 of the Revised Code.

Sec. 175.12. (A) This chapter, being necessary for the welfare of the state and its inhabitants, shall be liberally construed to effect its purposes and the purposes of Section 14, of Article VIII and Section 16, Article VIII, Ohio Constitution.

(B) The following are not public records subject to section 149.43 of the Revised Code:

(1) Financial statements and data submitted for any purpose to the Ohio housing finance agency or the controlling board by any person in connection with applying for, receiving, or accounting for financial assistance the agency provides;

(2) Information that identifies any individual who benefits directly or indirectly from financial assistance the agency provides.

(3) Information provided to the tax commissioner under section 175.16 or 175.17 of the Revised Code, information provided under divisions ~~(I)(1)(a)~~ (H)(1)(a) and (b) of section 175.16 of the Revised Code, and information provided under divisions (H)(1) and (2) of section 175.17 of the Revised Code.

(C)(1) The agencies of this state shall cooperate fully with the Ohio housing finance agency and shall provide information the Ohio housing finance agency determines is

necessary or helpful for its operation.

(2) The Ohio housing finance agency may arrange with and enter into contracts with other entities to perform functions this chapter authorizes the agency to perform and compensate those entities for performing those functions.

(3) The agency may enter into contracts with state entities as described in this chapter.

(D) Any state agency that provides supplies, equipment, or services directly related to the mission of the Ohio housing finance agency as described in section 175.02 of the Revised Code may enter into an agreement with the Ohio housing finance agency to furnish those supplies, equipment, or services pursuant to terms both agencies agree upon for remuneration to the state agency.

(E) The Ohio housing finance agency is exempt from the requirements of Chapters 123. and 125. and sections 127.16 and 5147.07 of the Revised Code.

Sec. 175.15. The Ohio housing finance agency and the Ohio department of development ~~services agency~~ shall include pregnancy as a priority in its housing assistance programs and local emergency shelter programs. ~~In consultation with the Ohio development services agency, the Ohio housing finance agency may adopt rules in accordance with Chapter 119. of the Revised Code that are necessary to implement the requirements of this section.~~

Sec. 175.16. (A) As used in this section:

(1) "Federal credit" means the tax credit authorized under section 42 of the Internal Revenue Code.

(2) "Credit period," "qualified low-income building," and "qualified basis" have the same meanings as in section 42 of the Internal Revenue Code.

(3) "Qualified project" means a qualified low-income building that is located in Ohio, is placed in service on or after July 1, 2023, and for which the director reserves a tax credit under division (B) of this section before July 1, 2027.

(4) "Pass-through entity" has the same meaning as in section 5733.04 of the Revised Code.

(5) "Project owner" means a person holding a fee simple interest or a leasehold interest pursuant to a ground lease in the land on which a qualified project sits.

(6) "Reserved credit amount" means the amount determined by the director and stipulated in the notice sent to each owner of a qualified project under division (B) of this section.

(7) "Annual credit amount" means the amount computed by the director under division (D) of this section prior to issuing an eligibility certificate.

(8) "Equity owner" means a direct or indirect owner of a project owner, provided the project owner is a pass-through entity, as determined under applicable state law governing such an entity.

(9) "Person" has the same meaning as in section 5701.01 of the Revised Code.

(10) "Eligibility certificate" means a certificate issued by the director to each owner of a qualified project under division (D) of this section stating the amount of credit that may be claimed for each year of the credit period.

(11) "Qualified allocation plan" means the plan developed by the Ohio housing finance agency, as required under section 175.06 of the Revised Code, for evaluating and selecting projects for the federal credit pursuant to the mandates and requirements within section 42 of the Internal Revenue Code.

(12) "Internal Revenue Code" has the same meaning as in section 5747.01 of the Revised Code.

(13) "Designated reporter" means the project owner or one of the project owner's equity owners designated pursuant to division ~~(I)(1)~~ (H)(1) of this section.

(14) "Director" means the executive director of the Ohio housing finance agency.

(B) Except as otherwise provided by this division, the director, upon allocating a federal credit and issuing a binding reservation or letter of eligibility, pursuant to the Ohio housing finance agency's qualified allocation plan, for a qualified low-income building that is located in this state and placed in service on or after July 1, 2023, may reserve a tax credit under this section for the project owners so long as doing so will not result in exceeding the annual credit cap prescribed by division (C) of this section. The director shall not reserve a tax credit under this section after June 30, 2027.

The director shall send written notice of the reservation to each project owner. The notice shall state the aggregate credit amount reserved for all years of the qualified project's credit period and stipulate that receipt of the credit is contingent upon issuance of an eligibility certificate and filing the information described in division ~~(I)~~ (H) of this section. Upon receipt of that notice, the owner shall provide

the identity of the owner's designated reporter to the director.

The director shall determine the credit amount reserved for each qualified project. The reserved credit amount shall not exceed the amount necessary, when combined with the federal credit, to ensure the financial feasibility of the qualified project.

The director shall reserve credits in a manner that ensures that a qualified project is creating additional housing units that would not have otherwise been created with other state, federal, or private financing. The director may assess application, processing, and reporting fees to cover the cost of administering the tax credit authorized under this section.

(C) The aggregate amount of credits reserved by the director under division (B) of this section in a fiscal year shall not exceed the sum of (1) one hundred million dollars, (2) the amount, if any, by which the credit cap prescribed by this division for the preceding fiscal year exceeds the credits reserved by the director in that year, and (3) the amount of tax credits recaptured or otherwise disallowed under division (G) of this section in the preceding fiscal year.

For the purpose of computing and determining compliance with the credit cap prescribed by this division, the credit amount reserved for the project owners of a qualified project is the full amount for all years of the qualified project's credit period.

(D) Immediately after approving the final cost certification for a qualified project for which a tax credit under this section is reserved, or upon otherwise determining the qualified basis of the qualified project and the date it was

placed into service as required by section 42(m) of the Internal Revenue Code, the director shall compute the annual credit amount and issue an eligibility certificate to each project owner. The director shall send copies of all eligibility certificates issued each calendar year to the tax commissioner and the superintendent of insurance.

The annual credit amount shall equal the lesser of the following:

(1) The amount of the federal credit that would be awarded to the project owners for the first year of the credit period if not for the adjustment required under section 42(f)(2) of the Internal Revenue Code;

(2) One-tenth of the reserved credit amount stated in the notice issued under division (B) of this section.

(E) Each eligibility certificate shall state the annual credit amount, the years that comprise the credit period, the name, address, and taxpayer identification number of each project owner, each owner's designated reporter, the date the certificate is issued, a unique identifying number, and any additional information prescribed by a rule adopted by the director under ~~division (H) of this section~~Chapter 119. of the Revised Code. A project owner, if the project owner is a pass-through entity, shall provide a copy of the eligibility certificate and any information described in division ~~(I)~~(H) of this section to each equity owner that has been allocated a credit under division (F)(2) of this section, if requested.

(F)(1) For each year of a qualified project's credit period, the project owner or an equity owner may claim a nonrefundable credit against the tax imposed by section 5725.18,

5726.02, 5729.03, 5729.06, or 5747.02 of the Revised Code equal to all or a portion of the annual credit amount stated on the eligibility certificate. The credit shall be claimed in the manner prescribed by section 5725.36, 5726.58, 5729.19, or 5747.83 of the Revised Code, as applicable.

(2) If a project owner is a pass-through entity, the annual credit amount for any year of a qualified project's credit period may be allocated by the project owner among one or more equity owners and may be applied by those equity owners against more than one tax, but the total credits claimed in connection with that year of the qualified project's credit period by all project owners and equity owners against all taxes shall not exceed the annual credit amount stated on the eligibility certificate.

(3) A project owner or equity owner may claim the credit authorized by this section after the date the qualified project is placed into service but not before the director issues the project owner an eligibility certificate under division (D) of this section and the applicable report required by division ~~(I)~~ (H) of this section is filed by the designated reporter.

(4) A project owner or equity owner that claims a tax credit under division (F)(1) of this section shall submit a copy of the eligibility certificate with the project owner's or equity owner's tax return or report. Upon request of the tax commissioner or the superintendent of insurance, any project owner or equity owner claiming a tax credit under this section shall provide the commissioner or superintendent other documentation that may be necessary to verify that the project owner or equity owner is entitled to claim the credit.

(5) A project owner that is a pass-through entity may

allocate the credit authorized by this section to its equity owners under division (F)(2) of this section in any manner agreed to by such persons regardless of whether such equity owners are eligible for an allocation of the federal credit, whether the allocation of the credit under the terms of the agreement has substantial economic effect within the meaning of section 704(b) of the Internal Revenue Code, and whether any such person is deemed a partner of the project owner or equity owner for federal income tax purposes as long as the equity owner acquired its ownership interest prior to claiming the credit. The allocation shall be allowed without regard to any provision of the Internal Revenue Code, or regulation promulgated pursuant to it, that may be interpreted as contrary to the allocation, including, without limitation, the treatment of the allocation as a disguised sale.

An equity owner may assign all or any part of its interest in a qualified project, including its interest in the tax credits authorized by this section, to one or more other equity owners, and each assignee shall be able to claim the credit so long as its interest is acquired prior to the filing of its tax return or report or amended tax return or report claiming the credit and the assignee's ownership interest is identified in the report required by division ~~(I)~~ (H) of this section.

(6) Nothing in this section or section 5725.36, 5726.58, 5729.19, or 5747.83 of the Revised Code allows the assignment or transfer of any carryforward of the credit authorized under this section once the annual credit amount is claimed.

(G) If any portion of the federal credit allocated to a qualified project is recaptured under section 42(j) of the Internal Revenue Code or is otherwise disallowed, the director

shall recapture a proportionate amount of the tax credit claimed pursuant to this section in connection with the same qualified project.

If the director determines to recapture such a tax credit, the director shall certify the name of each project owner and the amount to be recaptured to the tax commissioner and to the superintendent of insurance. The commissioner or superintendent shall determine the taxpayer or taxpayers that claimed the credit, the tax against which the credit was claimed, and the amount to be recaptured and make an assessment against the taxpayer or taxpayers under Chapter 5725., 5726., 5729., or 5747. of the Revised Code, as applicable, for the amount of the tax credit to be recaptured. The time limitations on assessments under those chapters do not bar an assessment made under this division.

~~(H) The director, in consultation with the tax commissioner and superintendent of insurance, shall adopt any rules necessary to implement this section in accordance with Chapter 119. of the Revised Code.~~

~~(I)(1)~~(H)(1) For each calendar year, a designated reporter shall provide the tax commissioner, in the form prescribed by the tax commissioner in consultation with the superintendent of insurance, all of the following:

(a) The name, address, and taxpayer identification number of each project owner and equity owner that has been allocated a portion of the annual credit awarded on the eligibility certificate for that year;

(b) The amount of the annual credit allocated to each such project owner and equity owner for such year and the tax against

which the credit will be claimed;

(c) The total of the amounts listed for each project owner and equity owner under division ~~(I)(1)(b)~~ (H)(1)(b) of this section, demonstrating that the total does not exceed the amount listed on the eligibility certificate for that year.

(2) A designated reporter shall notify the tax commissioner of any changes to the information reported in division ~~(I)(1)~~ (H)(1) of this section in the time and manner prescribed by the commissioner.

(3) No credit allocated under this section may be claimed by a project owner or equity owner for a year unless that owner and the amount of the credit allocated to that owner appear on the report required by division ~~(I)(1)~~ (H)(1) of this section for that year.

The tax commissioner shall provide a copy of the report, and any subsequent changes to the report, submitted by the designated reporter under division ~~(I)~~ (H) of this section to the superintendent of insurance in the time and manner agreed to by the commissioner and superintendent.

Sec. 175.17. (A) As used in this section:

(1) "Qualified project" means a project to develop single-family dwellings in this state that satisfies any qualifications established by the director under division (I) of this section.

(2) "Pass-through entity" has the same meaning as in section 5733.04 of the Revised Code.

(3) "Reserved credit amount" means the amount determined by the director and stipulated in the notice sent under division (B) of this section.

(4) "Annual credit amount" means the amount computed by the director under division (D) of this section before issuing an eligibility certificate.

(5) "Equity owner" means any person who directly or indirectly, through one or more pass-through entities, is a member, partner, or shareholder of a pass-through entity.

(6) "Person" has the same meaning as in section 5701.01 of the Revised Code.

(7) "Eligibility certificate" means a certificate issued by the director to a project development owner under division (D) of this section.

(8) "Project development owner" means a unit of government that owns a qualified project.

(9) "Affordability period" means the period that commences on the date of sale of a single-family dwelling constructed as part of a qualified project to the initial qualified buyer and continues through subsequent qualified buyers for ten years.

(10) "Designated reporter" means the project development owner or one of the owner's direct or indirect partners, members, or shareholders, as selected by the owner under division (B) of this section.

(11) "Project development investor" means any person that contributes capital to a qualified project in exchange for an allocation of a tax credit under this section.

(12) "Credit period" means the ten-year period that begins in the year the eligibility certificate is issued.

(13) "Director" means the executive director of the Ohio housing finance agency.

(14) "Unit of government" means a county, township, municipal corporation, regional planning commission, community improvement corporation, economic development corporation, or county land reutilization corporation organized under Chapter 1724. of the Revised Code, or port authority.

(15) "Project development team" means the group of entities that develops, constructs, reports, appraises, finances, and services the associated properties of a qualified project in partnership with the project development owner.

(B)(1) A project development owner may submit an application to the director for a credit reservation under this section on a form and in a manner that the director shall prescribe. On the application, the project development owner shall provide all of the following:

(a) The name and address of the project development owner's designated reporter;

(b) The names and addresses of all members of the project development team;

(c) An estimate of the qualified project's development costs;

(d) Any other information as the director may require pursuant to division (I) of this section.

The director shall competitively evaluate and approve applications and award tax credit reservations under this section for a qualified project in accordance with the plan adopted under division (I)(1) of this section. The director shall determine the credit amount reserved for each qualified project, which shall not exceed the difference between the total estimated development costs included with the application and

the appraised market value of all homes in the finished project, as estimated by the director. The director shall not reserve a credit under this section if doing so would exceed the annual limit prescribed by division (B)(3) of this section.

(2) The director shall send written notice of the tax credit reservation to the project development owner of an approved qualified project. The notice shall state the aggregate credit amount reserved for all years of the qualified project's credit period and stipulate that receipt of the credit is contingent upon issuance of an eligibility certificate and filing the information required by division (H) of this section.

(3) The amount of credits reserved by the director under division (B) of this section in a fiscal year shall not exceed the sum of (a) fifty million dollars, (b) the amount, if any, by which the credit allocation prescribed by this division for the preceding fiscal year exceeds the credits reserved by the director in that year, and (c) the amount of tax credits recaptured, assessed, and collected by the tax commissioner or superintendent of insurance, and disallowed or subject to reduction under this section in the preceding fiscal year. For the purpose of computing and determining compliance with the credit allocation prescribed by division (B)(3) of this section, the credit amount reserved for the project development owner is the full amount for all years of the qualified project's credit period.

(4) The director shall not reserve a tax credit under this section after June 30, 2027.

(C) The project development owner shall maintain ownership of a qualified project and associated single-family dwellings until the dwellings are sold to qualified buyers. The project

development team shall service the associated properties of a qualified project for the duration of the applicable affordability period.

The qualified buyer of a single-family home constructed as part of a qualified project for which a tax credit was reserved under this section shall occupy the home as the buyer's primary residence during the affordability period.

(D) Upon completion of a qualified project for which a tax credit was reserved under this section, the project development owner shall notify the director and provide a final development cost certification for approval. After receipt of this notice, the director shall appraise the project's dwellings. Immediately after approving the final cost certification, the director shall compute the amount of the tax credit that may be claimed in each year and issue an eligibility certificate to the project development owner. That annual amount, which shall be stated on the certificate, shall equal one-tenth of the reserved credit amount stated in the notice issued under division (B) of this section, subject to any reduction or increase as the result of the approval of the final cost certification and the appraisal conducted under this division.

(E) Each eligibility certificate shall state the annual credit amount, the years that comprise the credit period, the name, address, and the taxpayer identification number of the project development owner, the project development owner's designated reporter, and all members of the project development team along with the date the certificate is issued, a unique identifying number, and any additional information the director may require by rule. The director shall certify a copy of each eligibility certificate to the tax commissioner and the

superintendent of insurance.

(F)(1) For each year of a qualified project's credit period, a project development owner may claim a nonrefundable credit against the tax imposed by section 5725.18, 5726.02, 5729.03, 5729.06, or 5747.02 of the Revised Code equal to all or a portion of the annual credit amount listed on the eligibility certificate. The credit shall be claimed in the manner prescribed by section 5725.37, 5726.60, 5729.20, or 5747.84 of the Revised Code.

(2) A project development owner may or, if the owner is not subject to any tax against which the credit authorized under this section may be claimed, shall allocate all or a portion of the annual credit amount for any year of a qualified project's credit period among one or more project development investors. Such allocated credits may be applied by those project development investors or the equity owners of such an investor that is a pass-through entity against more than one tax, as applicable, but the total credits claimed for that year of the qualified project's credit period by all project development investors and equity owners shall not exceed the annual credit amount stated on the eligibility certificate.

(3) A project development investor or the equity owner of such an investor that is a pass-through entity may claim the credit authorized by this section after the date the director issues an eligibility certificate under division (D) of this section and the applicable annual report required by division (H) of this section is filed by the designated reporter.

(4) A project development investor or equity owner that claims a tax credit under division (F)(2) of this section shall submit a copy of the eligibility certificate with the investor's

or equity owner's tax return. Upon request of the tax commissioner or the superintendent of insurance, any project development investor or equity owner claiming a tax credit under that division shall provide the tax commissioner or superintendent other documentation that may be necessary to verify that the project development investor or equity owner is entitled to claim the credit.

(G) The director may disallow or recapture any portion of a credit if the project development owner or the project development owner's qualified project does not or ceases to qualify for the credit. If the director determines to recapture such a tax credit, the director shall certify the name of the project development owner, and the amount to be recaptured to the tax commissioner and to the superintendent of insurance. The tax commissioner or superintendent shall determine the taxpayer or taxpayers that claimed the credit, the tax against which the credit was claimed, and the amount to be recaptured and make an assessment against the taxpayer or taxpayers under Chapter 5725., 5726., 5729., or 5747. of the Revised Code, as applicable, for the amount to be recaptured. The time limitations on assessments under those chapters do not bar an assessment made under this division.

(H) For each calendar year, a designated reporter shall provide the following information to the tax commissioner on a form prescribed by the commissioner in consultation with the superintendent of insurance:

(1) A list of each project development investor or equity owner that has been allocated a portion of the annual credit awarded in an eligibility certificate for that year, including the investor or owner's name, address, taxpayer identification

number, and the tax against which the credit will be claimed by each.

(2) For each project development investor or equity owner, the amount of annual credit that has been allocated for that year.

(3) An aggregate list of the credit amount allocated for a qualified project demonstrating that the aggregate annual amount of the credits allocated does not exceed the aggregate annual credit awarded in the eligibility certificate.

A designated reporter shall notify the tax commissioner of any changes to the information reported under division (H) of this section in the time and manner prescribed by the commissioner. The commissioner shall provide a copy of the report, and any subsequent changes to the report, submitted by the designated reporter under division (H) of this section to the superintendent of insurance in the time and manner agreed to by the commissioner and superintendent.

No credits allocated under this section may be claimed unless the credits are listed on the report required by division (H) of this section.

(I)(1) The director shall adopt a plan for competitively awarding tax credits under this section. The plan shall establish the criteria and metrics under which projects will be assessed for qualification and may allocate tax credits in a pooled manner.

(2) The director may assess application, processing, and reporting fees to cover the cost of administering this section.

(3) The director, in consultation with the tax commissioner and the superintendent of insurance, shall adopt

~~any~~ rules ~~necessary to implement this section~~ in accordance with Chapter 119. of the Revised Code~~. Such rules may include~~ to address all of the following:

(a) Supplementary definitions as may be necessary to administer this section.

(b) Underwriting criteria to assess the risk associated with any application and determine appropriate criteria to deny an application based upon risk.

(c) Criteria by which a project development owner shall be responsible for any or all risk associated with a qualified project such as homeowner abandonment, default, foreclosure, or other such risks.

(d) Criteria to maintain the affordability of each of a qualified project's single-family dwellings during the affordability period, which may include a deed restriction held by the project development owner for some or all of the amount of the tax credit or any appreciated value of the property.

(e) Requirements that the project development owner provide certain capital assets or other investments that contribute to the affordability of the project.

(f) Criteria to be used in determining whether an individual is a qualified buyer.

(g) Criteria regarding the purchase, ownership, and sale of completed qualified project single-family dwellings.

(h) The manner of determining the project's development costs and the appraised market value of qualified project single-family dwellings.

(i) Any other qualifications a project must meet to

qualify as a qualified project.

Sec. 184.02. (A) In addition to the powers and duties under sections 184.10 to 184.20 and 184.37 of the Revised Code, the third frontier commission may perform any act to ensure the performance of any function necessary or appropriate to carry out the purposes of, and exercise the powers granted under, sections 184.01 and 184.02 of the Revised Code. In addition, the commission may do any of the following:

(1) ~~Adopt, amend, and rescind rules under section 111.15 of the Revised Code for the administration of any aspect of its operations;~~

~~(2)~~ Adopt bylaws governing its operations, including bylaws that establish procedures and set policies as may be necessary to assist with the furtherance of its purposes;

~~(3)~~ (2) Appoint and set the compensation of employees needed to carry out its duties;

~~(4)~~ (3) Contract with, retain the services of, or designate, and fix the compensation of, such financial consultants, accountants, other consultants and advisors, and other independent contractors as may be necessary or desirable to carry out its duties;

~~(5)~~ (4) Solicit input and comments from specialized industry, professional, and other relevant interest groups concerning its purposes;

~~(6)~~ (5) Facilitate alignment of the state's science and technology programs and activities;

~~(7)~~ (6) Make grants and loans to individuals, public agencies, private companies or organizations, or joint ventures

for any of the broad range of activities related to its purposes.

(B) In addition to the powers and duties under sections 184.10 to 184.20 and 184.37 of the Revised Code, the commission shall do all of the following:

(1) Establish a competitive process for the award of grants and loans that is designed to fund the most meritorious proposals and, when appropriate, provide for peer review of proposals;

(2) On or before the first day of August of each year, submit to the governor and the general assembly a report of the activities of the commission during the preceding fiscal year;

(3) With specific application to the biomedical research and technology transfer trust fund, periodically make strategic assessments of the types of state investments in biomedical research and biotechnology in the state that would likely create jobs and business opportunities in the state and produce the most beneficial long-term improvements to the public health of Ohioans, including, but not limited to, biomedical research and biotechnology initiatives that address tobacco-related illnesses as may be outlined in any master agreement. The commission shall adopt rules under section 111.15 of the Revised Code to establish a process to award grants and loans from the fund ~~pursuant to a process established under division (B)(1) of this section~~.

Sec. 184.116. If the third frontier commission utilizes independent reviewers to review the merits of proposed research and development projects and to make recommendations to the commission concerning which projects should be awarded support

under section 184.11 of the Revised Code and the commission takes one of the following actions, the commission shall provide a written explanation of the reasons for its action and present the explanation at one of the commission's regularly scheduled public meetings:

(A) Awards support for a project that the reviewers do not recommend;

(B) Refuses to award support for a project the reviewers do recommend;

(C) Makes a support award that varies substantially from the reviewers' recommendation.

~~The commission, pursuant to Chapter 119. of the Revised Code, shall adopt rules necessary and proper to govern explanations required under this section.~~

Sec. 307.05. As used in this section, "emergency medical service organization" has the same meaning as in section 4765.01 of the Revised Code.

A board of county commissioners may operate an ambulance service organization or emergency medical service organization, or, in counties with a population of sixty thousand or less, may operate a nonemergency patient transport service organization, or may enter into a contract with one or more counties, townships, municipal corporations, nonprofit corporations, joint emergency medical services districts, fire and ambulance districts, or private ambulance owners, regardless of whether such counties, townships, municipal corporations, nonprofit corporations, joint emergency medical services districts, fire and ambulance districts, or private ambulance owners are located within or without the state, in order to furnish or obtain the

services of ambulance service organizations, to furnish or obtain additional services from ambulance service organizations in times of emergency, to furnish or obtain the services of emergency medical service organizations, or, in counties with a population of sixty thousand or less, to furnish or obtain services of nonemergency patient transport service organizations, or may enter into a contract with any such entity to furnish or obtain the interchange of services from ambulance or emergency medical service organizations, or, within counties with a population of sixty thousand or less, to furnish or obtain the interchange of services from nonemergency patient transport service organizations, within the territories of the contracting subdivisions. Except in the case of a contract with a joint emergency medical services district to obtain the services of emergency medical service organizations, such contracts shall not be entered into with a public agency or nonprofit corporation that receives more than half of its operating funds from governmental entities with the intention of directly competing with the operation of other ambulance service organizations, nonemergency patient transport service organizations, or emergency medical service organizations in the county unless the public agency or nonprofit corporation is awarded the contract after submitting the lowest and best bid to the board of county commissioners. Any county wishing to commence operation of a nonemergency patient transport service organization or wishing to enter into a contract for the first time to furnish or obtain services from a nonemergency patient transport service organization on or after March 1, 1993, including a county in which a private provider has been providing the service, shall demonstrate the need for public funding for the service to, and obtain approval from, the state board of emergency medical, fire, and transportation services or

its immediate successor board prior to operating or funding the organization.

When such an organization is operated by the board, the organization may be administered by the board, by the county sheriff, or by another county officer or employee designated by the board. ~~All~~ The board shall adopt rules~~, including the determining of~~ to determine reasonable rates~~, necessary for the establishment, operation, and maintenance of such an organization shall be adopted by the board~~.

A contract for services of an ambulance service, nonemergency patient transport service, or emergency medical service organization shall include the terms, conditions, and stipulations as agreed to by the parties to the contract. It may provide for a fixed annual charge to be paid at the times agreed upon and stipulated in the contract, or for compensation based upon a stipulated price for each run, call, or emergency or the number of persons or pieces of apparatus employed, or the elapsed time of service required in such run, call, or emergency, or any combination thereof.

Sec. 321.46. (A) To enhance the background and working knowledge of county treasurers in governmental accounting, portfolio reporting and compliance, investments, cybersecurity, and cash management, the auditor of state and the treasurer of state shall conduct education programs for persons elected for the first time to the office of county treasurer and shall hold biennial continuing education courses for persons who continue to hold the office of county treasurer.

Initial education programs for newly elected county treasurers shall be held between the first day of December and the first Monday of September next following that person's

election to the office of county treasurer. Similar initial education programs may also be provided to any county treasurer who is appointed to fill a vacancy or who is elected at a special election.

(B)(1) The auditor of state shall determine the manner and content of the initial education programs in the subject areas of governmental accounting and portfolio reporting and compliance. In those areas, newly elected county treasurers shall take at least thirteen hours of education before taking office.

(2) The treasurer of state shall determine the manner and content of the initial education programs in the subject areas of investments and cash management. In those areas, newly elected county treasurers shall take at least thirteen hours of education before taking office.

(3)(a) After completing one year in office, a county treasurer shall take not less than twenty-four hours of continuing education during each biennial cycle. For purposes of division (B)(3)(a) of this section, a biennial cycle for continuing education shall be every two calendar years after the treasurer's first year in office. The treasurer of state shall determine the manner and content of the continuing education courses in the subject areas of investments, cash management, the collection of taxes, ethics, and any other subject area that the treasurer of state determines is reasonably related to the duties of the office of the county treasurer. The auditor of state shall determine the manner and content of the continuing education courses in the subject areas of governmental accounting, portfolio reporting and compliance, office management, cybersecurity, and any other subject area that the

auditor of state determines is reasonably related to the duties of the office of the county treasurer.

(b) A county treasurer who accumulates more than twenty-four hours of continuing education in a biennial cycle described in division (B)(3)(a) of this section may credit the hours in excess of twenty-four hours to the next biennial cycle. However, regardless of the total number of hours earned, no more than six hours in continuing education determined by the treasurer of state pursuant to division (B)(3)(a) of this section and six hours in continuing education determined by the auditor of state pursuant to that division shall be carried over to the next biennial cycle.

(c) A county treasurer who participates in a training program or seminar established under section 109.43 of the Revised Code may apply the three hours of training to the twenty-four hours of continuing education required in a biennial cycle under division (B)(3)(a) of this section.

(C) The auditor of state and the treasurer of state may each charge counties a registration fee that will meet actual and necessary expenses of the training of county treasurers, including instructor fees, site acquisition costs, and the cost of course materials. The necessary personal expenses of county treasurers as a result of attending the initial education programs and continuing education courses shall be borne by the counties the treasurers represent.

(D) The auditor of state and the treasurer of state may allow any other interested person to attend any of the initial education programs or continuing education courses held pursuant to this section, provided that before attending any such program or course, the interested person shall pay to either the auditor

of state or the treasurer of state, as appropriate, the full registration fee set for the program or course.

(E)(1) If a county treasurer fails to complete the initial education programs required by this section before taking office, the treasurer's authority to invest county funds and to manage the county portfolio immediately is suspended, and this authority is transferred to the county's investment advisory committee until full compliance with the initial education programs is determined by the treasurer of state.

(2) If a county treasurer fails to complete continuing education as required by this section, the county treasurer is subject to divisions (B) to (E) of section 321.47 of the Revised Code, including possible suspension of the treasurer's authority to invest county funds and to manage the county portfolio and transfer of this authority to the county's investment advisory committee.

(F)(1) Notwithstanding divisions (B) and (E) of this section, a county treasurer who fails to complete the initial education programs or continuing education required by this section shall invest only in the Ohio subdivisions fund pursuant to division (A)(6) of section 135.35 of the Revised Code, in no load money market mutual funds pursuant to division (A)(5) of section 135.35 of the Revised Code, or in time certificates of deposit or savings or deposit accounts pursuant to division (A)(3) of section 135.35 of the Revised Code.

(2) A county treasurer who has failed to complete the initial education programs required by this section and invests in other than the investments permitted by division (F)(1) of this section immediately shall have the county treasurer's authority to invest county funds and to manage the county

portfolio suspended, and this authority shall be transferred to the county's investment advisory committee until full compliance with the initial education programs is determined by the treasurer of state.

(3) If a county treasurer fails to complete continuing education required by this section and invests in other than the investments permitted by division (F)(1) of this section, the county treasurer is subject to divisions (B) to (E) of section 321.47 of the Revised Code, including possible suspension of the treasurer's authority to invest county funds and to manage the county portfolio and transfer of this authority to the county's investment advisory committee.

(G)(1) There is hereby created in the state treasury the county treasurer education fund, to be used by the treasurer of state for actual and necessary expenses of initial education programs and continuing education held pursuant to this section and section 135.22 of the Revised Code. All registration fees collected by the treasurer of state under this section and section 135.22 of the Revised Code shall be paid into that fund.

(2) All registration fees collected by the auditor of state under this section shall be paid into the auditor of state training program fund established under section 117.44 of the Revised Code.

~~(H) The treasurer of state, with the advice and consent of the auditor of state, may adopt reasonable rules not inconsistent with this section for the implementation of this section.~~

Sec. 329.12. (A) A county department of job and family services may establish an individual development account program

for residents of the county. The program shall provide for establishment of accounts for participants and acceptance of contributions from individuals and entities, including the county department, to be used as matching funds for deposit in the accounts.

(B) A county department shall select a fiduciary organization to administer its individual development account program. In selecting a fiduciary organization, the department shall consider all of the following regarding the organization:

(1) Its ability to market the program to potential participants and matching fund contributors;

(2) Its ability to invest money in the accounts in a way that provides for return with minimal risk of loss;

(3) Its overall administrative capacity, including the ability to verify eligibility of individuals for participation in the program, prevent unauthorized use of matching contributions, and enforce any penalties for unauthorized uses that may be provided for by rule ~~adopted by the director of job and family services under section 5101.971 of the Revised Code~~;

(4) Its ability to provide financial counseling to participants;

(5) Its affiliation with other activities designed to increase the independence of individuals and families through postsecondary education, home ownership, and business development;

(6) Any other factor the county department considers appropriate.

(C) At the time it commences the program and on the first

day of each subsequent program year, the county department may make a grant to the fiduciary organization to pay all or part of the administrative costs of the program.

(D) The county department shall require the fiduciary organization to collect and maintain information regarding the program, including all of the following:

(1) The number of accounts established;

(2) The amount deposited by each participant and the amount matched by contributions;

(3) The uses of funds withdrawn from the account, including the number of participants who used funds for postsecondary educational expenses and the institutions attended, the number of personal residences purchased, and the number of participants who used funds for business capitalization;

(4) The demographics of program participants;

(5) The number of participants who withdrew from the program and the reasons for withdrawal.

Sec. 340.03. (A) Subject to rules issued by the director of behavioral health after consultation with relevant constituencies as required by division (A)(10) of section 5119.21 of the Revised Code, each board of alcohol, drug addiction, and mental health services shall:

(1) Serve as the community addiction and mental health planning agency for the county or counties under its jurisdiction, and in so doing it shall:

(a) Evaluate the need for facility services, addiction services, mental health services, and recovery supports;

(b) In cooperation with other local and regional planning and funding bodies and with relevant ethnic organizations, evaluate strengths and challenges and set priorities for addiction services, mental health services, and recovery supports. With respect to setting priorities, all of the following apply:

(i) A board shall include treatment and prevention services when setting priorities for addiction services and mental health services.

(ii) When a board sets priorities for addiction services, the board shall consult with the county commissioners of the counties in the board's service district regarding the services described in section 340.15 of the Revised Code and shall give priority to those services, except that those services shall not have a priority over services provided to pregnant women under programs developed in relation to the mandate established in section 5119.17 of the Revised Code.

(iii) As part of setting priorities through its community addiction and mental health plan, a board may consider any local mechanisms that have been established for determining eligibility for services and supports.

(c) In accordance with guidelines issued by the director of behavioral health under division ~~(G)~~ (F) of section 5119.22 of the Revised Code, annually develop and submit to the department of behavioral health a community addiction and mental health plan that addresses both of the following:

(i) The needs of all residents of the service district currently receiving inpatient services in state-operated hospitals, the needs of other populations as required by state

or federal law or programs, and the needs of all children subject to a determination made pursuant to section 121.38 of the Revised Code;

(ii) The department's priorities for facility services, addiction services, mental health services, and recovery supports during the period for which the plan will be in effect. The department shall inform all of the boards of the department's priorities in a timely manner that enables the boards to know the department's priorities before the boards develop and submit the plans.

In alcohol, drug addiction, and mental health service districts that have separate alcohol and drug addiction services and community mental health boards, the alcohol and drug addiction services board shall submit a community addiction plan and the community mental health board shall submit a community mental health plan. Each board shall consult with its counterpart in developing its plan and address the interaction between the local addiction and mental health systems and populations with regard to needs and priorities in developing its plan.

The director shall approve or disapprove the plan, in whole or in part, in accordance with division ~~(H)~~ (G) of section 5119.22 of the Revised Code. Eligibility for state and federal funding shall be contingent upon an approved plan or relevant part of a plan.

If a board determines that it is necessary to amend an approved plan, the board shall submit a proposed amendment to the director. The director shall approve or disapprove all or part of the amendment in accordance with division ~~(I)~~ (H) of section 5119.22 of the Revised Code.

The board shall operate in accordance with the plan approved by the director.

(d) Promote, arrange, and implement working agreements with social service agencies, both public and private, and with judicial agencies.

(2) Investigate, or request another agency to investigate, any complaint alleging abuse or neglect of any person receiving addiction services, mental health services, or recovery supports from a community addiction services provider or community mental health services provider or alleging abuse or neglect of a resident receiving addiction services or with mental illness or severe mental disability residing in a residential facility licensed under section 5119.34 of the Revised Code. If the person is a resident of a service district other than the district represented by the board that received the complaint, the board that received the complaint shall refer the complaint to the board of the district where the residential facility is located for that board to investigate the complaint.

If a board's investigation substantiates the charge of abuse or neglect, the board shall take whatever action it determines is necessary to correct the situation, including notification of the appropriate authorities. Upon request, the board shall provide information about such investigations to the department.

(3) For the purpose of section 5119.36 of the Revised Code, cooperate with the director of behavioral health in visiting and evaluating whether the certifiable services and supports of a community addiction services provider or community mental health services provider satisfy the certification standards established by rules adopted under that section. In

addition, a board may provide input and recommendations to the department when an application for certification or the renewal of a certification has been submitted by a provider or when a provider is being investigated by the department, if the board, in either of those circumstances, is aware of information that would be beneficial to the department's consideration of the matter.

(4) In accordance with criteria established under division ~~(D)(1)~~ (C)(1) of section 5119.22 of the Revised Code, conduct program audits that review and evaluate the quality, effectiveness, and efficiency of addiction services, mental health services, and recovery supports provided by community addiction services providers and community mental health services providers under contract with the board and submit the board's findings and recommendations to the department of behavioral health;

(5) In accordance with section 5119.34 of the Revised Code, review an application for a residential facility license and provide to the department of behavioral health any information about the applicant or facility that the board would like the department to consider in reviewing the application;

(6) In accordance with guidelines issued under division ~~(E)~~ (D) of section 5119.22 of the Revised Code and any related rules adopted under that section, review any annual financial audit reports that have been submitted to the board regarding each community addiction services provider and community mental health services provider with which the board has contracted under section 340.036 of the Revised Code to provide services and supports certified under section 5119.36 of the Revised Code;

(7) Recruit and promote local financial support for addiction services, mental health services, and recovery supports from private and public sources;

(8) In accordance with guidelines issued by the department as necessary to comply with state and federal laws pertaining to financial assistance, approve fee schedules and related charges or adopt a unit cost schedule or other methods of payment for addiction services, mental health services, and recovery supports provided by community addiction services providers and community mental health services providers that have contracted with the board under section 340.036 of the Revised Code;

(9) Submit to the director and the county commissioners of the county or counties served by the board, and make available to the public, an annual report of the addiction services, mental health services, and recovery supports under the jurisdiction of the board, including a fiscal accounting;

(10) Establish a method for evaluating referrals for court-ordered treatment and affidavits filed pursuant to section 5122.11 of the Revised Code in order to assist the probate division of the court of common pleas in determining whether there is probable cause that a respondent is subject to court-ordered treatment and whether alternatives to hospitalization are available and appropriate;

(11) Designate the treatment services, provider, facility, or other placement for each person involuntarily committed to the board pursuant to Chapter 5122. of the Revised Code. The board shall provide the least restrictive and most appropriate alternative that is available for any person involuntarily committed to it and shall assure that the list of addiction services, mental health services, and recovery supports

submitted and approved in accordance with division (B) of section 340.08 of the Revised Code are available to persons with severe mental disabilities residing within its service district. The board shall establish the procedure for authorizing payment for the services and supports, which may include prior authorization in appropriate circumstances. In accordance with section 340.037 of the Revised Code, the board may provide addiction services and mental health services directly to a person with a severe mental disability when life or safety is endangered and when no community addiction services provider or community mental health services provider is available to provide the service.

(12) Ensure that housing built, subsidized, renovated, rented, owned, or leased by the board or a community addiction services provider or community mental health services provider has been approved as meeting minimum fire safety standards and that persons residing in the housing have access to appropriate and necessary services, including culturally relevant services, from a community addiction services provider or community mental health services provider. This division does not apply to residential facilities licensed pursuant to section 5119.34 of the Revised Code.

(13) Establish a mechanism for obtaining advice and involvement of persons receiving addiction services, mental health services, or recovery supports on matters pertaining to services and supports in the alcohol, drug addiction, and mental health service district;

(14) Perform the duties required by rules adopted under section 5119.22 of the Revised Code regarding referrals by the board or community mental health services providers under

contract with the board of individuals with mental illness or severe mental disability to class two residential facilities licensed under section 5119.34 of the Revised Code and effective arrangements for ongoing mental health services for the individuals. The board is accountable in the manner specified in the rules for ensuring that the ongoing mental health services are effectively arranged for the individuals.

(15) Perform the duties required by section 9.21 of the Revised Code regarding credit card accounts, including the requirement to adopt a written policy before first holding a credit card account.

(B) Each board of alcohol, drug addiction, and mental health services shall establish such rules, operating procedures, standards, and bylaws, and shall perform such other duties, as may be necessary or proper to carry out the purposes of this chapter.

(C) A board of alcohol, drug addiction, and mental health services may receive by gift, grant, devise, or bequest any moneys, lands, or property for the benefit of the purposes for which the board is established, and may hold and apply it according to the terms of the gift, grant, or bequest. All money received, including accrued interest, by gift, grant, or bequest shall be deposited in the treasury of the county, the treasurer of which is custodian of the alcohol, drug addiction, and mental health services funds, to the credit of the board. The money shall be made available for use by the board for purposes stated by the donor or grantor.

(D) No member or employee of a board of alcohol, drug addiction, and mental health services shall be liable for injury or damages caused by any action or inaction taken within the

scope of the member's official duties or the employee's employment, whether or not such action or inaction is expressly authorized by this section or any other section of the Revised Code, unless such action or inaction constitutes willful or wanton misconduct. Chapter 2744. of the Revised Code applies to any action or inaction by a member or employee of a board taken within the scope of the member's official duties or employee's employment. For the purposes of this division, the conduct of a member or employee shall not be considered willful or wanton misconduct if the member or employee acted in good faith and in a manner that the member or employee reasonably believed was in or was not opposed to the best interests of the board and, with respect to any criminal action or proceeding, had no reasonable cause to believe the conduct was unlawful.

(E) The meetings held by any committee established by a board of alcohol, drug addiction, and mental health services shall be considered to be meetings of a public body subject to section 121.22 of the Revised Code.

(F)(1) A board of alcohol, drug addiction, and mental health services may establish a rule, operating procedure, standard, or bylaw to allow the executive director of the board to execute both of the following types of contracts valued at twenty-five thousand dollars or less, as determined by the board, on behalf of the board without the board's prior approval:

(a) Emergency contracts for clinical services or recovery support services;

(b) Standard service contracts pertaining to the board's operations.

(2) If a board establishes a rule, operating procedure, standard, or bylaw under division (F)(1) of this section, both of the following shall be the case:

(a) The board shall define the scope of contracts described in divisions (F)(1)(a) and (b) of this section in that rule, operating procedure, standard, or bylaw.

(b) The board shall disclose the existence of a contract executed pursuant to the rule, operating procedure, standard, or bylaw at the first board meeting that occurs after the contract was executed and ensure that a record of that disclosure is included in the written minutes of that meeting.

Sec. 340.034. All of the following apply to recovery housing residences required by section 340.033 of the Revised Code to be part of included opioid and co-occurring drug addiction services and recovery supports:

(A) A recovery housing residence shall comply with the requirements of being monitored by the department of behavioral health under sections 5119.39 to 5119.396 of the Revised Code~~ and any rules adopted under section 5119.397 of the Revised Code~~, but the residence is not subject to residential facility licensure by the department under section 5119.34 of the Revised Code.

(B) A recovery housing residence shall not be operated by a board of alcohol, drug addiction, and mental health services unless any of the following applies:

(1) The board operated the recovery housing residence on July 1, 2017.

(2) The board utilizes local funds in the development or operation of the recovery housing residence.

(3) The board determines that there is a need for the board to assume operation of the recovery housing residence, such as when an existing operator of the residence goes out of business and the board considers the assumption of operation of the residence to be in the best interest of the community.

(C) A recovery housing residence shall have protocols for all of the following:

(1) Administrative oversight;

(2) Quality standards;

(3) Policies and procedures, including house rules, for its residents to which the residents must agree to adhere.

(D) Family members of a resident of a recovery housing residence may reside in the residence to the extent permitted by protocols of the residence.

(E) A recovery housing residence shall not limit a resident's duration of stay to an arbitrary or fixed amount of time. Instead, each resident's duration of stay shall be determined by the resident's needs, progress, and willingness to abide by the residence's protocols, in collaboration with the residence's operator, and, if appropriate, in consultation and integration with a community addiction services provider.

(F) A recovery housing residence may permit its residents to receive medication-assisted treatment.

(G) A resident of a recovery housing residence may receive addiction services that are certified by the department under section 5119.36 of the Revised Code.

Sec. 340.08. In accordance with rules or guidelines issued by the director of behavioral health, each board of alcohol,

drug addiction, and mental health services shall do all of the following:

(A) Submit to the department of behavioral health a proposed budget of receipts and expenditures for all federal, state, and local moneys the board expects to receive.

(1) The proposed budget shall identify funds the board has available for included opioid and co-occurring drug addiction services and recovery supports.

(2) The proposed budget shall identify funds the board and public children services agencies in the board's service district have available to fund jointly the services described in section 340.15 of the Revised Code.

(3) The board's proposed budget for expenditures of state and federal funds distributed to the board by the department shall be deemed an application for funds, and the director shall approve or disapprove the budget for these expenditures in whole or in part in accordance with division ~~(H)~~ (G) of section 5119.22 of the Revised Code.

If a board determines that it is necessary to amend an approved budget, the board shall submit a proposed amendment to the director. The director shall approve or disapprove all or part of the amendment in accordance with division ~~(I)~~ (H) of section 5119.22 of the Revised Code.

(B) Submit to the department a proposed list of addiction services, mental health services, and recovery supports the board intends to make available. The board shall include the services and supports required by section 340.032 of the Revised Code to be included in the community-based continuum of care and the services required by section 340.15 of the Revised Code. The

board shall explain the manner in which the board intends to make such services and supports available. The list shall be compatible with the budget submitted pursuant to division (A) of this section. The director shall approve or disapprove the list in whole or in part in accordance with division ~~(H)~~ (G) of section 5119.22 of the Revised Code.

If a board determines that it is necessary to amend an approved list, the board shall submit a proposed amendment to the director. The director shall approve or disapprove all or part of the amendment in accordance with division ~~(I)~~ (H) of section 5119.22 of the Revised Code.

(C) Enter into a continuity of care agreement with the state institution operated by the department of behavioral health and designated as the institution serving the district encompassing the board's service district. The continuity of care agreement shall outline the department's and the board's responsibilities to plan for and coordinate with each other to address the needs of board residents who are patients in the institution, with an emphasis on managing appropriate hospital bed day use and discharge planning. The continuity of care agreement shall not require the board to provide addiction services, mental health services, or recovery supports other than those on the list of services and supports submitted by the board pursuant to division (B) of this section and approved by the director in accordance with division ~~(H)~~ (G) of section 5119.22 of the Revised Code.

(D) In conjunction with the department, operate a coordinated system for tracking and monitoring persons found not guilty by reason of insanity and committed pursuant to section 2945.40 of the Revised Code who have been granted a conditional

release and persons found incompetent to stand trial and committed pursuant to section 2945.39 of the Revised Code who have been granted a conditional release. The system shall do all of the following:

(1) Centralize responsibility for the tracking of those persons;

(2) Provide for uniformity in monitoring those persons;

(3) Provide a mechanism to allow prompt rehospitalization, reinstitutionalization, or detention when a violation of the conditional release or decompensation occurs.

(E) To ensure the safety of persons seeking or receiving addiction services, mental health services, or recovery supports, submit to the department a report summarizing all of the following:

(1) Complaints and grievances received by the board concerning the rights of persons seeking or receiving addiction services, mental health services, or recovery supports;

(2) Investigations of the complaints and grievances;

(3) Outcomes of the investigations.

(F) Provide to the department information to be submitted to the community behavioral health information system or systems established by the department under Chapter 5119. of the Revised Code.

(G) Annually, and upon any change in membership, submit to the department a list of all current members of the board of alcohol, drug addiction, and mental health services, including the appointing authority for each member, and the member's specific qualification for appointment pursuant to section

340.02 or 340.021 of the Revised Code, if applicable.

(H) Submit to the department other information as is reasonably required for purposes of the department's operations, service evaluation, reporting activities, research, system administration, and oversight.

(I) Annually update and publish on the board's web site a list of all opioid treatment programs licensed under section 5119.37 of the Revised Code that are operating within the board's district, based on information obtained from any of the following:

(1) The federal substance abuse and mental health services administration's opioid treatment program directory;

(2) A resource directory created by the department of behavioral health;

(3) The list maintained by the department of behavioral health pursuant to division (P) of section 5119.37 of the Revised Code.

Sec. 718.80. (A) A taxpayer may elect to be subject to sections 718.80 to 718.95 of the Revised Code in lieu of the provisions set forth in the remainder of this chapter. Notwithstanding any other provision of this chapter, upon the taxpayer's election, both of the following shall apply:

(1) The tax commissioner shall serve as the sole administrator of each municipal income tax for which the taxpayer is liable for the term of the election;

(2) The commissioner shall administer the tax pursuant to sections 718.80 to 718.95 of the Revised Code and any applicable provision of Chapter 5703. of the Revised Code.

(B)(1) A taxpayer shall make the initial election on or before the fifteenth day of the fourth month after the beginning of the taxpayer's taxable year by providing to the tax commissioner a list of all municipal corporations in which the taxpayer conducted business during the previous taxable year, on a form prescribed by the tax commissioner.

(2) At least quarterly, the tax commissioner shall notify each municipal corporation that a taxpayer lists in its election under division (B)(1) of this section that the taxpayer has made the election.

(3)(a) The election, once made by the taxpayer, applies to the taxable year in which the election is made and to each subsequent taxable year until the taxpayer notifies the tax commissioner of its termination of the election.

(b) A notification of termination shall be made, on a form prescribed by the tax commissioner, on or before the fifteenth day of the fourth month of any taxable year.

(c) Upon a timely and valid termination of the election, the taxpayer is no longer subject to sections 718.80 to 718.95 of the Revised Code, and is instead subject to the provisions set forth in the remainder of this chapter.

(d) At least quarterly, the tax commissioner shall notify each municipal corporation reported on a taxpayer's most recent return or declaration filed with the commissioner of the taxpayer's termination of its election.

(4) The tax commissioner shall provide to all municipal corporations imposing a tax on income on or after January 1, 2018, a list of taxpayers that are subject to sections 718.80 to 718.95 of the Revised Code, including the taxpayers' names,

addresses, and federal employee identification numbers. The list shall be made available via the portal created under section 718.841 of the Revised Code.

(C)(1)(a) On or before the thirty-first day of January each year, each municipal corporation imposing a tax on income shall certify to the tax commissioner the rate of the tax in effect on the first day of January of that year.

(b) If, after the thirty-first day of January of any year, a municipal corporation changes the rate of the municipal corporation's tax on income such that a new rate takes effect within that year, the municipal corporation shall certify to the tax commissioner the new rate of tax not less than sixty days before the effective date of the new rate, after which effective date the commissioner shall apply the new rate.

(2) A municipal corporation that receives a notification under division (B)(2) of this section shall submit to the tax commissioner, on a form prescribed by the commissioner and within the time prescribed by division (C)(3) of this section, the following information regarding the taxpayer and any member of an affiliated group of corporations included on the taxpayer's consolidated tax return, when applicable:

(a) The amount of any net operating loss that the taxpayer is entitled to carry forward to a future tax year;

(b) The amount of any net operating loss carryforward utilized by the taxpayer in prior years;

(c) Any credits granted by the municipal corporation to which the taxpayer is entitled, the amount of such credits, whether the credits may be carried forward to future tax years, and, if the credits may be carried forward, the duration of any

such carryforward;

(d) Any overpayments of tax that the taxpayer has elected to carry forward to a subsequent tax year;

(e) Any other information the municipal corporation deems relevant in order to effectuate the tax commissioner's efficient administration of the tax on the municipal corporation's behalf.

(3) A municipal corporation shall submit the information required under division (C)(2) of this section to the tax commissioner within ninety days after the taxpayer files its final return or within fifteen days after the end of the taxable year for which the taxpayer made the initial election under division (B)(1) of this section, whichever occurs first. For the purposes of this section, "final return" means the return filed with the municipal corporation for the taxable year immediately preceding the taxable year for which the taxpayer made the election under division (B)(1) of this section.

(4) If any municipal corporation fails to timely comply with division (C)(1), (2), or (3) of this section, the tax commissioner may notify the director of budget and management, who, upon receiving such notification, shall withhold a portion of each payment made to the municipal corporation under section 718.83 of the Revised Code. The commissioner shall specify the percentage of the payment to be withheld, not to exceed fifty per cent of the amount of the payment otherwise due to the municipal corporation under that section. The director shall compute the withholding on the basis of the tax rate most recently certified to the tax commissioner until the municipal corporation complies with divisions (C)(1), (2), and (3) of this section.

If, after any such withholding, the municipal corporation complies with divisions (C)(1), (2), and (3) of this section, the tax commissioner shall notify the director of budget and management, who shall provide payment to the municipal corporation under section 718.83 of the Revised Code of such amounts withheld under this division.

(D) The tax commissioner shall enforce and administer sections 718.80 to 718.95 of the Revised Code. In addition to any other powers conferred upon the tax commissioner by law, the tax commissioner may:

(1) Prescribe all forms necessary to administer those sections;

(2) ~~Adopt such rules as the tax commissioner finds necessary to carry out those sections;~~

~~(3)~~ Appoint and employ such personnel as are necessary to carry out the duties imposed upon the tax commissioner by those sections.

(E) No tax administrator shall utilize sections 718.81 to 718.95 of the Revised Code in the administrator's administration of a municipal income tax, and those sections shall not be applied to any taxpayer that has not made the election under this section.

(F) Nothing in this chapter shall be construed to make any section of this chapter, other than sections 718.01 and 718.80 to 718.95 of the Revised Code, applicable to the tax commissioner's administration of a municipal income tax or to any taxpayer that has made the election under this section.

(G) The tax commissioner shall not be considered a tax administrator, as that term is defined in section 718.01 of the

Revised Code.

Sec. 718.83. (A) On or before the last day of each month, the tax commissioner shall certify to the director of budget and management the amount to be paid to each municipal corporation, based on amounts reported on annual returns and declarations of estimated tax under sections 718.85 and 718.88 of the Revised Code, less any amounts previously distributed and net of any audit adjustments made or refunds granted by the commissioner, for the calendar month preceding the month in which the certification is made. Not later than the fifth day of each month, the director shall provide for payment of the amount certified to each municipal corporation from the municipal net profit tax fund, plus a pro rata share of any investment earnings accruing to the fund since the previous payment under this section, and minus any reduction required by the commissioner under division (D) of this section. Each municipal corporation's share of such earnings shall equal the proportion that the municipal corporation's certified tax payment is of the total taxes certified to all municipal corporations in that quarter. All investment earnings on money in the municipal net profit tax fund shall be credited to that fund.

(B) If the tax commissioner determines that the amount of tax paid by a taxpayer and distributed to a municipal corporation under this section for a taxable year exceeds the amount payable to that municipal corporation under sections 718.80 to 718.95 of the Revised Code after accounting for amounts remitted with the annual return and as estimated taxes, the commissioner shall proceed according to section 5703.77 of the Revised Code.

(C) If the amount of a municipal corporation's net

distribution computed by the commissioner under division (A) of this section is less than zero, the commissioner may notify the municipal corporation of the deficiency. Within thirty days after receiving such a notice, the municipal corporation shall pay an amount equal to the deficiency to the treasurer of state. The treasurer of state shall credit any payment received under this division to the municipal net profit tax fund.

(D) If a municipal corporation fails to make a timely payment required under division (C) of this section, the commissioner may recover the deficiency using any or all of the following options:

(1) Deduct the amount of the deficiency from the next distribution to that municipal corporation under division (A) of this section or, if the amount of the deficiency exceeds the amount of such distribution, withhold such distributions entirely until the withheld amount equals the amount of the municipal corporation's deficiency;

(2) Deduct the amount of the deficiency from the next payment to that municipal corporation under division (A) of section 5745.05 of the Revised Code or, if the amount of the deficiency exceeds the amount of such distribution, withhold such distributions entirely until the withheld amount equals the amount of the municipal corporation's deficiency;

(3) Deduct the amount of the deficiency from the municipal corporation's share of the next payment made by the commissioner under division (F) of section 321.24 of the Revised Code or, if the amount of the deficiency exceeds the amount of the municipal corporation's share of such payment, withhold the municipal corporation's share of the payments entirely until the withheld amount equals the amount of the municipal corporation's

deficiency.

(E) The total amount of payments and distributions withheld from a municipal corporation under division (D) of this section shall not exceed the unpaid portion of the municipal corporation's net distribution deficiency. All amounts withheld under division (D) of this section shall be credited to the municipal net profit tax fund.

~~(F) The commissioner may adopt rules necessary to administer this section.~~

Sec. 742.013. The board may, by rule adopted under section ~~742.10~~ 111.15 of the Revised Code, establish definitions of "terminal pay" and "salary" that differ from those in divisions (K) and (L) of section 742.01 of the Revised Code. In establishing the definitions, the board may use elements of the compensation provisions of the United States Internal Revenue Code and the Internal Revenue Code form W-2, as those provisions are interpreted by the internal revenue service of the United States department of treasury.

Sec. 742.10. The board of trustees of the Ohio police and fire pension fund may sue and be sued, plead and be impleaded, contract and be contracted with, employ and fix the compensation of employees~~, and adopt rules for the proper administration and management of the fund~~.

Effective ninety days after September 15, 2004, the board of trustees may not employ a state retirement system investment officer, as defined in section 1707.01 of the Revised Code, who does not hold a valid state retirement system investment officer license issued by the division of securities in the department of commerce.

If the Ohio retirement study council establishes a uniform format for any report the board is required to submit to the council, the board shall submit the report in that format.

The attorney general shall prescribe procedures for the adoption of rules authorized under this chapter, consistent with the provisions of section 111.15 of the Revised Code under which all rules shall be filed in order to be effective. Such procedures shall establish methods by which notice of proposed rules is given to interested parties and rules adopted by the board published and otherwise made available. When it files a rule with the joint committee on agency rule review pursuant to section 111.15 of the Revised Code, the board shall submit to the Ohio retirement study council a copy of the full text of the rule, and if applicable, a copy of the rule summary and fiscal analysis required by division (B) of section 106.024 of the Revised Code.

Sec. 742.102. The board of trustees of the police and fire pension fund shall do all of the following:

(A) In consultation with the Ohio ethics commission, review any existing policy regarding the travel and payment of travel expenses of members of the board of trustees and employees of the fund and adopt rules in accordance with section 742.10 of the Revised Code establishing a new or revised policy regarding travel and payment of travel expenses. Not less than sixty days before adopting a new or revised policy, the board shall submit the policy to the Ohio retirement study council for review.

(B) If the board intends to award a bonus to any employee of the board, adopt rules in accordance with section ~~742.10~~ 111.15 of the Revised Code establishing a policy regarding

employee bonuses;

(C) Provide copies of the rules adopted under divisions (A) and (B) of this section to each member of the Ohio retirement study council;

(D) Submit to the Ohio retirement study council a proposed operating budget, including an administrative budget for the board, for the next immediate fiscal year and adopt that budget not earlier than sixty days after it is submitted to the council;

(E) Submit to the council a plan describing how the board will improve the dissemination of public information pertaining to the board.

Sec. 742.161. Following the actuarial investigation required by division (B) of section 742.14 of the Revised Code due on November 1, 2017, and following each quinquennial actuarial investigation thereafter, if, in consultation with its actuary, the Ohio police and fire pension fund board of trustees determines that an adjustment to the age and years of service credit required to receive a pension or benefit under division (C) of section 742.37 of the Revised Code is appropriate, the board may, in accordance with rules adopted under section ~~742.10~~ 111.15 of the Revised Code, do either of the following:

(A) If the board's determination is that increasing the age and years of service requirements is necessary to preserve the fiscal integrity of the fund, increase the age and years of service credit required to receive a pension or benefit;

(B) If the board's determination is that reducing the age and years of service requirements would not materially impair the fiscal integrity of the fund, reduce the age and years of

service credit required to receive a pension or benefit.

Sec. 742.214. (A) As used in this section, "transferred service credit" means service credit purchased or obtained under section 145.295, 145.2913, 3307.761, 3307.765, 3309.73, or 3309.731 of the Revised Code prior to the date a member commenced the employment covered by the Ohio police and fire pension fund for which the member is currently contributing to the fund.

(B) A member of the Ohio police and fire pension fund who is in the active service of a police or fire department, has contributions on deposit with, but is no longer contributing to, a non-uniform retirement system, and is not a participant in the deferred retirement option plan established under section 742.43 of the Revised Code shall, in computing years of service, be given full credit for transferred service credit if a transfer to the Ohio police and fire pension fund is made under this section. At the request of a member, the non-uniform system shall transfer to the Ohio police and fire pension fund the sum of the following:

(1) An amount equal to the amounts transferred to the non-uniform system under section 145.295, 145.2913, 3307.761, 3307.765, 3309.73, or 3309.731 of the Revised Code;

(2) Interest, determined as provided in division (E) of this section, on the amount specified in division (B)(1) of this section for the period from the last day of the year in which the transfer under section 145.295, 145.2913, 3307.761, 3307.765, 3309.73, or 3309.731 of the Revised Code was made to the date a transfer is made under this section.

(C) A member of the fund who is in the active service of a

police or fire department, has received a refund of contributions to a non-uniform retirement system, and is not a participant in the deferred retirement option plan established under section 742.43 of the Revised Code shall, in computing years of service, be given full credit for transferred service credit if, for each year of service, the Ohio police and fire pension fund receives the sum of the following:

(1) An amount, which shall be paid by the member, equal to the amount refunded by the non-uniform system to the member for that year for transferred service credit, with interest on that amount from the date of the refund to the date a payment is made under this section;

(2) Interest, which shall be transferred by the non-uniform system, on the amount refunded to the member for the period from the last day of the year in which the transfer under section 145.295, 145.2913, 3307.761, 3307.765, 3309.73, or 3309.731 of the Revised Code was made to the date the refund was made;

(3) If the non-uniform system retained any portion of the amount transferred under section 145.295, 145.2913, 3307.761, 3307.765, 3309.73, or 3309.731 of the Revised Code, an amount, which shall be transferred by the non-uniform system, equal to the amount retained, with interest on that amount for the period from the last day of the year in which the transfer under section 145.295, 145.2913, 3307.761, 3307.765, 3309.73, or 3309.731 of the Revised Code was made to the date a transfer is made under this section.

On receipt of payment from the member, the Ohio police and fire pension fund shall notify the non-uniform system, which, on receipt of the notice, shall make the transfer required by this

division. Interest shall be determined as provided in division (E) of this section.

(D) Service credit purchased or obtained under this section shall be used in computing the pension and benefits payable under section 742.37 or 742.39 of the Revised Code. A member may choose to purchase only part of the credit the member is eligible to purchase under division (C) of this section in any one payment, subject to rules adopted by the board of trustees of the Ohio police and fire pension fund. A member is ineligible to purchase or obtain service credit under this section for service to be used in the calculation of any retirement benefit currently being paid or payable to the member in the future under any other retirement program or for service credit that may be purchased or obtained under section 742.21 of the Revised Code.

(E) Interest charged under this section shall be calculated separately for each year of service credit at the lesser of the actuarial assumption rate for that year of the Ohio police and fire pension fund or of the non-uniform retirement system to which the credit was transferred under section 145.295, 145.2913, 3307.761, 3307.765, 3309.73, or 3309.731 of the Revised Code. The interest shall be compounded annually.

(F) Any amounts transferred or paid under divisions (B) and (C) of this section that are attributable to contributions made by the member or to amounts paid to purchase service credit shall be credited to the police officers' contribution fund or firefighters' contribution fund created under section 742.59 of the Revised Code, as applicable. Any remaining amounts shall be credited to one or more of the funds created under that section

as determined by the board.

(G) At the request of the Ohio police and fire pension fund, the non-uniform retirement system shall certify to the fund a copy of the records of the service and contributions of a member of the fund who seeks service credit under this section. The non-uniform retirement system shall specify the portions of the amounts transferred that are attributable to employee contributions, employer contributions, and interest.

(H) If a member of the fund who is not a current contributor elects to receive service credit under section 145.2913, 3307.765, or 3309.731 of the Revised Code for transferred service credit, as defined in those sections, the fund shall transfer to the non-uniform retirement system, as applicable, the amount specified in division (B) or (C) of section 145.2913, division (B) or (C) of section 3307.765, or division (B) or (C) of section 3309.731 of the Revised Code.

~~(I) The board may adopt rules to implement this section.~~

Sec. 742.27. (A) As used in this section, "lay off" means to cease to employ a person pursuant to sections 124.321 to 124.328 of the Revised Code or pursuant to any similar provisions that apply to the person under any of the following:

(1) A collective bargaining agreement entered into under Chapter 4117. of the Revised Code;

(2) Any ordinance, resolution, contract, agreement, policy, or procedure governing employment.

(B) A member of the Ohio police and fire pension fund who, during employment as a member of a police or fire department, is removed from active pay status by being laid off by the member's employer, shall, in computing years of active service under

division (C) of section 742.37 or section 742.39 of the Revised Code, be given full credit for time for which contributions were not made during the period the member was laid off, if all of the following conditions are met:

(1) During the time the member was laid off, the member was not entitled to receive disability benefits from the fund.

(2) During the time the member was laid off, the member did not render any service that is used in the calculation of any public or private retirement benefit, except any federal social security retirement benefit, currently being paid or payable in the future to the member.

(3) The fund receives the amount determined under division (C) of this section from the member, the member's employer, or the member and the employer.

(4) At the time the fund receives the amount described in division (B)(3) of this section, the member is not a participant in the deferred retirement option plan established under section 742.43 of the Revised Code.

The total amount of service purchased by any member under this section shall not exceed two years. A member may choose to purchase only part of such credit in any one payment, subject to board rules.

(C) The amount paid for the credit purchased under this section shall be an amount equal to the additional liability to the fund resulting from the purchase of the credit, as determined by an actuary employed by the board of trustees of the fund.

(D) The board shall have final authority to determine and fix the amount of the payment for credit purchased under this

section. The employer may pay all or part of the payment.

~~(E) The board shall adopt rules for the implementation of this section.~~

Sec. 742.31. (A) Except as provided in division (B) of this section, each employee shall contribute an amount equal to a percentage of the employee's salary to the Ohio police and fire pension fund according to the following schedule:

(1) For salary earned in pay periods beginning not later than July 1, 2013, ten per cent;

(2) For salary earned in pay periods beginning not earlier than July 2, 2013, but not later than July 1, 2014, ten and three-quarters per cent;

(3) For salary earned in pay periods beginning not earlier than July 2, 2014, but not later than July 1, 2015, eleven and one-half per cent;

(4) For salary earned in pay periods beginning not earlier than July 2, 2015, twelve and one-quarter per cent.

(B) Following the actuarial investigation required by division (B) of section 742.14 of the Revised Code due on November 1, 2017, and following each quinquennial actuarial investigation thereafter, if, in consultation with the board's actuary, the board determines that an adjustment to the contribution rate is appropriate, the board may, in accordance with rules adopted under section ~~742.10~~ 111.15 of the Revised Code, do either of the following:

(1) If the board's determination is that an increase in the contribution rate is necessary to preserve the fiscal integrity of the fund, increase the contribution rate;

(2) If the board's determination is that a decrease in the contribution rate would not materially impair the fiscal integrity of the fund, decrease the contribution rate.

(C) The amount shall be deducted by the employer from the employee's salary as defined in division (L) of section 742.01 of the Revised Code for each payroll period, irrespective of whether the minimum compensation provided by law for the employee is reduced thereby. Every employee shall be deemed to consent to the deductions, and payment to the employee less the deductions is a complete discharge and acquittance of all claims and demands for the services rendered by the employee during the period covered by such payment.

Sec. 742.3721. The board of trustees of the Ohio police and fire pension fund may establish and maintain a qualified governmental excess benefit arrangement that meets the requirements of division (m) of section 415 of the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 415, as amended, and any regulations adopted thereunder. If established, the arrangement shall be a separate portion of the fund and be maintained solely for the purpose of providing to retired members that part of a benefit otherwise payable under this chapter that exceeds the limits established by section 415 of the "Internal Revenue Code of 1986," as amended.

Members participating in an arrangement established under this section shall not be permitted to elect to defer compensation to the arrangement. Contributions to and benefits paid under an arrangement shall not be payable from a trust that is part of the fund unless the trust is maintained solely for the purpose of providing such benefits.

~~The board shall adopt rules to administer an arrangement~~

~~established under this section.~~

Sec. 742.38. (A)(1) The board of trustees of the Ohio police and fire pension fund shall adopt rules establishing minimum medical testing and diagnostic standards or procedures to be incorporated into physical examinations administered to prospective members of the fund. The standards or procedures shall include diagnosis and evaluation of the existence of any heart disease, cardiovascular disease, or respiratory disease. The rules shall specify the form of the examination report and the information to be included in it.

The board shall notify all employers of the establishment of the minimum standards or procedures and shall include with the notice a copy of the standards or procedures. The board shall notify all employers of any changes made to the standards or procedures. Once the standards or procedures take effect, employers shall cause each prospective member of the fund to submit to a physical examination that incorporates the standards or procedures.

(2) Division (A)(2) of this section applies to an employee who becomes a member of the fund on or after the date the minimum standards or procedures described in division (A)(1) of this section take effect. For each employee described in division (A)(2) of this section, the employer shall forward to the board a copy of the report of a physical examination that incorporates the standards or procedures described in division (A)(1) of this section. If an employer fails to forward the report in the form required by the board on or before the date that is sixty days after the employee becomes a member of the fund, the board shall assess against the employer a penalty determined under section 742.353 of the Revised Code.

(B) Application for a disability benefit may be made by a member of the fund or, if the member is incapacitated as defined in rules adopted by the board, by a person acting on the member's behalf. Not later than fourteen days after receiving an application for a disability benefit from a member or a person acting on behalf of a member, the board shall notify the member's employer that an application has been filed. The notice shall state the member's position or rank. Not later than twenty-eight days after receiving the notice or filing an application on behalf of a member, the employer shall forward to the board a statement certifying the member's job description and any other information required by the board to process the application.

If the member applying for a disability benefit became a member of the fund prior to the date the minimum standards or procedures described in division (A)(1) of this section took effect, the board may request from the member's employer a copy of the report of the member's physical examination taken on entry into the police or fire department or, if the employer does not have a copy of the report, a written statement certifying that the employer does not have a copy of the report. If an employer fails to forward the report or statement in the form required by the board on or before the date that is twenty-eight days after the date of the request, the board shall assess against the employer a penalty determined under section 742.353 of the Revised Code.

The board shall maintain the information submitted under this division and division (A)(2) of this section in the member's file.

(C) For purposes of determining under division (D) of this

section whether a member of the fund is disabled, the board shall adopt rules establishing objective criteria under which the determination is to be made. The rules shall include standards that provide for all of the following:

(1) Evaluating a member's illness or injury on which an application for disability benefits is based;

(2) Defining the occupational duties of a police officer or firefighter;

(3) Providing for the board to assign competent and disinterested physicians, advanced practice registered nurses, physician assistants, and vocational evaluators to conduct examinations of a member;

(4) Requiring a written report for each disability application that includes a summary of findings, medical opinions, including an opinion on whether the illness or injury upon which the member's application for disability benefits is based was caused or induced by the actual performance of the member's official duties, and any recommendations or comments based on the medical opinions;

(5) Taking into consideration the member's potential for retraining or reemployment.

(D) The board may grant disability benefits to a member based solely on a review of an application for disability benefits and supporting medical documentation or may require the member to undergo a medical examination, a vocational evaluation, or both. Any medical examination or vocational evaluation shall be conducted by a physician, advanced practice registered nurse, physician assistant, or vocational evaluator assigned in accordance with rules adopted under division (C)(3)

of this section. If a medical examination is conducted by an advanced practice registered nurse or physician assistant, the board shall only accept an examination report if a physician reviews, approves, and signs the report before the report is submitted to the board.

As used in this division:

"Totally disabled" means a member of the fund is unable to perform the duties of any gainful occupation for which the member is reasonably fitted by training, experience, and accomplishments. Absolute helplessness is not a prerequisite of being totally disabled.

"Permanently disabled" means a condition of disability that is expected to last for a continuous period of not less than twelve months after an application for disability benefits is filed and from which there is no present indication of recovery.

"Hazardous duty" has the same meaning as in 5 C.F.R. 550.902, as amended.

(1) A member of the fund who is permanently and totally disabled as the result of the performance of the member's official duties as a member of a police or fire department shall be paid annual disability benefits in accordance with division (A) of section 742.39 of the Revised Code. In determining whether a member of the fund is permanently and totally disabled, the board shall consider standards adopted under division (C) of this section applicable to the determination.

(2) A member of the fund who is permanently and partially disabled as the result of the performance of the member's official duties as a member of a police or fire department

shall, if the disability prevents the member from performing those duties and impairs the member's earning capacity, receive annual disability benefits in accordance with division (B) of section 742.39 of the Revised Code. In determining whether a member of the fund is permanently and partially disabled, the board shall consider standards adopted under division (C) of this section applicable to the determination.

(3)(a) A member of the fund who is permanently disabled as a result of heart disease or any cardiovascular or respiratory disease of a chronic nature, which disease or any evidence of which disease was not revealed by the physical examination passed by the member on entry into the department or another examination specified in rules the board adopts under section ~~742.10~~ 111.15 of the Revised Code, is presumed to have incurred the disease while performing the member's official duties, unless the contrary is shown by competent evidence. The board may waive the requirement that the absence of disease be evidenced by a physical examination if competent medical evidence of a type specified in rules adopted under section ~~742.10~~ 111.15 of the Revised Code is submitted documenting that the disease was not evident prior to or at the time of entry into the department.

(b) A member of the fund who is a member of a fire department, has been assigned to at least six years of hazardous duty as a member of a fire department, and is disabled as a result of cancer, is presumed to have incurred the cancer while performing the member's official duties if the member was exposed to an agent classified by the international agency for research on cancer or its successor agency as a group 1 or 2A carcinogen.

(c) The presumption described in division (D)(3)(b) of this section is rebuttable in any of the following situations:

(i) There is evidence that the member incurred the type of cancer being alleged before becoming a member of the department.

(ii) There is evidence that the member's exposure, outside the scope of the member's official duties, to cigarettes, tobacco products, or other conditions presenting an extremely high risk for the development of the cancer alleged, was probably a significant factor in the cause or progression of the cancer.

(iii) There is evidence that shows, by a preponderance of competent scientific evidence, that exposure to the type of carcinogen alleged did not or could not have caused the cancer being alleged.

(iv) There is evidence that the member was not exposed to an agent classified by the international agency for research on cancer or its successor agency as a group 1 or 2A carcinogen.

(v) The member is seventy years of age or older.

(d) The presumption described in division (D)(3)(b) of this section does not apply if it has been more than fifteen years since the member was last assigned to hazardous duty as a member of a fire department.

(4) A member of the fund who has five or more years of service credit and has incurred a permanent disability not caused or induced by the actual performance of the member's official duties as a member of the department, or by the member's own negligence, shall if the disability prevents the member from performing those duties and impairs the member's earning capacity, receive annual disability benefits in

accordance with division (C) of section 742.39 of the Revised Code. In determining whether a member of the fund is permanently disabled, the board shall consider standards adopted under division (C) of this section applicable to the determination.

(5) The board shall notify a member of its final action awarding a disability benefit to the member within thirty days of the final action. The notice shall be sent by certified mail, return receipt requested. Not later than ninety days after receipt of notice from the board, the member shall elect, on a form provided by the board, either to accept or waive the disability benefit award. If the member elects to waive the disability benefit award or fails to make an election within the time period, the award is rescinded. A member who later seeks a disability benefit award shall be required to make a new application, which shall be dealt with in accordance with the procedures used for original disability benefit applications.

A person is not eligible to apply for or receive disability benefits under this division, section 742.39 of the Revised Code, or division (C)(2), (3), (4), or (5) of former section 742.37 of the Revised Code unless the person is a member of the fund on the date on which the application for disability benefits is submitted to the fund.

With the exception of persons who may make application for increased benefits as provided in division (D)(2) or (4) of this section or division (C)(3) or (5) of former section 742.37 of the Revised Code on or after July 24, 1986, or persons who may make application for benefits as provided in section 742.26 of the Revised Code, no person receiving a pension or benefit under this section or division (C) of former section 742.37 of the Revised Code may apply for any new, changed, or different

benefit.

(E) An advanced practice registered nurse or physician assistant assigned in accordance with rules adopted under division (C)(3) of this section to conduct a medical examination of a member who has applied for disability benefits shall only conduct an examination that is within the scope and practice that is permitted under Chapter 4723. or 4730. of the Revised Code, respectively, and does not exceed the advanced practice registered nurse's or physician assistant's training.

(F) Notwithstanding the requirement of section 742.41 of the Revised Code that all medical reports and recommendations required are privileged, the board shall submit to the administrator of workers' compensation any data necessary for the report required under section 4123.86 of the Revised Code.

Sec. 742.43. The board of trustees of the Ohio police and fire pension fund shall establish and administer a deferred retirement option plan. In establishing and administering the plan, the board shall comply with sections 742.44 to 742.446 of the Revised Code and may do all things necessary to meet the requirements of section 401(a) of the "Internal Revenue Code of 1986," as amended, applicable to governmental plans.

The board shall adopt rules to ~~implement this section and sections 742.44 to 742.446 of the Revised Code. The rules shall~~ specify the date of initial implementation of the plan established under this section. The rules may also specify a period during which an election made under section 742.44 of the Revised Code may be rescinded.

Sec. 742.443. (A) During the period beginning on the effective date of an election to participate in the deferred

retirement option plan and ending on the date participation ceases, a member's monthly pension amount determined under section 742.442 of the Revised Code shall accrue to the member's benefit. If the member is eligible for increases under section 742.3716 of the Revised Code, to this amount shall be added any benefit increases the member would be eligible for under that section had the member, on the effective date of the member's election, retired under division (C)(1) of section 742.37 of the Revised Code.

(B)(1) The amounts contributed under section 742.31 of the Revised Code by a member who, before July 2, 2013, elects to participate in the deferred retirement option plan shall accrue to the member's benefit as follows:

(a) During the period beginning on the first day of the first payroll period after the election's effective date and ending on the earlier of the date that is two years thereafter or the date the member ceases participation in the plan, fifty per cent of the member's contributions for that period;

(b) During the period beginning on the date that is two years and one day after accruals begin under this division and ending on the earlier of the date that is three years thereafter or the date the member ceases participation in the plan, seventy-five per cent of the member's contributions for that period;

(c) During the period beginning on the date that is three years and one day after accruals begin under this section and ending on the date the member ceases participation in the plan, one hundred per cent of the member's contributions for that period.

(2) The amounts contributed under section 742.31 of the Revised Code by a member who, on or after July 2, 2013, elects to participate in the deferred retirement option plan shall accrue to the member's benefit as follows:

(a) During the period beginning on the first day of the first payroll period after the election's effective date and ending on the earlier of the date that is three years thereafter or the date the member ceases participation in the plan, fifty per cent of the member's contributions for that period;

(b) During the period beginning on the date that is three years and one day after accruals begin under this division and ending on the earlier of the date that is five years thereafter or the date the member ceases participation in the plan, seventy-five per cent of the member's contributions for that period;

(c) During the period beginning on the date that is five years and one day after accruals begin under this section and ending on the date the member ceases participation in the plan, one hundred per cent of the member's contributions for that period.

(3) The Ohio police and fire pension fund shall credit the portion of a member's contributions that are not accrued to the member's benefit under division (B)(1) or (2) of this section to the police officers' contribution fund or firefighters' contribution fund, as appropriate.

(C) During the period beginning on the election's effective date and ending on the day before the date distributions under division (B)(3) of section 742.444 of the Revised Code are completed, the amounts described in divisions

(A) and (B)(1) of this section shall earn interest at an annual rate established by the board of trustees of the fund and compounded annually using a method established by rule adopted under section ~~742.43~~ 111.15 of the Revised Code.

Sec. 742.45. (A) The board of trustees of the Ohio police and fire pension fund may enter into an agreement with insurance companies, health insuring corporations, or government agencies authorized to do business in the state for issuance of a policy or contract of health, medical, hospital, or surgical benefits, or any combination thereof, for those individuals receiving service or disability pensions or survivor benefits subscribing to the plan. Notwithstanding any other provision of this chapter, the policy or contract may also include coverage for any eligible individual's spouse and dependent children and for any of the eligible individual's sponsored dependents as the board considers appropriate.

If all or any portion of the policy or contract premium is to be paid by any individual receiving a service, disability, or survivor pension or benefit, the individual shall, by written authorization, instruct the board to deduct from the individual's benefit the premium agreed to be paid by the individual to the company, corporation, or agency.

The board may contract for coverage on the basis of part or all of the cost of the coverage to be paid from appropriate funds of the Ohio police and fire pension fund. The cost paid from the funds of the Ohio police and fire pension fund shall be included in the employer's contribution rates provided by sections 742.33 and 742.34 of the Revised Code.

The board may provide for self-insurance of risk or level of risk as set forth in the contract with the companies,

corporations, or agencies, and may provide through the self-insurance method specific benefits as authorized by the rules of the board.

(B) Except as otherwise provided in this division, the board shall, beginning the month following receipt of satisfactory evidence of the payment for coverage, pay monthly to each recipient of service, disability, or survivor benefits under the Ohio police and fire pension fund who is eligible for coverage under part B of the medicare program established under Title XVIII of "The Social Security Amendments of 1965," 79 Stat. 301 (1965), 42 U.S.C.A. 1395j, as amended, an amount specified by the board or determined pursuant to a formula established by the board that is not less than ninety-six dollars and forty cents, for such coverage, except that the board shall not pay an amount that exceeds the amount paid by the recipient for the coverage.

The board shall pay not more than one monthly premium under this division to an eligible benefit recipient even if the recipient is receiving more than one monthly benefit from the fund. The board shall not pay a monthly premium under this division to an eligible benefit recipient who is receiving reimbursement for the premium from any other source.

(C) The board shall establish by rule requirements for the coordination of any coverage, payment, or benefit provided under this section with any similar coverage, payment, or benefit made available to the same individual by the public employees retirement system, state teachers retirement system, school employees retirement system, or state highway patrol retirement system.

~~(D) The board shall make all other necessary rules~~

~~pursuant to the purpose and intent of this section.~~

Sec. 742.451. The board of trustees of the Ohio police and fire pension fund may establish a program under which a member or a member's employer is permitted to make additional deposits for the purpose of providing funds for the payment of health, medical, hospital, surgical, dental, or vision care expenses, including insurance premiums, deductible amounts, or copayments. The program may be a voluntary employees' beneficiary association, as described in section 501(c)(9) of the Internal Revenue Code, 26 U.S.C. 501(c)(9), as amended; an account described in section 401(h) of the Internal Revenue Code, 26 U.S.C. 401(h), as amended; a medical savings account; or a similar type of program under which an individual may accumulate funds for the purpose of paying such expenses. To implement the program, the board may enter into agreements with insurance companies or other entities authorized to conduct business in this state.

~~If the board establishes a program under this section, it shall adopt rules to administer the program.~~

Sec. 901.50. (A) "Invasive plant species" means plant species that are not native to this state whose introduction causes or is likely to cause economic or environmental harm or harm to human health as determined by scientific studies. "Invasive plant species" does not include cultivated plants grown as food or livestock feed in accordance with generally accepted agricultural practices, including all plants authorized by the animal and plant health inspection service in the United States department of agriculture.

(B) Except as provided in division (C) of this section, the director of agriculture has sole and exclusive authority to

regulate invasive plant species in this state, including the identification of invasive plant species and establishment of prohibited activities regarding them. ~~The director may adopt rules in accordance with Chapter 119. of the Revised Code to administer this section.~~

(C) Nothing in this section precludes the director of environmental protection from continuing to consider the existence of invasive plant species when evaluating applications and permits for impacts to or mitigation and monitoring of wetlands that are subject to regulation under Chapter 6111. of the Revised Code and rules adopted under it, including using a list of invasive plant species compiled by that director. ~~However, upon the taking effect of any rules adopted by the director of agriculture under division (B) of this section, the director of environmental protection shall use the list of invasive plant species established in those rules when conducting the activities described in this division.~~

Sec. 901.61. (A) As used in this section:

(1) "Agricultural asset" means agricultural land, livestock, facilities, buildings, and machinery used for agricultural production in this state.

(2) "Agricultural land" means land that is composed of tracts, lots, or parcels totaling not less than ten acres devoted to agricultural production or totaling less than ten acres devoted to agricultural production if the land produces an average yearly gross income of at least two thousand five hundred dollars from agricultural production.

(3) "Agricultural production" has the same meaning as in section 929.01 of the Revised Code.

(4) "Beginning farmer" means an individual who has been certified as a beginning farmer by the director of agriculture or a participating land grant college under division (B) of this section or who has received a substantially equivalent certification from the United States department of agriculture. "Beginning farmer" does not include an individual who has previously been certified as a beginning farmer but no longer meets the criteria for certification.

(5) "Owner of agricultural assets" means a person that is the owner in fee of agricultural land or that has legal title to any other agricultural asset. An "owner of agricultural assets" does not include an equipment dealer or comparable entity engaged in the business of selling agricultural assets for profit.

(6) "Share rent agreement" means a rental agreement in which the principal consideration given to the owner of agricultural assets is a predetermined portion of the production of the agricultural products produced from the rented agricultural assets and which provides for sharing production costs or risk of loss.

(7) "Participating land grant college" or "college" means a state university, as defined in section 3345.011 of the Revised Code, that is designated a land grant college under the federal "Morrill Act of 1862," 7 U.S.C. 301 et seq., or the "Agricultural College Act of 1890," 7 U.S.C. 321 et seq., and that elects to participate in certifying individuals as beginning farmers under this section.

(B) For the purposes of the tax credit authorized in division (A) of section 5747.77 of the Revised Code, the director of agriculture and participating land grant colleges

shall certify individuals as beginning farmers. An individual may apply to the director or college for certification, and the director or college shall provide the certification if the director or college determines that the individual meets all of the requirements of this division. The certification is valid until the individual no longer meets all of the requirements of this division. To qualify, the individual must be a resident of this state and:

(1) Be seeking entry, or have entered within the last ten years, into farming;

(2) Farm, or intend to farm, land in this state;

(3) Not be a partner, member, shareholder, or trustee of the owner of the agricultural assets the individual is seeking to purchase or rent.

(4) Have a total net worth, including the assets and liabilities of the individual's spouse and dependents, of less than eight hundred thousand dollars in 2021 and an amount in subsequent years which is adjusted for inflation by multiplying that amount by the cumulative inflation rate as determined by the consumer price index (all items) prepared by the United States bureau of labor statistics.

(5) Provide the majority of the day-to-day physical labor for and management of the farm;

(6) Have adequate farming experience or demonstrate knowledge in the type of farming for which the individual seeks assistance;

(7) Submit projected earnings statements and demonstrate a profit potential;

(8) Demonstrate that farming will be a significant source of income for the individual;

(9) Participate in a financial management program approved under division (C) of this section;

(10) Meet any other requirements prescribed by the director.

(C) For the purposes of the tax credit authorized in division (B) of section 5747.77 of the Revised Code, the director of agriculture, in consultation with the participating land grant colleges, shall certify financial management programs that would qualify a beginning farmer for the credit authorized under that division. The director and colleges shall establish a procedure for certifying such programs and shall maintain a list of certified programs on the web site of the department of agriculture.

(D)(1) The owner of agricultural assets who sells agricultural assets to a beginning farmer during the calendar year or who rents agricultural assets to a beginning farmer during the calendar year or in either of the two preceding calendar years may apply to the director of agriculture, on forms prescribed by the director, for a tax credit under division (A) of section 5747.77 of the Revised Code, provided, in the case of a rental, the asset is rented at prevailing community rates, as determined under the rules adopted under division (G) of this section. The application shall identify or include all of the following:

(a) The name of the beginning farmer;

(b) The date the sale was made or the date the lease was entered into;

(c) If applying for the credit on the basis of the sale of an agricultural asset, the sale price of the asset;

(d) If applying for the credit on the basis of renting an agricultural asset:

(i) The duration of the lease;

(ii) Proof that the asset is rented at prevailing community rates;

(iii) The amount, in cash equivalent, of the gross rental income received during the taxable year for which the credit is sought;

(iv) Whether the asset is rented pursuant to a share rent agreement.

(2) The director shall approve an application received under this section if the director determines that the applicant is eligible for the credit and if awarding the credit would not cause the limit described in division (F) of this section to be exceeded. The director shall issue a tax credit certificate to an approved applicant listing the amount of the credit the applicant is authorized to claim under division (A) of section 5747.77 of the Revised Code, which shall equal three and ninety-nine one-hundredths per cent of one of the following:

(a) The sale price of the agricultural asset;

(b) The gross rental income received during the calendar year pursuant to a rental agreement, provided the agreement was entered into on or after the first day of the second preceding calendar year;

(c) The gross rental income received during the taxable year pursuant to a share rent agreement, provided the agreement

was entered into on or after the first day of the second preceding calendar year.

(E) A beginning farmer may apply to the director of agriculture, on forms prescribed by the director, for a tax credit under division (B) of section 5747.77 of the Revised Code equal to the cost the individual incurred during the calendar year for participating in a financial management program approved under division (C) of this section or a substantially equivalent financial management program approved by the United States department of agriculture. The application shall include all of the following:

(1) The name and address of the financial management program;

(2) The costs the individual incurs for participating in that program;

(3) The date or dates the individual participated in that program.

The director shall approve an application received under this section if the director determines that the applicant is eligible for the credit and if awarding the credit would not cause the limit described in division (F) of this section to be exceeded. The director shall issue a tax credit certificate to an approved applicant listing the amount of the credit the applicant is authorized to claim under division (B) of section 5747.77 of the Revised Code.

(F) The director may not issue more than ten million dollars in tax credit certificates under divisions (D) and (E) of this section. The director may not issue tax credit certificates under this section on or after the first day of

January of the sixth calendar year beginning after the effective date of this section.

(G) The director of agriculture, in consultation with the tax commissioner, may adopt ~~any rules necessary to administer this section, including~~ a rule prescribing the method for determining prevailing community rental rates.

Sec. 901.70. As used in sections 901.70 to 901.76 of the Revised Code:

(A) "Exhibition" means any of the following:

(1) A show or sale of livestock at a fair or elsewhere that is sponsored by or under the control of a county or independent agricultural society organized under section 1711.01 or 1711.02 of the Revised Code;

(2) A show or sale of livestock at the Ohio state fair;

(3) A livestock show at a fair or elsewhere or a livestock sale at or associated with a fair or livestock show that is assembled for any length of time;

(4) A livestock show at a fair or elsewhere or a livestock sale at or associated with a fair or livestock show that includes livestock with origins outside this state~~;~~

~~(5) Any show or sale of livestock at a fair or elsewhere that is specified by rule of the director of agriculture adopted under section 901.72 of the Revised Code~~.

(B) "Livestock" means any animal generally used for food or in the production of food, including cattle, sheep, goats, rabbits, poultry, swine, ~~and any other animal included by the director by rules adopted under section 901.72 of the Revised Code,~~ alpacas, and llamas.

(C) "Sponsor" means any of the following:

(1) A county or independent agricultural society organized under section 1711.01 or 1711.02 of the Revised Code;

(2) The Ohio state fair;

(3) Any other public or private entity sponsoring an exhibition.

Sec. 901.72. (A) The director of agriculture, in accordance with Chapter 119. of the Revised Code, may adopt rules ~~for the governance and administration of exhibitions, and~~ to provide for ~~related~~ food safety and the health, safety, and welfare of livestock related to exhibitions, and may adopt by reference rules adopted by other public or private agencies such as the Ohio farm animal care commission. Rules of the director may specify those grooming, commercial, or medical practices that are generally accepted within the community of persons exhibiting livestock and may specify false, deceptive, misleading, unethical, or unprofessional practices that constitute grounds for disciplinary action under section 901.74 of the Revised Code.

(B) Rules of the director that apply to exhibition-related food safety and the health, safety, and welfare of livestock shall apply to every exhibition operated within this state and to every sponsor. A sponsor may exempt itself from any other rules adopted by the director under this section that do not apply to food safety or the health, safety, or welfare of livestock, including, without limitation, rules for the governance and administration of exhibitions, by, not later than thirty days before the commencement of its exhibition, filing with the director, on a form prescribed and provided by the

director, a list of the rules that shall not apply to its exhibition.

(C) The director may provide mediation, dispute resolution, and arbitration services in any dispute involving an alleged violation of a rule adopted under division (A) of this section from which the sponsor could have exempted itself under division (B) of this section, but chose not to.

(D) Nothing in this section or in sections 901.73 or 901.74 of the Revised Code precludes any sponsor from doing any of the following:

(1) adopting rules or written policies for the governance and administration of its own exhibition, including, without limitation the adoption of any rule by reference to a rule adopted by other public or private agencies;

(2) Adopting rules or written policies providing for appeals regarding alleged violations of rules or written policies adopted by the sponsor;

(3) Taking any discliplinary action established in the rules or written policies adopted by the sponsor in connection with violations of the sponsor's rules or written policies for the governance and administration of its exhibition. Any such disciplinary action taken by a sponsor in regard to its own exhibition is in addition to any disciplinary action taken by the director under section 901.74 of the Revised Code.

(4) Establishing by rule or written policy criteria and procedures for the reinstatement of any person disqualified from participation in the sponsor's exhibition by a disciplinary action taken by the sponsor and for deciding requests for reinstatement submitted under those rules.

Sec. 903.10. The director of agriculture may adopt rules in accordance with Chapter 119. of the Revised Code that do all of the following:

(A) Establish all of the following concerning permits to install and permits to operate:

(1) A description of what constitutes a modification of a concentrated animal feeding facility;

(2) A description of what constitutes a major operational change at a concentrated animal feeding facility;

(3) The amount of the fee that must be submitted with each permit application and each application for a permit modification;

(4) Information that must be included in the designs and plans required to be submitted with an application for a permit to install and criteria for approving, disapproving, or requiring modification of the designs and plans;

(5) Information that must be included in a manure management plan required to be submitted with an application for a permit to operate;

(6) Information that must be included in an application for the modification of an installation permit, a permit to install, or a permit to operate;

(7) Information that must be included in an application for approval of a major operational change at a concentrated animal feeding facility;

(8) ~~Any additional information that must be included with a permit application;~~

~~(9)~~ Procedures for the issuance, denial, modification, transfer, suspension, and revocation of permits to install and permits to operate, including general permits;

~~(10)~~(9) Procedures for the approval or denial of an application for approval of a major operational change at a concentrated animal feeding facility;

~~(11)~~(10) Grounds for the denial, modification, suspension, or revocation of permits to install and permits to operate in addition to the grounds established in division (D) of section 903.02 and division (D) of section 903.03 of the Revised Code;

~~(12)~~(11) Grounds for the denial of an application for approval of a major operational change at a concentrated animal feeding facility;

~~(13)~~(12) A requirement that a person that is required to obtain both a permit to install and a permit to operate submit applications for those permits simultaneously;

~~(14)~~(13) A definition of "general permit to operate" that establishes categories of concentrated animal feeding facilities to be covered under such a permit and a definition of "individual permit to operate" together with the criteria for issuing a general permit to operate and the criteria for determining a person's eligibility to operate under a general permit to operate.

(B) Establish best management practices that minimize water pollution, odors, insects, and rodents, that govern the land application of manure that originated at a concentrated animal feeding facility, and that govern all of the following activities that occur at a concentrated animal feeding facility:

(1) Manure management, including the storage, handling,

transportation, and land application of manure. Rules adopted under division (B)(1) of this section shall include practices that prevent surface and ground water contamination caused by the storage of manure or the land application of manure and prevent the contamination of water in drainage tiles that may be caused by that application.

(2) Disposal of dead livestock;

(3) Production of biodiesel, biomass energy, electric or heat energy, and biologically derived methane gas as those terms are defined in section 5713.30 of the Revised Code~~;~~

~~(4) Any other activity that the director considers appropriate~~.

Best management practices established in rules adopted under division (B) of this section shall not conflict with best management practices established in rules that have been adopted under any other section of the Revised Code. The rules adopted under division (B) of this section shall establish guidelines that require owners or operators of concentrated animal feeding facilities to consult with and work with local officials, including boards of county commissioners and boards of township trustees, in addressing issues related to local government infrastructure needs and the financing of that infrastructure.

(C) Establish all of the following concerning insect and rodent control plans required under section 903.06 of the Revised Code:

(1) The information to be included in an insect and rodent control plan;

(2) Criteria for approving, disapproving, or requiring modification of an insect and rodent control plan;

(3) Criteria for determining compliance with or violation of an insect and rodent control plan;

(4) Procedures and standards for monitoring insect and rodent control plans;

(5) Procedures and standards for enforcing insect and rodent control plans at concentrated animal feeding facilities at which insects or rodents constitute a nuisance or adversely affect public health;

(6) The amount of civil penalties for violation of an insect and rodent control plan assessed by the director of agriculture under division (B) of section 903.16 of the Revised Code, provided that the rules adopted under division (C)(6) of this section shall not establish a civil penalty of more than ten thousand dollars for a violation involving a concentrated animal feeding facility that is not a major concentrated animal feeding facility and shall not establish a civil penalty of more than twenty-five thousand dollars for a violation involving a major concentrated animal feeding facility;

(7) The time period within which the director must approve or deny an insect and rodent control plan after receiving it~~;~~

~~(8) Any other provisions necessary to administer and enforce section 903.12 of the Revised Code~~.

(D) Establish all of the following concerning livestock manager certifications required under section 903.07 of the Revised Code:

(1) The information to be included in an application for a livestock manager certification and the amount of the application fee;

(2) The content of the training required to be completed and of the examination required to be passed by an applicant for a livestock manager certification. The training shall include and the examination shall test the applicant's knowledge of information on topics that include calculating nutrient values in manure, devising and implementing a plan for the land application of manure, removing manure held in a manure storage or treatment facility, and following best management practices established in rules for disposal of dead animals and manure management, including practices that control odor and protect the environment. The director may specify other types of recognized training programs that, if completed, are considered to satisfy the training and examination requirement.

(3) Criteria and procedures for the issuance, denial, suspension, revocation, or reinstatement of a livestock manager certification;

(4) The length of time during which livestock manager certifications will be valid and procedures for their renewal;

(5) The volume of manure that must be transported and land applied annually or the volume of manure that must be bought, sold, or land applied annually by a person in order for the person to be required to obtain a livestock manager certification under division (A)(2) of section 903.07 of the Revised Code;

(6) Requirements governing the management and handling of manure, including the land application of manure;

(7) Requirements governing the keeping of records regarding the handling of manure, including the land application of manure~~;~~

~~(8) Any other provisions necessary to administer and enforce section 903.07 of the Revised Code~~.

(E) Establish all of the following concerning NPDES permits:

(1) The designation of concentrated animal feeding operations that are subject to NPDES permit requirements under section 903.08 of the Revised Code;

(2) Effluent limitations governing discharges into waters of the state that are authorized by permits;

(3) Variances from effluent limitations and other permit requirements to the extent that the variances are consistent with the Federal Water Pollution Control Act;

(4) Terms and conditions to be included in a permit, including, as applicable, best management practices; installation of discharge or water quality monitoring methods or equipment; creation and retention of records; submission of periodic reports; schedules of compliance; net volume, net weight, and, where necessary, concentration and mass loading limits of manure that may be discharged into waters of the state; and authorized duration and frequency of any discharges into waters of the state;

(5) Procedures for the submission of applications for permits and notices of intent to be covered by general permits, including information that must be included in the applications and notices;

(6) The amount of the fee that must be submitted with an application for a permit;

(7) Procedures for processing permit applications,

including public notice and participation requirements;

(8) Procedures for notifying the United States environmental protection agency of the submission of permit applications, the director's action on those applications, and any other reasonable and relevant information;

(9) Procedures for notifying and receiving and responding to recommendations from other states whose waters may be affected by the issuance of a permit;

(10) Procedures for the transfer of permits to new owners or operators;

(11) Grounds and procedures for the issuance, denial, modification, suspension, or revocation of permits, including general permits;

(12) A definition of "general NPDES permit" that establishes categories of point sources to be covered under such a permit and a definition of "individual NPDES permit" together with the criteria for issuing a general NPDES permit and the criteria for determining a person's eligibility to discharge under a general NPDES permit.

The rules adopted under division (E) of this section shall be consistent with the requirements of the Federal Water Pollution Control Act.

(F) Establish public notice and participation requirements, in addition to the procedures established in rules adopted under division (E)(7) of this section, for the issuance, denial, modification, transfer, suspension, and revocation of permits to install, permits to operate, and NPDES permits consistent with section 903.09 of the Revised Code, including a definition of what constitutes significant public interest for

the purposes of divisions (A) and (F) of section 903.09 of the Revised Code and procedures for public meetings. The rules shall require that information that is presented at such a public meeting be limited to the criteria that are applicable to the permit application that is the subject of the public meeting.

(G) Establish the amount of civil penalties assessed by the director of agriculture under division (B) of section 903.16 of the Revised Code for violation of the terms and conditions of a permit to install or permit to operate, provided that the rules adopted under this division shall not establish a civil penalty of more than ten thousand dollars per day for each violation;

(H) Establish procedures for the protection of trade secrets from public disclosure. The procedures shall authorize the release of trade secrets to officers, employees, or authorized representatives of the state, another state, or the United States when necessary for an enforcement action brought under this chapter or when otherwise required by the Federal Water Pollution Control Act. The rules shall require at least ten days' written notice to the person to whom a trade secret applies prior to the release of the trade secret. Rules adopted under this division do not apply to any information that is contained in applications, including attachments, for NPDES permits and that is required to be submitted under section 903.08 of the Revised Code or rules adopted under division (E) of this section.

~~(I) Establish any other provisions necessary to administer and enforce this chapter.~~

Sec. 903.16. (A) The director of agriculture may propose to require corrective actions and assess a civil penalty against

an owner or operator of a concentrated animal feeding facility if the director or the director's authorized representative determines that the owner or operator is not in compliance with section 903.02 or 903.03 or division (A) of section 903.07 of the Revised Code, the terms and conditions of a permit to install or permit to operate issued for the concentrated animal feeding facility, including the requirements established under division (C) of section 903.06 of the Revised Code, or rules adopted under division (A), (B), (C), or (D)~~, or (I)~~ of section 903.10 of the Revised Code. However, the director may impose a civil penalty only if all of the following occur:

(1) The owner or operator is notified in writing of the deficiencies resulting in noncompliance, the actions that the owner or operator must take to correct the deficiencies, and the time period within which the owner or operator must correct the deficiencies and attain compliance.

(2) After the time period specified in the notice has elapsed, the director or the director's duly authorized representative has inspected the concentrated animal feeding facility, determined that the owner or operator is still not in compliance, and issued a notice of an adjudication hearing.

(3) The director affords the owner or operator an opportunity for an adjudication hearing under Chapter 119. of the Revised Code to challenge the director's determination that the owner or operator is not in compliance or the imposition of the civil penalty, or both. However, the owner or operator may waive the right to an adjudication hearing.

(B) If the opportunity for an adjudication hearing is waived or if, after an adjudication hearing, the director determines that a violation has occurred or is occurring, the

director may issue an order requiring compliance and assess the civil penalty. The order and the assessment of the civil penalty may be appealed in accordance with section 119.12 of the Revised Code.

Civil penalties shall be assessed under this division as follows:

(1) A person who has violated section 903.02 or 903.03 of the Revised Code, the terms and conditions of a permit to install or permit to operate, or rules adopted under division (A), (B), (C), or (D)~~, or (I)~~ of section 903.10 of the Revised Code shall pay a civil penalty in an amount established in rules unless the violation is of the requirements established under division (C) of section 903.06 or division (A) of section 903.07 of the Revised Code.

(2) A person who has violated the requirements established under division (C) of section 903.06 of the Revised Code shall pay a civil penalty in an amount established in rules for each violation. Each seven-day period during which a violation continues constitutes a separate violation.

(3) A person who has violated the requirements established under division (A) of section 903.07 of the Revised Code shall pay a civil penalty of not more than ten thousand dollars for each violation. Each thirty-day period during which a violation continues constitutes a separate violation.

(C) The attorney general, upon the written request of the director, shall bring an action for an injunction in any court of competent jurisdiction against any person violating or threatening to violate section 903.02 or 903.03 or division (A) of section 903.07 of the Revised Code; the terms and conditions

of a permit to install or permit to operate, including the requirements established under division (C) of section 903.06 of the Revised Code; rules adopted under division (A), (B), (C), or (D)~~, or (I)~~ of section 903.10 of the Revised Code; or an order issued under division (B) of this section or division (B) of section 903.07 of the Revised Code.

(D)(1) In lieu of seeking civil penalties under division (A) of this section, the director may request the attorney general, in writing, to bring an action for a civil penalty in a court of competent jurisdiction against any person that has violated or is violating division (A) of section 903.07 of the Revised Code or the terms and conditions of a permit to install or permit to operate, including the requirements established under division (C) of section 903.06 of the Revised Code.

(2) The director may request the attorney general, in writing, to bring an action for a civil penalty in a court of competent jurisdiction against any person that has violated or is violating section 903.02 or 903.03 of the Revised Code, rules adopted under division (A), (B), (C), or (D)~~, or (I)~~ of section 903.10 of the Revised Code, or an order issued under division (B) of this section or division (B) of section 903.07 of the Revised Code.

(3) A person who has committed a violation for which the attorney general may bring an action for a civil penalty under division (D)(1) or (2) of this section shall pay a civil penalty of not more than ten thousand dollars per violation. Each day that a violation continues constitutes a separate violation.

(E) In addition to any other penalties imposed under this section, the director may impose an administrative penalty against an owner or operator of a concentrated animal feeding

facility if the director or the director's authorized representative determines that the owner or operator is not in compliance with best management practices that are established in rules adopted under division (B) or (C) of section 903.10 of the Revised Code or in the permit to install or permit to operate issued for the facility. The administrative penalty shall not exceed five thousand dollars.

The director shall afford the owner or operator an opportunity for an adjudication hearing under Chapter 119. of the Revised Code to challenge the director's determination under this division, the director's imposition of an administrative penalty under this division, or both. The director's determination and the imposition of the administrative penalty may be appealed in accordance with section 119.12 of the Revised Code.

Sec. 904.03. (A) The Ohio livestock care standards board shall adopt rules in accordance with Chapter 119. of the Revised Code governing the care and well-being of livestock in this state. In adopting those rules, the board shall consider the following factors:

(1) Best management practices for the care and well-being of livestock;

(2) Biosecurity;

(3) The prevention of disease;

(4) Animal morbidity and mortality data;

(5) Food safety practices;

(6) The protection of local, affordable food supplies for consumers;

(7) Generally accepted veterinary medical practices, livestock practice standards, and ethical standards established by the American veterinary medical association~~;~~

~~(8) Any other factors that the board considers necessary for the proper care and well-being of livestock in this state~~.

With regard to organic producers that are certified by the United States department of agriculture under the national organic program, if there is a conflict between the rules adopted under this section and the standards established by the United States department of agriculture under the national organic program, the standards established under the national organic program shall prevail.

(B) The board shall adopt rules in accordance with Chapter 119. of the Revised Code that establish the amount of civil penalties to be assessed against persons who violate the rules adopted under division (A) of this section.

(C) The rules adopted under this section do not apply to animals that are used in agricultural, biological, or biomedical research or confined in research or medical facilities that operate in accordance with "The Guide for the Care and Use of Agricultural Animals in Research and Teaching" published by the federation of animal science societies or "The Guide for the Care and Use of Laboratory Animals" published by the national academy of sciences.

Sec. 905.01. As used in sections 905.01 to 905.11 of the Revised Code:

(A) "Distributor" means a person who offers for sale, sells, trades, or supplies an agricultural additive.

(B) "Manufacturer" means a person who mines, extracts,

processes, refines, blends, or mixes an agricultural additive.

(C) "Registrant" means the manufacturer who registers an agricultural additive under sections 905.01 to 905.11 of the Revised Code.

(D) "Agricultural additive" means any substance or mixture that is intended to improve for agricultural production purposes the physical, chemical, or biological characteristics of soil or other growth medium or to improve otherwise crop production, plant growth, product quality, or yield prior to harvest, but excludes fertilizers, agricultural liming materials, pesticides, fertilizer pesticide mixtures, rhizobial inoculants, peat, peat moss, pine bark, gypsum, perlite, sand, unmanipulated animal or vegetable manures, and mulches~~, and any other substances or mixtures that are excluded from this definition by rule of the director of agriculture~~.

(E) "Active ingredient" means any ingredient from which an agricultural additive derives all or part of its value or effectiveness and that is defined in the current edition of Merck's Chemical Index or recorded in Chemical Abstracts.

(F) "Inert ingredient" means an ingredient that is not active.

Sec. 905.07. The director of agriculture or ~~his~~the director's duly authorized representative may enter any property, public or private, in order to make inspections to determine whether or not there is compliance with sections 905.01 to 905.11 of the Revised Code or if any agricultural additive is useful for agricultural production in this state. If refused entry, ~~he~~the director or the director's authorized representative may apply for and the court of common pleas may

issue an appropriate warrant.

The director may suspend or revoke the registration of an agricultural additive ~~if he finds~~after finding that the additive does not produce the results or effects shown on its label or that the distributor or manufacturer has violated any provision of sections 905.01 to 905.11 of the Revised Code~~ or any rule adopted thereunder~~. Before ~~he suspends~~suspending or ~~revokes~~revoking the registration of an agricultural additive, ~~he~~the director shall afford the registrant the opportunity of an adjudication hearing in accordance with Chapter 119. of the Revised Code. However, ~~he~~the director may suspend the registration before such a hearing if ~~he~~the director believes that the use of the additive in this state endangers the public health or safety or constitutes an imminent and substantial threat to agricultural production or the public welfare.

Sec. 905.51. As used in sections 905.51 to 905.65 of the Revised Code:

(A) "Liming material" means all materials, the calcium and magnesium content of which is used to neutralize soil acidity, and includes the oxide, hydrate, carbonate, and silicate forms~~, as defined by rule,~~ or combinations of those forms. "Liming material" includes materials such as the following:

(1) Limestone;

(2) Hydrated lime;

(3) Burnt lime;

(4) Industrial by-product;

(5) Marl and shell.

(B) "Bulk" means in a nonpackaged form.

(C) "Label" means any written or printed matter on the package, or tag attached thereto.

(D) "Manufacture" means to process, crush, grind, pelletize, or blend.

(E) "Person" means any partnership, association, firm, or corporation, company, society, individual or combination of individuals, institution, park, or public agency administered by the state or any subdivision of the state.

(F) "Product name" means a coined or specific designation applied to an individual liming material.

(G) "Sale" means an exchange or offer to exchange ownership, or a transfer or offer to transfer custody.

(H) "Ton" means a net weight of two thousand pounds.

(I) "Metric ton" means a measure of weight equal to one thousand kilograms.

(J) "Pelletized lime" means a finely ground limestone product or manufactured material that is held together in a granulated form by a water soluble binding agent and that is capable of neutralizing soil acidity.

(K) "Water treatment lime sludge" means lime sludge generated during the process of treating water supplies having levels of heavy metals at or below the levels permitted in standards adopted by the director of environmental protection governing the land application of lime sludge so generated.

(L) "Distribute" means to offer for sale, sell, barter, or otherwise supply liming material in this state.

(M) "Official sample" means any sample of liming material

taken and designated as "official" by the director of agriculture or the director's designee.

(N) "Effective neutralizing power" means the neutralizing value of liming material based on the total neutralizing power and fineness that is expressed as a dry weight percentage.

(O) "Fineness index" means the percentage by weight of a liming material that will pass designated sieves, calculated to account for particle size distribution by adding the amounts arrived at under divisions (O)(1), (2), and (3) of this section as follows:

(1) Two-tenths multiplied by the percentage of material passing a number eight United States standard sieve minus the percentage of material passing a number twenty United States standard sieve.

(2) Six-tenths multiplied by the percentage of material passing a number twenty United States standard sieve minus the percentage of material passing a number sixty United States standard sieve.

(3) One multiplied by the percentage of material passing a number sixty United States standard sieve.

Sec. 905.59. (A) The director of agriculture may inspect, sample, and analyze any liming material utilized within the state to such extent as the director considers necessary to determine whether the liming material is in compliance with sections 905.51 to 905.65 of the Revised Code~~, and the rules adopted under such sections~~. The director may enter into an agreement with a person that is not a department of agriculture employee that authorizes that person to perform the inspections, sampling, and analysis of liming material. If the director

enters into an agreement, the director shall annually audit the records relating to the inspections, sampling, and analysis performed by the person.

(B) The director or a person who has entered into an agreement with the director under division (A) of this section may enter upon any public or private premises or means of conveyance at any reasonable time to have access to liming material subject to sections 905.51 to 905.65 of the Revised Code~~, and the rules adopted under such sections~~.

(C) The methods of sampling and analysis of liming materials shall be those adopted by the association of official analytical chemists or as prescribed by the director.

(D) The results of the official analysis of any sample of liming material that is found to be in violation of sections 905.51 to 905.65 of the Revised Code, or any regulation adopted under such sections, shall be forwarded to the licensee. A licensee may request a portion of any such sample if the request is made not more than thirty days after the date of the analysis report.

(E) Analytical tolerances shall be governed by rules adopted by the director, subject to Chapter 119. of the Revised Code.

Sec. 905.63. (A) The director of agriculture may order the owner or custodian of any lot of liming material to hold it at a designated place when the director has found the liming material to have been offered or exposed for sale in violation of sections 905.51 to 905.65 of the Revised Code~~ or any rule adopted thereunder~~.

(B) Such liming material shall be held until the director

releases it in writing. A release shall not be issued until sections 905.51 to 905.65 of the Revised Code ~~and the rules adopted under those sections~~ are complied with and until all expenses incurred by the department of agriculture in connection with the violation have been paid by the manufacturer, seller, or distributor.

Sec. 905.64. Any lot of liming material not in compliance with sections 905.51 to 905.65 of the Revised Code~~, or any rules adopted under those sections,~~ is subject to seizure on the complaint of the director of agriculture to a court of competent jurisdiction in the county in which the liming material is located. If the court finds that the liming material is in violation of sections 905.51 to 905.65 of the Revised Code ~~or any rule adopted under those sections~~, it shall order the condemnation of the liming material. The court shall not order the condemnation of the liming material without first giving the manufacturer, seller, or distributor an opportunity to reprocess or relabel the liming material to bring it into compliance with sections 905.51 to 905.65 of the Revised Code ~~and the rules adopted under those sections~~.

Sec. 907.10. The director of agriculture shall do all of the following:

(A) Sample, inspect, analyze, and test agricultural, vegetable, and flower seed sold for sowing purposes, at such times and places and to such extent as the director regards necessary to determine whether the seed complies with sections 907.01 to 907.17 of the Revised Code and notify promptly the person who sold the seed of any violation;

(B) Adopt rules in accordance with Chapter 119. of the Revised Code that do all of the following:

(1) Govern the methods of sampling, inspecting, analyzing, testing, and examining agricultural, vegetable, and flower seed and the tolerances to be followed. The rules shall be in general accord with officially prescribed practice in interstate commerce applied in analyzing and testing the seed.

(2) Establish prohibited and restricted noxious-weed seed lists and provide for additions to them and deletions from them;

(3) Establish standards for items including, but not limited to, germination and purity for vegetable seed and flower seed;

(4) Adopt any labeling requirements additional to those of section 907.03 of the Revised Code that may be necessary to maintain the identification of seed in hermetically sealed packages or containers;

(5) Establish the species of native grass that are to be included in the definition of "native grass" for purposes of sections 907.01 to 907.17 of the Revised Code;

(6) Identify native grass seed that characteristically exhibits high inert matter;

(7) Establish the tolerance for agricultural, vegetable, and flower seed that is sold in this state;

(8) Establish the information that an applicant must provide on an application for a seed labeler permit that is filed under section 907.13 of the Revised Code~~;~~

~~(9) Establish any other provisions that are necessary to clarify or administer the labeling requirements established in sections 907.01 to 907.17 of the Revised Code~~.

(C) Establish and maintain seed testing facilities or

enter into agreements under which other persons are responsible for performing seed testing, employ qualified persons, and incur expenses that are necessary to comply with this section and section 907.11 of the Revised Code;

(D) Provide for making purity analyses and germination tests of seeds for any person in this state;

(E) Regulate the number of samples that may be analyzed or tests that may be made for any person free of charge;

(F) Prescribe the period of time during the year when analyses and tests will be made free of charge;

(G) Establish a schedule of fees for making analyses and tests;

(H) Cooperate with the United States department of agriculture in enforcing federal seed laws.

Sec. 907.43. The director of agriculture, subject to sections 119.01 to 119.13, inclusive, of the Revised Code, shall promulgate rules and regulations establishing standards or specifications or both for the coloring or dyeing of grain, and seed treatment materials~~, and adopt and enforce such other rules or regulations as he may deem necessary to carry into effect sections 907.41 to 907.47, inclusive, of the Revised Code~~.

Sec. 909.03. ~~The director of agriculture may make and enforce such rules and orders as in his judgment are necessary to control, eradicate, or prevent the introduction, spread, or dissemination of any bee diseases or Africanized honey bees. No person shall fail to comply with the rules adopted under this section.~~

In the control or eradication of serious bee diseases, the

director or ~~his~~the director's authorized representative shall diagnose the disease and recommend approved control options for it to the beekeeper. If a control is available to the beekeeper for the disease diagnosed but no attempt is made to implement a control within an appropriate time frame as determined by ~~rule~~the director, the director may destroy by burning or otherwise any diseased bees, hives, honey, Africanized honey bees, or equipment that ~~he~~the director considers necessary for such control or eradication, without remuneration to the owner. Such diseased bees, hives, honey, Africanized honey bees, and equipment are a public nuisance.

Sec. 909.04. Under sections 909.01 to 909.18 of the Revised Code, the director of agriculture may establish and maintain quarantine orders prohibiting the shipment into or within the state, or any subdivision thereof, of any bees, queen bees, used hives or any part thereof, used equipment, or any material capable of transmitting any bee diseases, or Africanized honey bees for such periods and under such conditions as ~~he~~the director considers necessary to control, eradicate, or prevent the introduction, spread, or dissemination of any bee diseases or Africanized honey bees, giving such notice thereof as is prescribed by ~~him~~the director. During the existence of such order, no person shall remove or ship from such area any such material except by special permission or order of the director; provided that before the director promulgates the order of quarantine as provided in this section, and after due notice to interested persons, ~~he~~the director shall give a public hearing ~~under such rules as he prescribes,~~ at which hearing any interested person may appear and be heard, either in person or by attorney.

Sec. 909.10. (A) No person shall ship or move bee colonies

or any used beekeeping equipment into this state from any other state or country without an inspection certificate issued by an authorized inspector from the state or country wherein shipment or movement originated. The certificate shall identify all pathogens and parasites diagnosed and any controls that were implemented.

In the absence of inspection facilities in another state or country, the director of agriculture may issue a permit authorizing the shipment or movement of the bee colonies or used beekeeping equipment into this state, provided that upon entry the bees or equipment is inspected by the department of agriculture. The cost of the inspection shall be paid upon completion ~~in an amount determined by rule of the director~~. The inspection fees shall be paid to the director and deposited by the director with the treasurer of state to the credit of the plant pest program fund created in section 927.54 of the Revised Code.

If any serious bee diseases are diagnosed, appropriate controls and eradication measures immediately shall be implemented by the person shipping or owning the bee colonies or used beekeeping equipment. If the person shipping or owning the bee colonies or equipment does not implement any controls or eradication measures within forty-eight hours from the inspection, the bee colonies or equipment shall be removed from this state at the cost of the person shipping or owning them.

(B) Any person selling, shipping, or moving into this state any queen bees or packaged bees shall submit to the director an inspection report issued by an authorized inspector from the state or country wherein shipment or movement originated. One such report shall be submitted annually thirty

days prior to the initial sale, shipment, or movement of queen bees or packaged bees of that year. The report shall identify any pathogens and parasites diagnosed and any controls that were implemented. If any serious bee diseases have not been controlled or if inspection reports are not provided as required under this section, such shipments shall be prohibited from entering this state.

(C) The director may deny entry of the bee colonies or used equipment if the director determines they are a threat to the bee population of this state.

(D) No person shall ship or move into this state any Africanized honey bees.

Sec. 909.13. The director of agriculture, in accordance with sections 119.01 to 119.13 of the Revised Code, may suspend or revoke any registration, certificate, or permit issued under this chapter, or a compliance agreement entered into under this chapter, for cause, including any violation of this chapter or nonconformity with any ~~rule or~~ order ~~promulgated~~ issued under this chapter. There shall be no revocation of a compliance agreement, registration, certificate, or permit until the compliance agreement holder, registrant, or certificate or permit holder first is given an opportunity for a hearing by the director in regard thereto in accordance with sections 119.01 to 119.13 of the Revised Code. An appeal may be taken from the action of the director in revocation of a compliance agreement, registration, certificate, or permit to the court of common pleas as provided in section 119.12 of the Revised Code.

Sec. 909.14. The director of agriculture may publish an annual report and such other information concerning the inspection of bees, or bee diseases, as ~~he~~the director deems

necessary to the carrying out of sections 909.01 to 909.18, inclusive, of the Revised Code. ~~He~~The director shall, from time to time, publish all ~~rules or~~ orders ~~promulgated~~ issued under such section.

Sec. 909.18. No person shall violate sections 909.01 to 909.18, inclusive, of the Revised Code, or any ~~rule or~~ order of the director of agriculture ~~promulgated~~ issued under such sections in accordance with sections 119.01 to 119.13, inclusive, of the Revised Code.

Sec. 909.99. (A)(1) Whoever violates ~~sections 909.03 and~~ section 909.10 of the Revised Code is guilty of a misdemeanor of the third degree on a first offense; on each subsequent offense, the person is guilty of a misdemeanor of the second degree.

(2) Any person who violates division (D) of section 909.10 of the Revised Code also shall not be remunerated for the eradication of ~~his~~the person's Africanized honey bees.

(B) Whoever violates any section of Chapter 909. of the Revised Code for which no penalty otherwise is provided is guilty of a misdemeanor of the fourth degree on a first offense; on each subsequent offense, the person is guilty of a misdemeanor of the third degree.

Sec. 911.06. The director of agriculture may, by rule, establish such exemptions as may be necessary to facilitate the sale of any accumulated or unsold stocks of wholesome bakery products~~, and may establish exemptions in other cases not inconsistent with sections 911.01 to 911.20, inclusive, of the Revised Code~~.

Sec. 911.19. ~~The~~ For purposes of section 911.18 of the Revised Code, the director of agriculture shall ~~prescribe such~~

~~rules and regulations as are necessary to enforce section 911.18 of the Revised Code, including~~ adopt rules establishing reasonable tolerances or variations within which all weights shall be kept. The tolerances or variations shall not exceed one ounce per pound under the standard unit for single loaves. The tolerance permitted in the weighing of twenty-five or more loaves shall not exceed one-half ounce per pound. The director, and under ~~his~~the direction of the director, the local sealers of weights and measures, shall enforce this section. Before any prosecution is begun under this section, the parties against whom the complaint is made shall be notified and be given an opportunity to be heard by the director.

Sec. 911.34. (A) The director of agriculture shall enforce sections 911.31 to 911.35, inclusive, of the Revised Code, and shall make, amend, or rescind ~~rules, regulations, and~~ orders for the efficient enforcement of such sections.

(B) Whenever the vitamin and mineral requirements of such sections no longer conform with the legally established standards governing the interstate shipment of enriched flour and enriched white bread or enriched rolls, the director, in order to maintain uniformity between intrastate and interstate vitamin and mineral requirements for the foods within such sections, shall modify or revise such requirements to conform with amended standards governing interstate shipments. The director shall report any revisions in vitamin and mineral requirements to the legislature.

(C) If the director finds there is an existing or imminent shortage of any ingredient required by sections 911.31 to 911.35, inclusive, of the Revised Code, and that because of such shortage the sale and distribution of flour, white bread, or

rolls may be impeded by the enforcement of such sections, ~~he~~the director shall issue an order, to be effective immediately, permitting the omission of such ingredient from flour, white bread, or rolls; if it is necessary or appropriate, ~~he~~the director may except such foods from labeling requirements until the further order of the director. Any such findings may be made without a hearing, on the basis of an order or of factual information supplied by the appropriate federal agency or officer. In the absence of any such order of the appropriate federal agency or factual information supplied by it, the director on ~~his~~the director's own motion may, and upon receiving the sworn statements of ten or more persons subject to such sections that such persons believe such a shortage exists or is imminent, the director shall, within twenty days, hold a public hearing with respect to such shortage at which hearing any interested person may present evidence. The director shall make findings based upon the evidence presented. The director shall publish notice of any such hearing at least ten days prior to the hearing.

If the director believes that such shortage no longer exists, ~~he~~the director shall hold a public hearing, after at least ten days' notice has been given, at which any interested person may present evidence, and the director shall make findings based upon the evidence so presented. ~~If he finds~~After finding that such shortage no longer exists, ~~he~~the director shall issue an order to become effective not less than thirty days after publication of such order, revoking the previous order. Undisposed floor stocks of flour on hand at the effective date of such revocation order, or flour manufactured prior to such effective date, for sale in this state, may be sold or disposed of after such effective date.

(D) All orders~~, rules, and regulations adopted~~ issued by the director under sections 911.31 to 911.35~~, inclusive,~~ of the Revised Code, shall be published in the manner prescribed in division (E) of this section, and, within the limits specified by such sections, shall become effective upon the date fixed by the director.

(E) Whenever publication of any notice~~,~~ or order~~, rule, or regulation~~ is required by such sections, such publication shall be made at least three times in at least one daily newspaper of general circulation printed and published in this state.

(F) The director, or such officers or employees ~~under his supervision~~of the department of agriculture as ~~he~~the director designates, may take samples for analysis and conduct examinations and investigations, and enter, at reasonable times, any factory, mill, bakery, warehouse, shop, or establishment where flour, white bread, or rolls are manufactured, processed, packed, sold, or held, or any vehicle being used for the transportation of such products, and inspect any such place or vehicle, any flour, white bread, or rolls in such place or vehicle, and all pertinent equipment, materials, containers, and labeling.

Sec. 913.28. The director of agriculture shall enforce sections 913.01 to 913.05 and 913.22 to 913.26 of the Revised Code~~, and the director shall adopt rules as the director considers necessary for the administration and enforcement of such sections~~.

Sec. 913.99. (A) Whoever violates sections 913.01 to 913.05 of the Revised Code is guilty of a misdemeanor of the first degree.

(B) Whoever violates sections 913.22 to ~~913.28~~ 913.27 of the Revised Code shall be fined not more than one hundred dollars for a first offense; for a subsequent offense such person shall be fined not more than one hundred dollars or imprisoned not more than ninety days, or both; for a third offense such person's license shall be revoked.

(C) Whoever violates section 913.41 of the Revised Code shall be fined not less than fifty nor more than two hundred dollars for a first offense; for each subsequent offense such person shall be fined not less than one hundred nor more than three hundred dollars or imprisoned not less than thirty nor more than one hundred days, or both.

Sec. 915.12. The director of agriculture shall enforce sections 915.01 to 915.12, inclusive, of the Revised Code~~, and shall make all rules and regulations necessary for the enforcement of such sections~~.

Sec. 915.16. The license fee for an establishment is two hundred dollars. Any operator operating in connection with a cold-storage warehouse holding a license under section 915.02 of the Revised Code is not required to secure an additional license under section 915.15 of the Revised Code so long as the operator continues to be licensed as a cold-storage warehouse; but the operator shall comply with sections 915.14 to 915.24 of the Revised Code~~, and all rules and regulations promulgated thereunder~~. The license issued shall be in such form as the department of agriculture prescribes. Licenses shall be valid until the last day of November following initial issuance or renewal and shall become invalid on that date unless renewed. The original license or a certified copy thereof shall be conspicuously displayed by the operator in the establishment.

Sec. 915.17. Upon receipt of the application for a license accompanied by the required fee, the department of agriculture shall inspect the establishment to be licensed and if it finds that such establishment, its equipment, facilities, surrounding premises, and operations comply with sections 915.14 to 915.24 of the Revised Code ~~and the applicable rules adopted thereunder~~, and that the establishment is being operated under proper sanitary conditions and in conformity with sanitary regulations adopted by the director of agriculture under authority of section 3715.02 of the Revised Code, the department shall issue such license. The persons designated by the department to make such inspection shall be persons having practical knowledge of the operation of cold-storage plants and establishments and the storage of food therein, and shall be thoroughly familiar with such sections ~~and the applicable rules of the department~~. The department shall inspect all licensed establishments at least once each six months and may make such additional inspections as the department deems necessary. The director and ~~his~~the director's representatives shall have access to establishments at all reasonable times for the purpose of making such inspections.

Sec. 915.23. The department of agriculture, after notice and hearing, held in accordance with the provisions of sections 119.01 to 119.13, inclusive, of the Revised Code may refuse to issue or may revoke the license for any establishment, or the authority for any establishment to operate as such by virtue of holding a cold-storage warehouse license under sections 915.02 of the Revised Code, for failure to comply with sections 915.14 to 915.24, inclusive, of the Revised Code~~, or any rule or regulation of the department~~. Before refusing to issue or revoking any license the department shall send the licensee

notice of such hearing by registered or certified mail not less than ten days before the hearing and shall afford such licensee an opportunity to be heard in person or by attorney with respect thereto at a time and place specified in such notice.

In event any license is revoked, the department may permit the continued operation of the establishment involved upon such conditions or under such supervision as the department may prescribe for a period of not to exceed six months, in order to enable patrons to remove any food stored therein, but during such period no additional food shall be received or stored in such establishment.

Sec. 918.04. The director of agriculture shall, in accordance with Chapter 119. of the Revised Code, adopt and enforce rules ~~that are necessary to administer~~ for purposes of sections 918.01 to 918.11 of the Revised Code~~. The rules shall~~ that meet ~~or exceed~~ the federal standards for meat inspection established in Title 9 of the Code of Federal Regulations.

Sec. 918.12. (A) An establishment, as defined in section 918.01 of the Revised Code, that slaughters or otherwise prepares meat of bison, cervidea, other bovidea, camelidae and hybrids thereof, ratites, domestic rabbits, monitored captive deer, captive deer with status, or captive deer with certified chronic wasting disease status as defined in section 943.01 of the Revised Code, domestic deer as defined in section 1531.01 of the Revised Code, or other animals determined by the director of agriculture by rule for human food purposes may receive voluntary state inspection, as defined in division (B) of section 918.01 of the Revised Code, if the establishment complies with sections 918.01 to 918.11 of the Revised Code and the rules adopted under those sections for establishments that

slaughter or otherwise prepare for food purposes other animals and if the establishment complies with division (C) of this section.

(B) The owner of an establishment, as defined in section 918.21 of the Revised Code, who slaughters or otherwise prepares the meat of pheasant, quail, partridge, peafowl, grouse, captive raised wild turkey, captive raised waterfowl, or other poultry determined by the director by rule may receive voluntary state inspection as defined in division (I) of section 918.21 of the Revised Code and the rules adopted under those sections for establishments that slaughter or otherwise prepare for food purposes other poultry and if the establishment complies with division (C) of this section and sections 918.21 to 918.28 of the Revised Code.

(C) An establishment that receives voluntary state inspection under division (A) or (B) of this section shall pay the costs of the inspection at a rate and under terms as established by rule of the director of agriculture adopted in accordance with ~~section 918.04~~ Chapter 119. of the Revised Code.

Sec. 918.25. The director of agriculture shall, in accordance with Chapter 119. of the Revised Code, adopt and enforce rules ~~as necessary for the implementation, administration, and enforcement~~ for purposes of sections 918.21 to 918.31 of the Revised Code~~. The rules shall~~ that meet ~~or exceed~~ the federal standards for meat inspection established in Title 9 of the Code of Federal Regulations~~. The rules adopted under this section shall~~ and that provide for the protection of the public health, safety, and welfare and for maximum coordination and cooperation between state and federal programs for regulation of poultry and poultry products, and may include

the following:

(A) Exemption of certain products as "poultry products" under the definition in section 918.21 of the Revised Code;

(B) Provision for the retention, identification, and disposal of condemned poultry and poultry products and for the identification of approved products;

(C) Sanitary requirements for premises, facilities, and equipment, for the operation thereof, and for the storage and handling of poultry and poultry products in establishments licensed under section 918.28 of the Revised Code. The rules pertaining to sanitary conditions shall conform with the sanitation standard operating procedures in Title 9 of the Code of Federal Regulations and shall require that an establishment be evaluated by determining its compliance with those procedures.

(D) Requirements for maintenance of records under section 918.24 of the Revised Code;

(E) Procedures for application and licensing, and the revocation and suspension of licenses;

(F) Requirements for marking and attaching the information required by section 918.31 of the Revised Code, including specific styles, legibility and size of type, method of affixing, variations, and exemptions;

(G) ~~Such other rules as are necessary for the proper administration, implementation, and enforcement of sections 918.21 to 918.31 of the Revised Code, including rules~~ Rules requiring that an inspection of an establishment's slaughter and processing operations be conducted in accordance with the establishment's hazard analysis critical control point plan. In

addition, the rules shall require that if an establishment does not have a plan for a particular production process under its hazard analysis critical control point plan as required in rules, the poultry product of the process may be considered to be adulterated and shall be retained pending a production process review and not allowed to be labeled with an official mark.

Sec. 918.42. If the director of agriculture decides to establish a state acceptance service, ~~he~~the director shall adopt ~~and enforce and may amend and rescind rules, in accordance with Chapter 119. of the Revised Code necessary for the implementation, administration, and enforcement of this section and sections 918.41 and 918.43 of the Revised Code. The~~ rules ~~shall~~ to provide for the efficient operation of the state acceptance service ~~and~~. The rules may include the following:

(A) The fees and rates to be charged to the vendors and establishments for the state acceptance service. The charges shall be established on an hourly basis, and the time chargeable to a vendor or establishment shall include the travel time of the state acceptor as well as the time spent doing acceptance work at the establishment. Mileage, per diem, and laboratory sampling charges also may be assessed as necessary. The charges shall be established in an amount sufficient to defray the cost of employing state acceptors and administering the state acceptance program.

(B) The conditions under which vendors or authorized representatives at establishments shall present meat products and poultry products, as defined in sections 918.01 and 918.21 of the Revised Code, for examination by a state acceptor;

(C) Provision for a means of random sampling and analyzing

of meat products and poultry products supplied under state purchase contracts;

(D) Procedures for investigating complaints from the staff and clientele of state institutions about meat products and poultry products purchased under state purchase contracts and for removal from the approved meat and poultry vendors list of any vendor, or for the suspension or revocation of the license of any establishment, that supplies meat products or poultry products that do not comply with state purchase contract specifications or are unwholesome as defined in section 918.21 of the Revised Code, adulterated or misbranded as defined in section 918.01 of the Revised Code, or who do not pay state acceptance service charges within thirty days after receipt of written notice that the charges are due;

(E) A code of conduct for state acceptors.

Sec. 918.44. (A) The director of agriculture may enter into an agreement with the United States department of agriculture authorizing employees of the department of agriculture to provide the federal meat grading and certification service to grade and certify meat, poultry, meat products, and poultry products in the state. The agreement shall comply with sections 125.111 and 126.07 of the Revised Code.

(B) If the director enters into an agreement pursuant to division (A) of this section, ~~he~~the director shall appoint the employees of the department of agriculture to be trained and licensed by the United States department of agriculture as meat graders. The director ~~may~~ shall adopt rules in accordance with Chapter 119. of the Revised Code ~~as he determines necessary for the effective administration of this section. The rules shall include~~ that establish the duties and responsibilities required

of the graders, the method of assessing fees and collecting payments for the services provided, requirements for supervision of the graders, the maintenance of records of receipts from work performed by the graders and any other records necessary to maintain, and procedures for suspending and revoking a grader's license.

Sec. 918.99. (A) Whoever violates division (D) or (F) of section 918.02, division (A) or (B) of section 918.11, or section 918.03, 918.05, 918.06, 918.08, 918.12, 918.24, 918.26, 918.30, or 918.31 of the Revised Code, or any rules adopted under section 918.04~~, 918.11,~~ or 918.25 of the Revised Code is guilty of a misdemeanor of the fourth degree; on a second offense and each subsequent offense, such person is guilty of a misdemeanor of the second degree.

(B) Whoever violates division (C) of section 918.11 or division (C) of section 918.31 of the Revised Code is guilty of a felony of the fifth degree.

Sec. 921.16. (A) The director of agriculture shall adopt rules ~~the director determines necessary for the effective enforcement and administration of this chapter. The rules may~~ that relate to~~, but are not limited to,~~ the time, place, manner, and methods of application, materials, and amounts and concentrations of application of pesticides~~,~~. The director may adopt rules that restrict or prohibit the use of pesticides in designated areas during specified periods of time~~, and shall encompass all reasonable factors that the director determines necessary to minimize or prevent damage to the environment~~. In addition, the rules shall establish the deadlines and time periods for registration, registration renewal, late registration renewal, and failure to register under section

921.02 of the Revised Code; the fees for registration, registration renewal, late registration renewal, and failure to register under section 921.02 of the Revised Code that shall apply until the fees that are established under that section take effect on January 1, 2007; and the fees, deadlines, and time periods for licensure and license renewal under sections 921.06, 921.09, 921.11, and 921.13 of the Revised Code.

(B) The director shall adopt rules that establish a schedule of civil penalties for violations of this chapter, or any rule or order adopted or issued under it, provided that the civil penalty for a first violation shall not exceed five thousand dollars and the civil penalty for each subsequent violation shall not exceed ten thousand dollars. In determining the amount of a civil penalty for a violation, the director shall consider factors relevant to the severity of the violation, including past violations and the amount of actual or potential damage to the environment or to human beings. All money collected under this division shall be credited to the pesticide, fertilizer, and lime program fund created in section 921.22 of the Revised Code.

(C) The director shall adopt rules that set forth the conditions under which the director:

(1) Requires that notice or posting be given of a proposed application of a pesticide;

(2) Requires inspection, condemnation, or repair of equipment used to apply a pesticide;

(3) Will suspend, revoke, or refuse to issue any pesticide registration for a violation of this chapter;

(4) Requires safe handling, transportation, storage,

display, distribution, and disposal of pesticides and their containers;

(5) Ensures the protection of the health and safety of agricultural workers storing, handling, or applying pesticides, and all residents of agricultural labor camps, as that term is defined in section 3733.41 of the Revised Code, who are living or working in the vicinity of pesticide-treated areas;

(6) Requires a record to be kept of all pesticide applications made by each commercial applicator and of all general use applications made by any trained serviceperson acting under the commercial applicator's direct supervision and of all restricted use pesticide applications made by each private applicator as required under section 921.14 of the Revised Code;

(7) Determines the pesticide-use categories of diagnostic inspections that must be conducted by a commercial applicator;

(8) Requires a record to be kept of all diagnostic inspections conducted by each commercial applicator and by any trained service person.

(D) The director shall prescribe standards for the licensure of applicators of pesticides consistent with those prescribed by the federal act and the regulations adopted under it or prescribe standards that are more restrictive than those prescribed by the federal act and the regulations adopted under it. The standards may relate to the use of a pesticide or to an individual's pesticide-use category.

The director shall take into consideration standards of the United States environmental protection agency.

(E) The director may adopt rules setting forth the

conditions under which the director will:

(1) Collect and examine samples of pesticides or devices;

(2) Specify classes of devices that shall be subject to this chapter;

(3) Prescribe other necessary registration information.

(F) The director may adopt rules that do either or both of the following:

(1) Designate, in addition to those restricted uses so classified by the administrator of the United States environmental protection agency, restricted uses of pesticides for the state or for designated areas within the state and, if the director considers it necessary, to further restrict such use;

(2) Define what constitutes "acting under the instructions and control of a commercial applicator" as used in the definition of "direct supervision" in division (Q) of section 921.01 of the Revised Code. In adopting a rule under division (F)(2) of this section, the director shall consider the factors associated with the use of pesticide in the various pesticide-use categories. Based on consideration of the factors, the director may define "acting under the instructions and control of a commercial applicator" to include communications between a commercial applicator and a trained serviceperson that are conducted via landline telephone or a means of wireless communication. Any rules adopted under division (F)(2) of this section shall be drafted in consultation with representatives of the pesticide industry.

(G) Except as provided in division (D) of this section, the director shall not adopt any rule under this chapter that is

inconsistent with the requirements of the federal act and regulations adopted thereunder.

(H) The director, after notice and opportunity for hearing, may declare as a pest any form of plant or animal life, other than human beings and other than bacteria, viruses, and other microorganisms on or in living human beings or other living animals, that is injurious to health or the environment.

(I) The director may make reports to the United States environmental protection agency, in the form and containing the information the agency may require.

(J) The director shall adopt rules for the application, use, storage, and disposal of pesticides if, in the director's judgment, existing programs of the United States environmental protection agency necessitate such rules or pesticide labels do not sufficiently address issues or situations identified by the department of agriculture or interested state agencies.

(K) The director shall adopt rules establishing all of the following:

(1) Standards, requirements, and procedures for the examination and re-examination of commercial applicators and private applicators;

(2) With respect to training programs that the director may require commercial applicators and private applicators to complete:

(a) Standards and requirements that a training program must satisfy in order to be offered by the director or the director's representative or in order to be approved by the director if a third party wishes to offer it;

(b) Eligibility standards and requirements that must be satisfied by third parties who wish to provide the training programs;

(c) Procedures that third parties must follow in order to submit a proposed training program to the director for approval;

(d) Criteria that the director must consider when determining whether to authorize a commercial applicator or private applicator to participate in a training program instead of being required to pass a re-examination.

(3) Training requirements for a trained serviceperson.

(L) The director shall adopt all rules under this chapter in accordance with Chapter 119. of the Revised Code.

Sec. 921.26. (A) The penalties provided for violations of this chapter do not apply to any of the following:

(1) Any carrier while lawfully engaged in transporting a pesticide or device within this state, if that carrier, upon request, permits the director of agriculture to copy all records showing the transactions in the movement of the pesticides or devices;

(2) Public officials of this state and the federal government, other than commercial applicators employed by the federal government, the state, or a political subdivision, while engaged in the performance of their official duties in administering state or federal pesticide laws or rules, or while engaged in pesticide research;

(3) The manufacturer or shipper of a pesticide for experimental use only by or under supervision of an agency of this state or of the federal government authorized by law to

conduct research in the field of pesticides, provided that the manufacturer or shipper is not required to obtain an experimental use permit from the United States environmental protection agency;

(4) The manufacturer or shipper of a substance being tested in which its purpose only is to determine its value for pesticide purposes or to determine its toxicity or other properties, and from which the user does not expect to receive any benefit in pest control from its use;

(5) Persons conducting laboratory research involving pesticides;

(6) Persons who incidentally use pesticides. The incidental use shall involve only the application of general use pesticides. If a person incidentally uses a pesticide, the pesticide shall be applied in strict accordance with the manufacturer's label for general use purposes. If further applications are necessary following the incidental use application, a pesticide applicator shall apply the pesticide.

(B) No pesticide or device shall be considered in violation of this chapter when intended solely for export to a foreign country, and when prepared or packed according to the specifications or directions of the purchaser. If the pesticide or device is not so exported, this chapter applies.

(C)(1) No person who is licensed, regulated, or registered under section 921.02, 921.03, 921.06, 921.09, 921.11, or 921.13 of the Revised Code shall be required to obtain a license or permit to operate or to be otherwise regulated in such capacity by any local ordinance, or to meet any other condition except as otherwise provided by statute or rule of the United States or of

this state.

(2) No political subdivision shall regulate or ban the packaging, registration, labeling, sale, storage, distribution, use, or application of a pesticide registered under section 921.02 of the Revised Code on private property, including private property that is open to the public. As used in this section, "political subdivision" has the same meaning as in section 905.503 of the Revised Code.

(D) Section 921.09 of the Revised Code does not apply to an individual who uses only ground equipment for the individual or for the individual's neighbors, provided that the individual meets all of the following requirements:

(1) Is licensed under section 921.11 of the Revised Code;

(2) Operates farm property and operates and maintains pesticide application equipment primarily for the individual's own use;

(3) Is not regularly engaged in the business of applying pesticides for hire or does not publicly hold oneself out as a pesticide applicator~~;~~

~~(4) Meets any other requirement established by rule~~.

(E) Section 921.06 of the Revised Code relating to licenses and requirements for their issuance does not apply to licensed physicians or veterinarians applying pesticides to human beings or other animals during the normal course of their practice, provided that they are not regularly engaged in the business of applying pesticides for hire amounting to a principal or regular occupation or do not publicly hold themselves out as commercial applicators.

(F) Division (S) of section 921.24 of the Revised Code does not apply to a pesticide dealer who distributes restricted use pesticides to a nonresident who is licensed in another state having a state plan approved by the United States environmental protection agency.

Sec. 923.43. (A) Except as otherwise provided in division (B) of this section for a customer-formula feed, a commercial feed distributed in this state shall be labeled with the following information:

(1) Net weight of contents, which may be stated in metric units in addition to avoirdupois weight;

(2) Product name, and brand name if any, under which the feed is distributed;

(3) Name and principal address of the manufacturer or distributor;

(4) Guaranteed analysis of the feed stated in terms that the director of agriculture, by rule, determines are required to advise the user of the composition of the feed or to support claims made in the labeling. In all cases, the substances or elements shall be determinable by laboratory methods published by the association of official analytical chemists.

(5) Common name of each ingredient used in the manufacture of the feed. The director, by rule, may permit the use of a collective term for a group of ingredients all of which perform the same function or eliminate the listing of feed ingredients when it no longer serves a useful purpose.

(6) Directions for the safe and effective use of any feed that contains any drug and for any other feed that the director, by rule, determines to require such directions~~;~~

~~(7) Any precautionary statements that the director, by rule, determines are necessary for the safe and effective use of the feed~~.

(B) A customer-formula feed distributed in this state shall be labeled with the following information:

(1) Name and principal address of the manufacturer;

(2) Name and address of the purchaser;

(3) Date of delivery;

(4) Product name, and brand name if any, of each commercial feed and all other ingredients used in the mixture;

(5) Net weight of each commercial feed used and of any other feed ingredient used;

(6) Directions for the safe and effective use of any customer-formula feed that contains any drug and for any other customer-formula feed that the director, by rule, determines to require such directions;

(7) If a drug-containing product is used, a statement of the purpose of the drug, the established name of each active drug ingredient, and the amount of each drug used in the final mixture~~;~~

~~(8) Any precautionary statements that the director, by rule, determines are necessary for the safe and effective use of the customer-formula feed~~.

(C) Upon the request of the director, each manufacturer or distributor shall furnish the director with the label for any commercial feed ~~he~~the manufacturer or distributor distributes in this state.

Sec. 923.50. ~~(A)~~ The director of agriculture ~~shall adopt, and may amend or rescind, rules in accordance with Chapter 119. of the Revised Code as necessary to carry out the purposes of this chapter.~~

~~(B) The director~~, by reference, may adopt in accordance with Chapter 119. of the Revised Code:

~~(1)~~ (A) The official definitions of feed ingredients and official feed terms adopted and published by the association of American feed control officials;

~~(2)~~ (B) Rules promulgated pursuant to the federal act.

Sec. 924.02. The director of agriculture, subject to sections 924.01 to 924.16 and Chapter 119. of the Revised Code, shall do all of the following:

(A) Establish procedures by which producers of Ohio agricultural commodities may propose, develop, and operate marketing programs to:

(1) Promote the sale and use of their products;

(2) Develop new uses and markets for such products;

(3) Improve the methods of distributing such products to consumers;

(4) Standardize the quality of such products for specific uses.

(B) ~~Adopt and enforce rules to put into effect the intent of sections 924.01 to 924.16 of the Revised Code;~~

~~(C)~~ Except as provided in section 924.06 of the Revised Code, determine the eligibility of producers to participate in referendums and other procedures that may be required to

establish marketing programs for agricultural commodities.

Sec. 924.20. As used in sections 924.20 to 924.30 of the Revised Code:

(A) "Grain" means wheat, barley, rye, or oats.

(B) "Handler" means a person who is in the business of agricultural commodity handling, as defined in section 926.01 of the Revised Code, of grain.

(C) "Producer" means a person who is in the business of producing, or causing to be produced, grain for commercial sale.

~~(D) "Rule" means a rule adopted under section 924.25 of the Revised Code.~~

Sec. 924.21. There is hereby established a grain marketing program. The program shall be administered in accordance with sections 924.20 to 924.30 of the Revised Code~~ and rules~~.

Sec. 924.211. (A) There is hereby established the soybean marketing program. Except as provided under divisions (B) and (C) of this section, the procedures, requirements, and other provisions that are established under sections 924.20 to 924.30 of the Revised Code~~ and rules~~ that apply to the grain marketing program shall apply to the soybean marketing program. For purposes of that application, references in those sections to "grain" are deemed to be replaced with references to "soybeans."

(B) The soybean marketing program operating committee shall consist of eighteen members. Fourteen of those members shall be elected in accordance with section 924.22 of the Revised Code. The director of agriculture shall appoint the remaining four members, who shall be from the united soybean board from this state. The appointed members of the board shall

be voting members of the committee.

(C) With regard to the levying of assessments under section 924.26 of the Revised Code, the assessment on soybeans shall be one-half of one per cent of the per-bushel price of soybeans at the first point of sale. However, if assessments are levied under the national soybean checkoff program created by the "Soybean Promotion, Research, and Consumer Information Act," 104 Stat. 3881 (1990), 7 U.S.C. 6301 et seq., no assessments shall be levied for purposes of the soybean marketing program established under this section.

Sec. 924.22. (A) For the purposes of sections 924.20 to 924.30 of the Revised Code, the director of agriculture shall hold an election to determine the membership of a grain marketing program operating committee in accordance with rules adopted under division (F) of this section. The election shall be for nine members of the operating committee.

(B) Not later than one hundred twenty days after ~~the effective date of this section~~March 24, 2008, the director shall accept the names of persons as nominees to serve on the operating committee. In accepting nominations and placing names on the ballot, the director shall follow the procedures established in rules adopted under division (F) of this section.

(C) Not later than one hundred eighty days after ~~the effective date of this section~~March 24, 2008, the director shall hold an election to determine the membership of the operating committee. In the election, eligible producers may cast votes in person at or mail ballots to polling places designated by the director. The director shall establish a three-day period during which eligible producers may vote in person during normal business hours at the designated polling places. The director or

another appropriate person shall send a ballot by ordinary first-class mail to an eligible producer who requests one by calling the toll-free telephone number or submitting the ballot request form provided for in division (D) of this section, by calling one of the designated polling places, or by any additional method that the director may provide. A ballot returned by mail is not valid if it is postmarked later than the third day of the election period established by the director.

(D) For the purposes of an election of members of the grain marketing program operating committee, the director shall cause a ballot request form to be published at least thirty days before the beginning of the election period established in accordance with division (C) of this section in at least two appropriate periodicals designated by the director and shall make the form available for reproduction to any interested group or association. The director also shall provide a toll-free telephone number that producers may call to request a ballot.

(E) Following the election of the initial members of the operating committee, the director shall hold subsequent elections in order to maintain the membership of the operating committee as provided in rules adopted under division (F) of this section. The elections shall be held in the manner established in this section and rules for the election of initial members.

(F) ~~Persons elected to the grain marketing program operating committee shall hold office in accordance with~~ The director shall adopt rules in accordance with Chapter 119. of the Revised Code governing all of the following:

(1) The procedures to determine the membership of a grain marketing program operating committee;

(2) The procedures for accepting nominations and placing names on the ballot;

(3) The procedures for holding subsequent elections in order to maintain the membership of the operating committee;

(4) The duties of any persons elected to the grain marketing program operating committee.

Sec. 924.24. (A) The grain marketing program operating committee shall do all of the following:

(1) Hire personnel and contract for services that are necessary for the operation of the grain marketing program;

(2) Promote the sale of grain for the purpose of maintaining and expanding present markets and creating new and larger intrastate, interstate, and foreign markets for grain, and inform the public of the uses and benefits of grain;

(3) Establish requirements and procedures for the collection of assessments that the operating committee is required to levy under section 924.26 of the Revised Code, including the method and frequency of collection;

(4) Establish procedures to be used by a person who wishes to file for a refund of the person's assessment that is levied under section 924.26 of the Revised Code;

(5) Perform all acts and exercise all powers incidental to, in connection with, or considered reasonably necessary, proper, or advisable to effectuate the purposes of sections 924.20 to 924.30 of the Revised Code.

(B) The operating committee may do any or all of the following:

(1) Conduct, and contract with others to conduct, research, including the study, analysis, dissemination, and accumulation of information obtained from the research or elsewhere, concerning the marketing and distribution of grain, the storage, processing, and transportation of grain, and the production and product development of grain;

(2) Provide the wholesale and retail grain trade with information relative to proper methods of handling and selling grain;

(3) Conduct, and contract with others to conduct, market surveys and analyses, undertake any other similar activities that it determines are appropriate for the maintenance and expansion of present markets and the creation of new and larger markets for grain, and enter into contracts, in the name of the committee, to render service in formulating and conducting plans and programs and other contracts or agreements that the committee considers necessary for the promotion of the sale of grain;

(4) Publish and distribute to producers and others information relating to the grain industry;

(5) ~~Propose to the director of agriculture rules and amendments to rules that are necessary for the exercise of its powers and the performance of its duties;~~

~~(6)~~ Establish priorities and prepare and approve a budget consistent with estimated resources and the scope of the grain marketing program;

~~(7)~~(6) Receive and investigate, or cause to be investigated, complaints concerning and violations of the grain marketing program. The operating committee shall refer any

violations to the director for action under section 924.29 of the Revised Code.

Sec. 924.25. ~~(A)~~ The director of agriculture shall monitor the activities of the grain marketing program operating committee to ensure all of the following:

~~(1)~~ (A) The grain marketing program is self-supporting.

~~(2)~~ (B) The operating committee keeps all records that are required for agencies of the state.

~~(3)~~ (C) The program's operations comply with ~~all~~ both of the following:

~~(a)~~ (1) The provisions of the program;

~~(b) Rules;~~

~~(c)~~ (2) Sections 924.20 to 924.30 of the Revised Code.

~~(4)~~ (3) Administrative activities of the committee are coordinated with those of the department of agriculture.

~~(B) The director may adopt rules in accordance with Chapter 119. of the Revised Code that are necessary to carry out the purposes of sections 924.20 to 924.30 of the Revised Code.~~

Sec. 924.29. The director of agriculture may institute an action at law or in equity that appears necessary to enforce compliance with sections 924.20 to 924.30 of the Revised Code~~, rules,~~ or the grain marketing program that is established in compliance with those sections ~~and rules~~.

Sec. 924.41. A marketing agreement that is executed in compliance with and pursuant to sections 924.40 to 924.45 of the Revised Code for the purpose of the voluntary participation of persons who are signatories to the agreement may provide for the

establishment and regulation of one or more of the following:

(A) Standards of production for an agricultural commodity, including growing and handling practices, provided that the standards are equivalent to or more stringent than standards of production for that agricultural commodity that are established in the laws of this state or federal law;

(B) Standards for the establishment and use of a logo, trademark, or brand associated with an agricultural commodity, provided that the standards do not violate the laws of this state or federal law;

(C) Collection of fees for services provided pursuant to the marketing agreement~~;~~

~~(D) Any other topic that the director of agriculture may allow by rule~~.

Sec. 924.42. (A) Producers of an agricultural commodity in this state may present to the director of agriculture a petition signed by at least two hundred or twenty-five per cent of all the producers of that agricultural commodity in this state, whichever is less, requesting the director to approve a marketing agreement for that agricultural commodity.

(B) A petition submitted under division (A) of this section shall include all of the following:

(1) A document that creates and identifies a provisional board of directors for the purpose of facilitating the execution of the proposed marketing agreement, which shall consist of at least three, but not more than five producers of the agricultural commodity that is the subject of the proposed marketing agreement;

(2) A proposed marketing agreement that at a minimum contains a description of all of the following:

(a) The affected agricultural commodity or the region of the state concerning the agricultural commodity that is the subject of the proposed marketing agreement;

(b) Any standards that will be adopted under the proposed marketing agreement;

(c) Procedures by which the proposed marketing agreement may be amended;

(d) The length of time that the proposed marketing agreement will be in effect;

(e) The size and composition of a board of directors that will be established under the marketing agreement for the purpose of administering the agreement;

(f) The method by which the members of the board of directors that will be established under the marketing agreement will be elected;

(g) The estimated costs to and rate of assessment to be made on each person who is a signatory to the marketing agreement for purposes of membership, inspections, or other services provided by the board of directors under the marketing agreement in conjunction with the person's participation in the marketing agreement;

(h) The minimum number of producers that are necessary for the marketing agreement to be financially self-supporting~~;~~

~~(i) Any other information that the director may require by rule~~.

(3) An unbiased and accurate summary of the proposed marketing agreement.

(C) The petitioners shall include with the petition submitted under division (A) of this section all of the following:

(1) A current list of producers of the agricultural commodity or in the region of the state concerning the agricultural commodity that is the subject of the proposed marketing agreement. The list may be created from existing records or records that are available from any reliable source.

(2) An administration fee of five hundred dollars or another amount that the director determines is necessary to pay the costs of the director of notifying all known producers of the affected agricultural commodity or in the region of the state concerning the agricultural commodity that is the subject of the proposed marketing agreement and the costs of conducting the public meeting that is required in section 924.43 of the Revised Code concerning the proposed marketing agreement;

(3) Information that demonstrates that the producers of the agricultural commodity or in the region of the state concerning the agricultural commodity that is the subject of the proposed marketing agreement have sufficient money to pay the costs of a board of directors to administer the marketing agreement and to pay the costs of administration and enforcement of the marketing agreement.

Sec. 924.44. A marketing agreement submitted by a provisional board of directors under section 924.43 of the Revised Code at a minimum shall contain terms that establish all of the following:

(A) The identification of the agricultural commodity or of the region of the state concerning the agricultural commodity that is the subject of the marketing agreement;

(B) Standards, if any, of production for the agricultural commodity or of marketing that will apply to each producer that signs the marketing agreement;

(C) Standards for the use of a logo, trademark, or brand associated with the agricultural commodity;

(D) The length of time that the marketing agreement will be in effect, whether the marketing agreement may be renewed, and, if so, procedures for renewal;

(E) Procedures by which the marketing agreement may be amended. The procedures shall require the approval of the director of agriculture and of at least a majority of the producers that are signatories to the marketing agreement in order for an amendment to be effective.

(F) The size and composition of a board of directors that will administer the marketing agreement;

(G) Procedures for the election of members of the board of directors;

(H) The lengths of terms of members of the board of directors and conditions, if any, for reelection;

(I) Procedures for the removal of a member of the board of directors for misfeasance, malfeasance, or nonfeasance;

(J) The costs to and rate of assessment to be made on each person who is a signatory to the marketing agreement for purposes of membership, inspections, or other services provided by the board of directors under the marketing agreement in

conjunction with the person's participation in the marketing agreement;

(K) Procedures by which producers of the agricultural commodity may become signatories to the marketing agreement after the agreement takes effect;

(L) Procedures by which producers who are signatories to the marketing agreement may be removed from the marketing agreement;

(M) Procedures by which producers that are signatories to the marketing agreement may terminate the marketing agreement~~;~~

~~(N) Any other procedures or requirements that the director of agriculture requires by rule~~.

Sec. 924.45. (A)(1) After a marketing agreement takes effect, a board of directors that will administer the marketing agreement shall be established in accordance with the terms of the marketing agreement. Except for the director of agriculture or the director's designee who shall serve as an ex officio member of the board of directors, members of the board shall be selected only from individuals who are producers that signed the marketing agreement.

(2) The provisional board of directors created pursuant to division (B)(1) of section 924.42 of the Revised Code shall verify that the board of directors is established in accordance with the terms of the marketing agreement. If the provisional board of directors determines that the board of directors was not established in accordance with the terms of the marketing agreement, the provisional board shall notify the director who shall take appropriate actions to ensure that the board of directors is established in accordance with the terms of the

marketing agreement. If the provisional board of directors determines that the board of directors was established in accordance with the terms of the marketing agreement, the provisional board shall cease to exist.

(B) A board of directors that is established to administer a marketing agreement shall do all of the following:

(1) Establish priorities of the board that are consistent with the estimated financial resources that will be generated under the terms of the marketing agreement and with the scope of the marketing agreement;

(2) Prepare a budget that is consistent with the estimated financial resources that will be generated under the terms of the marketing agreement and with the scope of the marketing agreement;

(3) Deposit all money collected pursuant to the marketing agreement with a bank as defined in section 1101.01 of the Revised Code. The board shall use the money only to pay the costs of the board in administering the marketing agreement and of the activities authorized under the marketing agreement and under sections 924.40 to 924.45 of the Revised Code.

(4) Establish a fiscal year for purposes of marketing activities performed under the terms of the marketing agreement;

(5) Publish an activity and financial report not later than sixty days after the end of a fiscal year. The board shall make the report available to each producer that signed the marketing agreement and to other interested parties.

(6) Provide annually to the director of agriculture and to each producer that signed the marketing agreement a financial statement that is prepared by a person who holds a current

certificate as a certified public accountant issued under Chapter 4701. of the Revised Code. The board shall provide the financial statement to the director not later than sixty days after the end of a fiscal year.

(7) Reimburse the department of agriculture for actual administrative costs incurred by the department in the administration of sections 924.40 to 924.45 of the Revised Code. However, the amount reimbursed in a fiscal year shall not exceed ten per cent of the total amount of money collected in that fiscal year by the board of directors under the authority of the marketing agreement.

(8) Perform all other acts and exercise all other powers that are reasonably necessary, proper, or advisable to effectuate the purposes of sections 924.40 to 924.45 of the Revised Code.

(C) A board of directors that is established to administer a marketing agreement may do all of the following:

(1) ~~Propose to the director rules that are necessary for the board to perform its duties under the requirements of the marketing agreement and under sections 924.40 to 924.45 of the Revised Code;~~

~~(2)~~ Hire personnel and contract for services that are necessary for the implementation and administration of the marketing agreement;

~~(3)~~(2) Receive and investigate, or cause to be investigated, a complaint concerning an alleged violation of a term of the marketing agreement. If the board determines that such a violation has occurred, the board shall refer the matter to the director for enforcement.

~~(4)~~ (3) Amend the marketing agreement in accordance with the terms of the marketing agreement and with sections 924.40 to 924.45 of the Revised Code;

~~(5)~~ (4) Terminate the marketing agreement with the approval of a majority of the participating producers that are signatories to the marketing agreement. If the marketing agreement is terminated, the board shall distribute any remaining unobligated money collected under the authority of the marketing agreement to each participating producer in the same proportion that the producer paid assessments under the marketing agreement.

Sec. 924.52. (A) The Ohio grape industries committee may:

(1) Conduct, and contract with others to conduct, research, including the study, analysis, dissemination, and accumulation of information obtained from the research or elsewhere, concerning the marketing and distribution of grapes and grape products, the storage, refrigeration, processing, and transportation of them, and the production and product development of grapes and grape products. The committee shall expend for these activities no more than seventy per cent of all money it receives from the Ohio grape industries fund created under section 924.54 of the Revised Code.

(2) Provide the wholesale and retail trade with information relative to proper methods of handling and selling grapes and grape products;

(3) Make or contract for market surveys and analyses, undertake any other similar activities that it determines are appropriate for the maintenance and expansion of present markets and the creation of new and larger markets for grapes and grape

products, and make, in the name of the committee, contracts to render service in formulating and conducting plans and programs and such other contracts or agreements as the committee considers necessary for the promotion of the sale of grapes and grape products. The committee shall expend for these activities no more than seventy per cent of all money it receives from the fund.

(4) Publish and distribute to producers and others information relating to the grape and grape product industries;

(5) ~~Propose to the director of agriculture for adoption, rescission, or amendment, pursuant to Chapter 119. of the Revised Code, rules necessary for the exercise of its powers and the performance of its duties;~~

~~(6)~~ Advertise for, post notices seeking, or otherwise solicit applicants to serve in administrative positions in the department of agriculture as employees who support the administrative functions of the committee. Applications shall be submitted to the committee. The committee shall select applicants that it wishes to recommend for employment and shall submit a list of the recommended applicants to the director.

~~(7)~~(6) For the purpose of promoting the grape industry, provide to producers and persons that grow grapes in this state grape plants, grape vines, equipment, and material to assist in the production of grapes and grape products.

(B) The committee shall:

(1) Promote the sale of grapes and grape products for the purpose of maintaining and expanding present markets and creating new and larger intrastate, interstate, and foreign markets for grapes and grape products, and inform the public of

the uses and benefits of grapes and grape products;

(2) Perform all acts and exercise all powers incidental to, in connection with, or considered reasonably necessary, proper, or advisable to effectuate the purposes of this section.

Sec. 924.53. (A) The director of agriculture shall monitor the conduct of the Ohio grape industries committee to ensure that:

(1) The committee is operating within the requirements of sections 924.51 to 924.55 of the Revised Code;

(2) The committee's program is self-supporting;

(3) The committee keeps all records that are required by agencies of the state.

(B) ~~The director may, in accordance with Chapter 119. of the Revised Code, adopt, rescind, or amend rules necessary to carry out the purposes of this section.~~

~~(C)~~ The director shall accomplish an audit of the books and records of the committee prior to the thirtieth day of September each year.

Sec. 925.07. In the administration of sections 925.01 to 925.13 of the Revised Code, the director of agriculture or ~~his~~the director's designee, on any business day and during normal business hours, may enter and inspect any premises where shell eggs are produced, processed, stored, or sold, offered for sale, or exposed for sale as is necessary to determine compliance with sections 925.02 to 925.13~~ and applicable rules adopted under section 925.06~~ of the Revised Code.

Sec. 925.08. No person shall fail to comply with sections 925.01 to 925.13 of the Revised Code~~ or an applicable rule~~

~~adopted under section 925.06 of the Revised Code~~. Each day of violation constitutes a separate offense.

Sec. 926.01. As used in this chapter:

(A) "Agricultural commodity" means corn, soybeans, wheat, or any other agricultural crop that the director of agriculture may designate by rule in accordance with Chapter 119. of the Revised Code. "Agricultural commodity" does not mean any grain that is purchased for sale as seed.

(B) "Agricultural commodity handling" or "handling" means any of the following:

(1) Engaging in or participating in the business of purchasing from producers agricultural commodities for any use in excess of thirty thousand bushels annually;

(2) Operating a warehouse as a bailee for the receiving, storing, shipping, or conditioning of an agricultural commodity;

(3) Receiving into a warehouse an agricultural commodity purchased under a delayed price agreement;

(4) Providing marketing functions, including storage, delayed price marketing, deferred payment, feed agreements, or any other marketing transaction whereby control is exerted over the monetary proceeds of a producer's agricultural commodities by a person other than the producer.

(C) "Agricultural commodity handler" or "handler" means any person who is engaged in the business of agricultural commodity handling.

(D) "Depositor" means:

(1) Any person who delivers an agricultural commodity to a

licensed handler for storage, conditioning, shipment, or sale;

(2) Any owner or legal holder of a ticket or receipt issued for an agricultural commodity who is a creditor of the licensed handler for the value of the agricultural commodity;

(3) Any licensed handler storing an agricultural commodity that the licensed handler owns solely, jointly, or in common with others in a warehouse owned or controlled by the licensed handler or any other licensed handler.

(E) "Receipt" means a warehouse receipt issued by a licensed handler.

(F) "Nonnegotiable receipt" means a receipt on which it is stated that the agricultural commodity received will be delivered to the depositor or to the order of any other person named in the receipt.

(G) "Negotiable receipt" means a receipt on which it is stated that the agricultural commodity received will be delivered to the bearer or to the order of any person named in the receipt.

(H) "Ticket" means a scale weight ticket, a load slip, or any evidence, other than a receipt, given to a depositor by a licensed handler upon delivery of an agricultural commodity to the handler.

(I) "Warehouse" means any building, bin, protected enclosure, or similar premises under the control of a licensed or unlicensed handler used for receiving, storing, shipping, or handling an agricultural commodity.

(J) "Storage" means the deposit of an agricultural commodity into a warehouse either for the account of the

licensed handler operating the warehouse or for the account of a depositor. "Storage" includes unapplied and hold grain tickets.

(K) "Producer" means any person who grows an agricultural commodity on land that the person owns or leases.

(L) "Agent" means any person, other than a producer, who delivers an agricultural commodity to a licensed handler, either for sale or for storage, for the account of the producer.

(M) "Agricultural commodity tester" or "tester" means a person who operates a moisture meter and other quality testing devices to determine the quality of an agricultural commodity.

(N) "Federally licensed grain inspector" means a person who is licensed by the United States department of agriculture under the "United States Grain Standards Act," 39 Stat. 482 (1916), 7 U.S.C. 71, as amended, to test and grade grain, as "grain" is defined in that act.

(O) "Bailee" means a person to whom an agricultural commodity is delivered in trust for storage in a warehouse with title remaining in the name of the depositor.

(P) "Bailor" means a person who delivers an agricultural commodity to a bailee in trust for storage in a warehouse with title remaining in the name of the depositor.

(Q) "Bailment agreement" means a bailor-bailee agreement between a depositor and a licensed handler as stated in the terms of a receipt that is issued for an agricultural commodity in storage and subject to the requirements of this chapter governing the use of a receipt.

(R) "Delayed price agreement" means a written executory contract executed by and between a licensed handler and a

depositor that covers the sale and transfer of title of an agricultural commodity and states in its written terms the service charges and the method for pricing the commodity at a later date.

(S) "Delayed price marketing" means the sale and transfer of title of an agricultural commodity with the price to be established at a later date according to the terms of a delayed price agreement.

(T) "Deferred payment" means the deferral of payment to a depositor by a licensed handler for an agricultural commodity to which the licensed handler has taken title, for the purpose of deferring income of the depositor from one tax year to another.

(U) "Feed agreement" means a written contract executed by and between a licensed handler and a producer or depositor who delivers an agricultural commodity to the licensed handler for storage whereby each of the following applies:

(1) The producer or depositor transfers title to the agricultural commodity to the licensed handler in exchange for a nominal sum;

(2) The producer, upon delivery of the agricultural commodity to the licensed handler, becomes a creditor of the licensed handler due to the lien that arises under section 926.021 of the Revised Code;

(3) All or part of the agricultural commodity is returned to the producer at a later date and used for feed purposes.

(V) Notwithstanding section 1.02 of the Revised Code, "and" shall not be read "or" and "or" shall not be read "and."

(W) "Grain bank" means the storage of an agricultural

commodity under a bailment agreement with the commodity normally returned to the bailor at a later date as an ingredient of a processed feed. "Grain bank" as defined in this division has the same meaning for purposes of agricultural commodity transactions.

(X) "Regular price bid" means the current basis bid or cash price of a handler licensed under this chapter.

Sec. 926.02. The director of agriculture shall administer this chapter and may, in addition to any other powers conferred by it:

(A) Inspect, or cause to be inspected, any warehouse, or premises suspected of being a warehouse, at any reasonable time;

(B) Require the filing of reports describing any warehouse or the operation thereof;

(C) Determine whether warehouses are suitable for the storing, shipping, and conditioning of agricultural commodities;

(D) Petition the court of common pleas of the county in which the principal place of business of a licensed or unlicensed handler is situated to enforce compliance by the handler with this chapter~~, or any rule adopted by the director under it,~~ by restraining order or mandatory injunction notwithstanding the existence of an adequate remedy at law;

(E) Prescribe all forms, within the limitations set forth in this chapter, including receipts, tickets, contracts, licenses, reports, and applications for licenses used by licensed handlers;

(F) Impound receipts, tickets, or other records when a handler's license is under suspension~~;~~

~~(G) Promulgate, adopt, and enforce rules under Chapter 119. of the Revised Code for carrying out this chapter~~.

Sec. 926.05. (A) Each person desiring to obtain or renew a handler's license shall file an application annually with the director of agriculture at such times, on such forms, and containing such information as the director prescribes, including, if applicable, the appointment of a statutory agent under section 926.051 of the Revised Code.

(B) Each application for a license or license renewal shall be accompanied by an application fee of two hundred dollars for the first facility operated by the applicant plus one hundred dollars for each additional facility operated by the same applicant and by an examination fee, ~~established~~ which the director shall establish by rule ~~of the director pursuant to section 926.02~~ in accordance with Chapter 119. of the Revised Code, for each facility operated by the applicant. "Facility" means all warehouse storage located on one premises, including any additional warehouse storage located within one thousand yards of that premises. The director may charge fees for examinations in an amount not to exceed those fees charged by the United States department of agriculture for comparable examinations.

The director shall deposit all fees collected under this section in the commodity handler regulatory program fund created in section 926.19 of the Revised Code.

(C) The director shall approve or reject each application for a license within fifteen days after receipt thereof, provided that such application is in proper form and contains the information required under division (A) of this section. A rejection of an application shall be accompanied by a statement

from the director of the additional requirements necessary for a license. The applicant may resubmit the application without payment of any additional fee.

(D) The director shall adopt rules in accordance with Chapter 119. of the Revised Code to prescribe the expiration date of a handler's license. A handler's license shall expire on the date prescribed by such rule ~~of the director~~. Whenever the director considers it advisable to cancel the unexpired portion of an outstanding license in order to renew it according to a new or existing system of expiration dates, the director shall refund to the handler the unexpired portion of the fees paid under division (B) of this section. Whenever the director issues an initial license on a date that does not conform to the existing system, the director shall issue the license for a period of time, not less than six nor more than eighteen months, that makes the date conform to the existing system. The application fee for that initial license shall be proportionate to the fee for a one-year license.

(E) An application for renewal of a handler's license shall be filed with the director not later than thirty days before the current license expires. An applicant who fails to file a renewal application in time shall pay a late fee of one dollar for each day the application is late or fifteen dollars, whichever is greater. A renewal license shall not be issued until a late fee that is due has been paid.

(F) The director, with the approval of the commodity advisory commission, may, except as provided in division (G) of this section, revoke or refuse to issue or renew a handler's license if any of the following occurred within five years before the application for the license or renewal was filed:

(1) The applicant, or the spouse, parent, sibling, or child of the applicant, or a manager employed by the applicant, or any other individual materially involved in the agricultural commodity handling business of the applicant was a principal in a receivership or insolvency that resulted in losses to creditors or to the agricultural commodity depositors fund established in section 926.16 of the Revised Code;

(2) The applicant pled guilty to or was convicted of any felony or charge of embezzlement under the laws of this state, any other state, or of the United States;

(3) The applicant made a delivery of commodities not authorized under this chapter;

(4) The applicant's license under the "United States Warehouse Act," 39 Stat. 486 (1916), 7 U.S.C. 241, as amended, was revoked or canceled due to a violation of that act.

(G) The director shall not refuse to issue a handler's license because an applicant was convicted of or pleaded guilty to an offense unless the refusal is in accordance with section 9.79 of the Revised Code.

Sec. 926.16. (A) There is hereby created in the state treasury the agricultural commodity depositors fund. The state shall not be held liable for any claims presented against the fund under section 926.18 of the Revised Code. The fund shall consist of a per-bushel fee remitted by licensed handlers under this section, any sums that the director of agriculture may collect by any legal action on behalf of the fund, and any property or securities acquired through the use of moneys in the fund. All investment earnings of the fund shall be credited to the fund. The moneys in the fund shall be used exclusively to

indemnify depositors as provided in section 926.18 of the Revised Code and to pay the examination and administrative costs of this chapter as provided in division (E) of this section.

(B) All licensed handlers shall remit the fee determined by the director in accordance with section 926.17 of the Revised Code on:

(1) All agricultural commodities delivered to them for storage under a bailment agreement or for sale, exchange, or negotiation or solicitation of sale by depositors who produced them or caused them to be produced;

(2) All agricultural commodities delivered to them for storage under a bailment agreement, regardless of who produced the commodities, if a receipt is to be issued for the commodities;

(3) All agricultural commodities that are being stored by licensed handlers who own them solely, jointly, or in common with others and who are issuing a receipt for them in accordance with section 926.25 of the Revised Code. The maximum number of bushels on which a licensed handler shall be required to pay the fee under division (B)(3) of this section between the first day of July and the thirtieth day of June of any marketing year shall be the greatest number of bushels of all commodities for which receipts are outstanding at any one time during that period.

(4) All agricultural commodities that are not involved in a transaction described in division (B)(1), (2), or (3) of this section and the monetary proceeds of which are controlled by a handler who is not involved in the production of the commodities and who serves as an intermediary between the producer and a

handler receiving the commodities. In such a situation, the handler responsible for paying the producer shall remit the fee.

(C) The director shall adopt rules in accordance with Chapter 119. of the Revised Code to establish the manner and prescribe forms governing the accounting and remittance of money from licensed handlers. All licensed handlers shall account for and remit moneys under division (B) of this section to the director in such manner and using such forms as ~~the director shall prescribe~~ prescribed by such rule.

(D) All disbursements from the fund shall be paid by the treasurer of state pursuant to vouchers authorized by the director.

(E) At the request of the director of agriculture, the director of budget and management shall transfer not more than five hundred thousand dollars per fiscal year from the agricultural commodity depositors fund to the commodity handler regulatory program fund created in section 926.19 of the Revised Code to pay the examination and administrative costs of this chapter.

Sec. 926.19. (A) There is hereby created in the state treasury the commodity handler regulatory program fund. The moneys in the fund shall be used to pay the examination and administrative costs of this chapter and shall consist of:

(1) All revenues collected by the director of agriculture from distribution of the receipt forms under division (B) of section 926.20 of the Revised Code and such other forms and registration books as the director may require by rule for the administration of this chapter;

(2) The application and examination fees collected under

division (B) of section 926.05 of the Revised Code;

(3) Any moneys transferred from the agricultural commodity depositors fund under section 926.16 of the Revised Code;

(4) All fines, penalties, and costs, except court costs, that are collected under section 926.99 of the Revised Code in consequence of a violation of this chapter;

(5) All sums collected by the director of agriculture under a contract described in section 926.36 of the Revised Code.

(B) The examination and administrative costs of this chapter shall be computed by the director not later than the thirty-first day of December of each even-numbered year to cover the biennium that begins on the following first day of July. The commodity advisory commission created in section 926.32 of the Revised Code shall approve, and may amend, the examination and administrative costs. The commission's decision shall be binding on the director. The commission also at any time may approve for presentation to the controlling board a request to increase or decrease the appropriation authority for the biennial examination and administrative costs if it determines that an increase or decrease in the cost is necessary to carry out the purpose of this chapter.

(C) If at any time the moneys deposited in the fund, including moneys transferred from the agricultural commodity depositors fund under section 926.16 of the Revised Code, are not sufficient to pay the examination and administrative costs of this chapter, the director shall request an appropriation from the general revenue fund to pay those costs.

(D) The director may adopt rules in accordance with

Chapter 119. of the Revised Code to require forms and registration books for the administration of this chapter.

Sec. 926.20. (A) Upon the request of a depositor, a licensed handler shall issue a receipt for any agricultural commodity that the handler has received from the depositor for storage under a bailment agreement. Even if the depositor has not requested that a receipt be issued, the agricultural commodity delivered for storage under a bailment agreement shall be considered to be in "open storage," and the responsibility of the bailee to the bailor shall remain the same as if a nonnegotiable receipt had been issued upon deposit of the commodity into the handler's warehouse.

No licensed handler shall receive an agricultural commodity for storage under a bailment agreement until the handler has weighed, inspected, and graded the commodity.

(B) The director of agriculture shall provide and print on distinctive paper, paper warehouse receipts. If the director considers it necessary, the director may authorize electronic warehouse receipts. The director may adopt rules in accordance with Chapter 119. of the Revised Code to establish guidelines ~~established in rules adopted under section 926.02 of the Revised Code~~for the authorization of electronic warehouse receipts. Each receipt, paper or electronic, shall contain within its printed terms spaces for at least the following information:

(1) The location of the warehouse where the agricultural commodity is stored;

(2) The date of issuance of the receipt;

(3) The rate of storage charges or the basis for the charges;

(4) The net weight, the percentage of dockage or foreign material, and the grade of the commodity;

(5) "Negotiable" or "nonnegotiable" according to the nature of the receipt, conspicuously indicated on it;

(6) The signature of the licensed handler or the handler's authorized agent;

(7) A statement of the amount of advances made or liability incurred for which the handler claims a lien or, if the precise amount of advances made or liabilities incurred at the time of issuance of the receipt is unknown to the handler or to the agent who issues it, a statement of the fact that advances have been made or liabilities incurred;

(8) If the receipt is for a commodity that the handler owns, either wholly, jointly, or in common with others, the facts about the ownership~~;~~

~~(9) Any other information that the director may require by rule~~.

The director shall cause receipt forms to be distributed to licensed handlers at cost. The revenue from the distribution shall be remitted to the director and credited to the commodity handler regulatory program fund created in division (A) of section 926.19 of the Revised Code in the same manner as other fees collected under that division.

(C) All receipts issued by a licensed handler shall be numbered and issued consecutively.

(D) Before issuing any receipt, a licensed handler shall file with the director a certified copy of the handler's signature and the signature of any person the handler has

authorized to issue receipts.

(E) No licensed handler shall fail to return to the director all receipts and tickets remaining unused on the date of revocation or termination of the handler's license.

(F) No person shall issue a receipt for any agricultural commodity except upon a receipt form furnished or authorized by the director under this section.

(G) No person, with intent to defraud, shall falsely make, alter, forge, counterfeit, or photograph a receipt.

Sec. 926.22. (A) No licensed handler shall issue a receipt except upon the actual delivery of an agricultural commodity into storage in the warehouse from which the receipt is to be issued. No licensed handler shall issue a receipt for a quantity of a commodity greater than that which was contained in the lot or parcel received for storage or issue more than one receipt for the same lot of a commodity unless a receipt for a part of the lot is desired, in which case the aggregate receipts issued for a particular lot shall cover only that lot.

(B) If a licensed handler delivers out of storage a part of a lot of an agricultural commodity for which ~~he~~the handler has issued a negotiable receipt, ~~he~~the handler shall cancel the original receipt and issue a new receipt in accordance with rules adopted by the director of agriculture for the undelivered portion of the commodity that is still in storage. The new receipt shall show the date of its issuance and the number and date of the original receipt. The director shall adopt such rules in accordance with Chapter 119. of the Revised Code.

(C) If one receipt is divided into two or more receipts or two or more receipts are consolidated into one receipt, the

original receipt or receipts shall be canceled in the same manner as if the agricultural commodity had been delivered from storage. The new receipt or receipts shall indicate whether the new receipt or receipts represent a part of another receipt or the consolidation of other receipts. The number and date of the original receipt or receipts shall also appear on the new receipt or receipts. No person shall consolidate receipts that were issued more than thirty days apart.

(D) The date of issuance of an original receipt shall be the date used for determining the oldest receipt for the purposes of division (B) of section 926.13 of the Revised Code. The date of any consolidation, replacement, or renewal receipt shall not be considered.

(E) All receipts issued for agricultural commodities stored in special bins for the purpose of preserving identity shall bear the number of the bin and the notation "Special Bin." All divisions or consolidations of receipt shall bear the bin number of the original receipt or receipts and the notation "Special Bin."

Sec. 926.26. (A) If an agricultural commodity is delivered to a licensed handler by the owner or by a person whose act in conveying the title to the purchaser in good faith for value would bind the owner, and a negotiable receipt is issued for it, the commodity cannot, while in the possession of the handler, be attached by garnishment or otherwise or be levied under an execution unless the receipt is first surrendered to the handler or its negotiation is enjoined. The handler shall in no case be compelled to deliver the actual possession of the commodity until the receipt is surrendered to the handler or impounded by the court. A handler's claim for a lien that has arisen under

section 1307.209 of the Revised Code and that has come due shall be satisfied as follows:

(1) The handler shall give a written notice to the person on whose account the commodity is held and to any other person known by the handler to claim an interest in the commodity. The notice shall be delivered in person or by certified mail addressed to the last known place of business or residence of the person to be notified. The notice shall contain:

(a) An itemized statement of the handler's claim showing the sum due at the time of the notice and the date that it became due;

(b) A brief description of the commodity against which the lien exists;

(c) A demand that the amount of the claim as stated in the notice, and of any further claim accruing, shall be paid on or before the date specified in the notice, which shall be not fewer than ten days from the delivery of the notice if it is personally delivered or from the time when the notice reaches its destination if it is sent by mail;

(d) A statement that, unless the claim is paid within the time specified, the commodity will be advertised for sale and sold at an auction at a specified time and place.

(2) In accordance with the terms of a notice so given, a sale of the commodity at auction may be had to satisfy any valid claim of the handler under which the handler has a lien on the commodity. The sale shall be held in the place where the commodity is held or, if that place is manifestly unsuitable for the purpose, at the nearest suitable place. After the time for the payment of claims that is specified in the notice to the

depositor has elapsed, an advertisement of the sale, describing the commodity to be sold and stating the name of the owner or person on whose account the commodity is held and the time and place of the sale, shall be published once a week for two consecutive weeks in a newspaper of general circulation published in the place where the sale is to be held or, if no newspaper is published in that place, in a newspaper of general circulation published in the county in which the sale is to take place. No sale shall be held before fifteen days from the date of the first publication.

(B) At any time before the agricultural commodity is sold, any person claiming a right of property or possession in it may pay the licensed handler the amount necessary to satisfy the handler's lien and pay the reasonable expenses and liabilities incurred in advertising and preparing for the sale up to the time of payment. The handler shall deliver the commodity to the person making payment only if the person is a person entitled under this chapter to the possession of the commodity on payment of the existing charges.

(C) After the agricultural commodity has been lawfully sold to satisfy a lien arising under section 1307.209 of the Revised Code or has been lawfully sold or disposed of for any other reason, neither the licensed handler nor the agricultural commodity depositors fund created in section 926.16 of the Revised Code shall be liable for failure to deliver the commodity to the depositor or owner of the commodity or to the holder of a receipt given for the commodity when it was deposited even if the receipt was negotiable. The proceeds of the sale, after deducting the amount of any lawful lien, shall be held in accordance with this section for the benefit of the owner or the holder of the receipt. The proceeds shall be

considered full satisfaction of any receipt issued for the commodity so sold and of any bailment agreement between the handler and the depositor.

(D) After the licensed handler has satisfied the handler's lien and after the handler's expenses for advertising have been met, the handler shall forward to the director of agriculture the remaining proceeds of the sale, together with such information concerning the sale and outstanding receipt or receipts as the director requires by rule. The director shall adopt rules in accordance with Chapter 119. of the Revised Code specifying any required information concerning the sale and outstanding receipt or receipts for which the licensed handler shall forward to the director with the remaining proceeds of the sale. Upon the payment of the proceeds to the director, the handler shall be relieved of further responsibility for the safekeeping of them and shall be held harmless by the state for any liabilities for any claim arising out of the transfer of the proceeds to the director. The director shall deposit the proceeds into the state treasury to be held for the benefit of the person who would be rightfully entitled to possession of the commodity had it not been sold under this section.

(E) Any person claiming an interest in proceeds delivered to the director under this chapter may file a claim for them on a form prescribed by the director. The director shall consider any claim filed under this section and render a decision in writing, stating the substance of any evidence considered and the reasons for allowance or disallowance of the claim. If the claim is allowed, the director shall provide for payment of the claim from the agricultural commodity depositors fund.

(F) The remedy for enforcing a lien provided in this

section does not preclude any other remedies allowed by law for the enforcement of a lien or bar the handler's right to recover any amount of the handler's claim that is not paid by the proceeds of the sale held under this section.

Sec. 926.29. (A) A delayed price agreement is an executory contract that shall be in such a form and contain such terms as the director of agriculture shall adopt by rule under Chapter 119. of the Revised Code. The agreement shall be executed by and between the licensed handler and the depositor or by their authorized representatives not later than fifteen days after the first delivery of an agricultural commodity is received for delayed pricing under the agreement. The handler shall maintain a file of executed agreements that are available for inspection at any reasonable time by the director or the director's designated representative. The handler also shall keep records and ledgers the director considers necessary to document the handler's obligation to the depositor under a delayed price agreement. The handler also shall provide reports, forms, and other evidence the director shall adopt by rule in accordance with Chapter 119. of the Revised Code to document the storage and marketing of commodities under the delayed price agreement.

(B) Subject to the lien that attaches under section 926.021 of the Revised Code and except as otherwise provided in division (C) of this section, a licensed handler who purchases any agricultural commodity under a delayed price agreement at all times shall maintain the commodity, rights in the commodity, proceeds from the sale of the commodity, or a combination of the commodity, rights, and proceeds equal to at least ninety per cent of the value of the handler's obligation for all commodities that the handler has purchased that are not priced under delayed price agreements. The obligation shall be secured

or represented by one or more of the following:

(1) Maintenance of the commodity in storage in the handler's warehouse;

(2) Rights in commodities as evidenced by a receipt or ticket for storage of the commodities under a bailment agreement in another warehouse approved by the director;

(3) Proceeds from the sale of commodities as evidenced or represented by one or more of the following:

(a) Cash on hand or held on account in a state or federally licensed financial institution or a lending agency of the farm credit administration;

(b) Short-term investments held in time accounts with state or federally licensed financial institutions or a lending agency of the farm credit administration;

(c) Balances in commodity margin accounts;

(d) Commodities sold and shipped by the handler under delayed price agreements that have not been priced less any payments or advances that have been received by the handler;

(e) Such other evidence of unencumbered assets as may be acceptable to the director, including an irrevocable letter of credit.

(C) In addition to the lien that attaches under section 926.021 of the Revised Code, a depositor who sells an agricultural commodity to a licensed handler under a delayed price agreement, upon giving notice to the handler either at or prior to the time of delivery, may demand as security for payment for the commodity an amount that, at the time of delivery, is equal to one hundred per cent of the national loan

rate value of the commodity under the United States department of agriculture price support program, or seventy-five per cent of the average price being paid for the commodity in the state on the date of demand as published by the market news service of the department of agriculture, whichever is less. The handler shall satisfy a demand for security on a commodity sold under a delayed price agreement at the handler's option by one of the following:

(1) Payment to the depositor by cash or draft on the account of the handler;

(2) Causing an irrevocable letter of credit to be issued to the depositor by a financial institution designated by the handler securing payment in the specified amount. The letter of credit shall be subject to Chapter 1305. of the Revised Code and rules adopted by the director pursuant to Chapter 119. of the Revised Code.

Sec. 926.32. (A) There is hereby created the commodity advisory commission consisting of seven members to be appointed by the director of agriculture. Not later than January 1, 1983, the director shall make appointments to the commission. Of the initial appointments, three shall be for terms ending January 1, 1984, two shall be for terms ending January 1, 1985, and two shall be for terms ending January 1, 1986. Thereafter, terms of office shall be for three years, each term ending on the same day of the same month of the year as did the term that it succeeds. Each member shall hold office from the date of appointment until the end of the term for which the member was appointed. Any member appointed to fill a vacancy occurring prior to the expiration of the term for which the member's predecessor was appointed shall hold office for the remainder of

the term. Any member shall continue in office subsequent to the expiration date of the member's term until the member's successor takes office or until a period of sixty days has elapsed, whichever occurs first.

(B) The commission shall at all times be composed of three farmers who are engaged primarily in the production of agricultural commodities, one licensed handler who is the manager of a farmers cooperative, one licensed handler who is the owner and operator of a warehouse located in a rural area, one licensed handler representing a warehouse located at a major agricultural commodity transportation center, and one banker who is an officer of a rural bank. The director shall designate annually one member of the commission to serve as its chairperson and, after notice and public hearing, may remove any member only for neglect of duty or malfeasance in office.

(C) A vacancy on the commission shall not impair the right of the other members to exercise all of the commission's powers. Four members shall constitute a quorum for the conduct of business of the commission.

(D) The commission shall meet at least three times annually at times that the commission shall set by rule and may meet at other times that the chairperson or a majority of the commission members considers appropriate, provided that no meeting shall be held on the call of the chairperson unless at least seven days' written notice is first given to all members of the commission.

(E) Each member shall be reimbursed for the member's actual and necessary expenses incurred in the discharge of duties as a commission member.

(F) The commission may adopt, amend, or rescind rules or procedures governing the conduct of its internal affairs.

(G) The commission may request from the director, and the director shall provide, meeting space, assistance, services, and data to enable it to carry out its functions.

(H) All costs of the commission, including all of the expenses of its members and consultants authorized in this section, shall be paid from the commodity handler regulatory program fund created in section 926.19 of the Revised Code pursuant to itemized vouchers approved by the chairperson of the commission and the director.

(I) The director shall designate an official or employee of the department of agriculture to act as the executive secretary of the commission. The director also may request the attendance at meetings of the commission consultants with expertise in agricultural law, marketing, statistics, or any other subject to advise and consult with the commission on matters on the agenda of any regular or special meeting of the commission. The expenses incurred by consultants attending those meetings shall be reimbursed according to division (H) of this section. The executive secretary shall keep or cause to be kept a permanent journal of all meetings, proceedings, findings, determinations, and recommendations of the commission, including an itemized statement of the expenses allowed to each member of the commission and consultants under this section. The journal shall be a public record.

(J) In addition to the authority granted in division (F) of section 926.05, division (B) of section 926.17, divisions (A) and (C) of section 926.18, and division (B) of section 926.19 of the Revised Code, the commission shall advise and counsel the

director on all matters relating to:

(1) The administration of this chapter;

(2) The development of rules authorized ~~by section 926.02 of the Revised Code~~under this chapter;

(3) Any other matters that the commission and the director consider appropriate in carrying out this chapter.

Sec. 927.52. (A) The director of agriculture ~~shall adopt and enforce any rules that are necessary to carry out sections 927.51 to 927.73 of the Revised Code.~~

~~(B) The director~~ may revoke, suspend, or refuse to issue any nursery certificate or dealer's license for any violation of sections 927.51 to 927.71 of the Revised Code~~, or of any rules adopted under those sections~~.

~~(C)~~(B) The director may publish reports describing nursery inspection and pest control operations authorized by sections 927.51 to 927.71 of the Revised Code.

Sec. 927.682. (A) Except as otherwise provided in division (B) of this section, no person and no political subdivision, agency, department, or instrumentality of the state shall sell, offer for sale, or plant Lythrum salicaria (purple loosestrife) plants or seed in this state without a permit issued by the director of agriculture. The director may issue permits to plant Lythrum salicaria for use in controlled experiments.

(B) The director~~, by rule,~~ shall adopt rules in accordance with Chapter 119. of the Revised Code to exempt from the permit requirement of division (A) of this section any variety of Lythrum salicaria that has been demonstrated to the director's satisfaction not to be a threat to the environment.

Sec. 927.69. To effect the purpose of sections 927.51 to 927.73 of the Revised Code, the director of agriculture or the director's authorized representative may:

(A) Make reasonable inspection of any premises in this state and any property therein or thereon;

(B) Stop and inspect in a reasonable manner, any means of conveyance moving within this state upon probable cause to believe it contains or carries any pest, host, commodity, or other article that is subject to sections 927.51 to 927.72 of the Revised Code;

(C) Conduct inspections of agricultural products that are required by other states, the United States department of agriculture, other federal agencies, or foreign countries to determine whether the products are infested. If, upon making such an inspection, the director or the director's authorized representative determines that an agricultural product is not infested, the director or the director's authorized representative may issue a certificate, as required by other states, the United States department of agriculture, other federal agencies, or foreign countries, indicating that the product is not infested.

If the director charges fees for any of the certificates, agreements, or inspections specified in this section, the fees shall be as follows:

(1) Phytosanitary certificates, twenty-five dollars for shipments comprised exclusively of nursery stock;

(2) Phytosanitary certificates, one hundred dollars for all others;

(3) Phytosanitary certificates, twenty-five dollars for

replacement of an issued certificate because of a mistake on the certificate or a change made by the shipper if no additional inspection is required;

(4) Compliance agreements, forty dollars;

(5) Agricultural products and their conveyances inspections, an amount equal to the hourly rate of pay in the highest step in the pay range, including fringe benefits, of a plant pest control specialist multiplied by the number of hours worked by such a specialist in conducting an inspection.

The director may adopt rules under ~~section 927.52~~ Chapter 119. of the Revised Code that define the certificates, agreements, and inspections.

The fees shall be credited to the plant pest program fund created in section 927.54 of the Revised Code.

Sec. 927.701. (A) As used in this section, "gypsy moth" means the live insect, Lymantria dispar, in any stage of development.

(B) The director of agriculture may establish a voluntary gypsy moth suppression program under which a landowner may request that the department of agriculture have the landowner's property aerially sprayed to suppress the presence of gypsy moths in exchange for payment from the landowner of a portion of the cost of the spraying. To determine the total cost per acre, the department shall add the per-acre cost of the product selected by the landowner to suppress gypsy moths and the per-acre cost of applying the product as determined by the director in rules. To determine the aggregate total cost, the department shall multiply the total cost per acre by the number of acres that the landowner requests to be sprayed. The department shall

add to that amount any administrative costs that it incurs in billing the landowner and collecting payment. The portion of the cost that is assessed to the landowner, if any, shall be determined by the funding that is allocated to the department by the federal and state gypsy moth suppression programs.

(C) The director shall adopt rules under Chapter 119. of the Revised Code to establish procedures under which a landowner may make a request under division (B) of this section, to establish the per-acre cost of applying product to suppress gypsy moths, and to establish provisions governing agreements between the department and landowners concerning gypsy moth suppression ~~together with any other provisions that the director considers appropriate to administer this section~~.

(D) The director shall deposit all money collected under this section to the credit of the plant pest program fund created in section 927.54 of the Revised Code. Money credited to the fund under this section shall be used for the suppression of gypsy moths in accordance with this section.

Sec. 927.71. (A) The director of agriculture~~,~~ may adopt rules in accordance with Chapter 119. of the Revised Code~~, may~~ to quarantine:

(1) This state or any portion thereof when the director determines that such action is necessary to prevent or retard the spread of a pest into, within, or from this state;

(2) Any other state or portion thereof when the director determines that a pest exists therein and that such action is necessary to prevent or retard its spread into this state.

(B) The director may limit the application of a quarantine to the infested portions of the quarantined area and appropriate

environs, to be known as the regulated area, and may, without further hearing, extend the regulated area to include additional portions of the quarantined area either:

(1) Upon publication of a notice to that effect in such newspapers in the quarantined area as the director may select;

(2) Upon written notice to those concerned.

(C) Following establishment of a quarantine, no person shall move any regulated article described in the quarantine, or move the pest against which the quarantine is established, within, from, into, or through this state contrary to rules adopted by the director without prior permission or order of the director.

(D) ~~A rule~~ The director may adopt rules in accordance with Chapter 119. of the Revised Code to restrict the movement of a pest and any regulated article from the quarantined or regulated area in this state into or through other parts of this state or other states and from the quarantine or regulated area in other states into or through this state ~~and may impose such inspection, disinfection, certification, permit, or other requirements as the director determines necessary to effectuate the purpose of sections 927.51 to 927.73 of the Revised Code~~.

Sec. 928.03. ~~The director of agriculture, in consultation with the governor and attorney general, shall adopt rules in accordance with Chapter 119. of the Revised Code establishing standards and procedures for the regulation of hemp processing.~~ The director ~~also~~ shall adopt ~~such~~ rules, in consultation with the governor and attorney general and in accordance with Chapter 119. of the Revised Code, regarding hemp cultivation if the director implements a program to monitor and regulate hemp

cultivation under division (A)(1) of section 928.02 of the Revised Code. The rules shall ~~include~~ specify all of the following:

(A) The form of an application for a hemp cultivation license and hemp processing license and the information required to be included in each license application;

(B) The amount of an initial application fee that an applicant shall submit along with an application for a hemp cultivation license or a hemp processing license, and the amount of an annual license fee that a licensee shall submit for a hemp cultivation license or a hemp processing license. In adopting rules under division (B) of this section, the director shall ensure both of the following:

(1) That the amount of the application fee and annual license fee does not exceed an amount sufficient to cover the costs incurred by the department of agriculture to administer and enforce this chapter;

(2) That there is one uniform application fee and one uniform annual license fee that applies to all applicants for a hemp cultivation license.

(C) Requirements and procedures concerning background investigations of each applicant for a hemp cultivation license and each applicant for a hemp processing license. The director shall include both of the following in the rules adopted under this division:

(1) A requirement that each applicant comply with sections 4776.01 to 4776.04 of the Revised Code;

(2) Provisions that prohibit the director from issuing a hemp cultivation license or hemp processing license to an

applicant that has not complied with those sections.

(D) Requirements regarding the experience, equipment, facilities, or land necessary to obtain a hemp cultivation license;

(E) Requirements and procedures regarding standards of financial responsibility for each applicant for a hemp processing license.

(F) Procedures and requirements for the issuance, renewal, denial, suspension, and revocation of a hemp cultivation license and hemp processing license, including providing for a hearing under Chapter 119. of the Revised Code with regard to such a denial, suspension, or revocation;

(G) Grounds for the denial, suspension, and revocation of a hemp cultivation license and of a hemp processing license, including a requirement that the director revoke a hemp cultivation license or hemp processing license, for a period of ten years, of any person who pleads guilty to or is convicted of a felony relating to a controlled substance;

(H) A requirement that the director shall not issue a hemp cultivation license or hemp processing license to any person who has pleaded guilty to or been convicted of a felony relating to a controlled substance in the ten years immediately prior to the submission of the application for a license;

(I) A requirement that any person that materially falsifies information in an application for a hemp cultivation license or hemp processing license is ineligible to receive either license;

(J) A practice for maintaining relevant information regarding land on which hemp is cultivated by hemp cultivation

licensees, including a legal description of the land, in accordance with applicable federal law;

(K) Requirements prohibiting a hemp cultivation licensee and a hemp processing licensee from cultivating or processing marihuana;

(L) A procedure for testing, using post-decarboxylation or other similarly reliable methods, delta-9 tetrahydrocannabinol concentration levels of plants and products for purposes of determining compliance with this chapter and rules adopted under it;

(M) Requirements and procedures for the issuance, administration, and enforcement of corrective action plans issued under this chapter;

(N) A procedure for conducting annual inspections of, at a minimum, a random sample of hemp cultivation license holders to verify that plants are not being cultivated in violation of this chapter or rules adopted under it;

(O) A procedure for conducting annual inspections of, at a minimum, a random sample of hemp processing license holders to verify that such license holders are not operating in violation of this chapter or rules adopted under it;

(P) A procedure for complying with enforcement procedures required under federal law;

(Q) A procedure for the effective disposal of all of the following:

(1) Plants, whether growing or not, cultivated in violation of this chapter or rules adopted under it;

(2) Products derived from plants cultivated in violation

of this chapter or rules adopted under it;

(3) Products produced in violation of this chapter or rules adopted under it.

(R) Requirements and procedures governing the production, storage, and disposal of hemp byproducts.

For the purposes of this chapter and notwithstanding any provision of law to the contrary, "hemp product" includes a byproduct, produced as a result of processing hemp, that contains a delta-9 tetrahydrocannabinol concentration of more than three-tenths per cent, provided that the byproduct is produced, stored, and disposed of in accordance with rules adopted under division (R) of this section.

(S) Procedures for sharing information regarding hemp cultivation license holders with the secretary of the USDA;

(T) A setback distance requirement that specifies the distance that a hemp cultivation license holder shall locate hemp plants from a location where medical marijuana is being cultivated. The requirement does not apply to a hemp cultivation license holder with regard to a medical marijuana cultivator that locates medical marijuana within the established setback distance requirement after the hemp cultivation license holder begins operation.

(U) Annual reporting requirements and procedures for hemp cultivation license holders and hemp processing license holders;

(V) Recordkeeping and documentation maintenance requirements and procedures for hemp cultivation license holders and hemp processing license holders;

(W) Fees for the laboratory testing of plants and

products;

(X) Standards for the testing and labeling of hemp and hemp products;

(Y) Requirements prohibiting the processing of hemp in a building used as a personal residence or on land that is zoned for residential use;

(Z) Production standards and manufacturing practices for processing hemp;

(AA) Procedures and requirements for the transportation and storage of both hemp and hemp products~~;~~

~~(BB) Any other requirements or procedures necessary to administer and enforce this chapter~~.

Sec. 935.17. The director of agriculture shall adopt rules in accordance with Chapter 119. of the Revised Code that establish all of the following:

(A) Both of the following concerning the registration of dangerous wild animals under section 935.04 of the Revised Code:

(1) Any additional information that must be included with a registration;

(2) Standards for the care and housing of registered dangerous wild animals, including standards for the proper care of each species of dangerous wild animal and caging and fencing of the animals.

The director shall adopt rules under division (A) of this section not later than ninety days after September 5, 2012.

(B) Standards for the care and well-being of dangerous wild animals specified in divisions (C)(1) to (19) of section

935.01 of the Revised Code that are possessed by the holders of wildlife shelter permits and wildlife propagation permits issued under this chapter. The standards shall govern at least sanitation for, provision of health care for, and feeding, caging, housing, and fencing of dangerous wild animals. In adopting rules under this division, the director shall consider the following factors:

(1) Best management practices for the care and well-being of dangerous wild animals;

(2) Public health and safety;

(3) Biosecurity;

(4) The prevention of disease;

(5) Animal morbidity and mortality data;

(6) Generally accepted veterinary medical practices;

(7) Standards adopted by the association of zoos and aquariums;

(8) Standards adopted by the zoological association of America;

(9) Standards established in the federal animal welfare act;

(10) Ethical standards established by the American veterinary medical association~~;~~

~~(11) Any other factors that the director considers necessary for the proper care and well-being of dangerous wild animals in this state~~.

(C) Standards for the housing of dangerous wild animals specified in division (C)(20) of section 935.01 of the Revised

Code that are possessed by the holders of wildlife shelter permits and wildlife propagation permits issued under this chapter;

(D) All of the following concerning applications for permits issued under sections 935.06 and 935.07 of the Revised Code:

(1) Any additional information that must be included with a permit application;

(2) Criteria for determining what constitutes a species survival program for the purposes of division (A) of section 935.07 of the Revised Code and requirements and procedures that are necessary to determine if a program meets those criteria;

(3) The content of the examination specified in division (B)(6) of section 935.05 of the Revised Code. The rules shall require the examination to test an applicant's knowledge on topics that include proper diet, health care, exercise needs, and housing of the species of dangerous wild animal or animals that are the subject of the application.

(4) Procedures and requirements concerning the administration of the examination specified in division (B)(6) of section 935.05 of the Revised Code.

(E) All of the following concerning applications for permits issued under sections 935.09 and 935.10 of the Revised Code:

(1) Any additional information that must be included with a permit application;

(2) The content of the examination specified in division (B)(5) of section 935.08 of the Revised Code. The rules shall

require the examination to test an applicant's knowledge on topics that include proper diet, health care, and housing of the species of restricted snake or snakes that are the subject of the application.

(3) Procedures and requirements concerning the administration of the examination specified in division (B)(5) of section 935.08 of the Revised Code.

(F) Both of the following concerning applications for permits issued under section 935.101 of the Revised Code:

(1) Information that must be included in a permit application;

(2) Criteria and procedures for the issuance or denial of a permit.

(G) Standards for the care and well-being of dangerous wild animals that are possessed by the holders of permits issued under section 935.101 of the Revised Code. The standards shall govern at least sanitation for, provision of health care for, and feeding, caging, housing, and fencing of dangerous wild animals. In adopting the rules, the director may consider the standards of care and housing established in rules adopted under division (B) of this section and section 935.12 of the Revised Code.

(H) Procedures and requirements governing the maintenance of records under section 935.15 of the Revised Code;

(I) Standards for signs that are required to be posted and displayed in accordance with section 935.18 of the Revised Code;

(J) The amount of civil penalties that may be assessed under section 935.24 of the Revised Code~~;~~

~~(K) Any other provisions necessary to administer and enforce this chapter~~.

Sec. 936.02. (A) The director of agriculture shall establish a propane council~~ and adopt rules in accordance with Chapter 119. of the Revised Code necessary to implement this chapter~~.

(B) The director shall appoint the following members to the council in accordance with this section~~ and rules adopted under it~~:

(1) Two multi-state propane gas retailers;

(2) Two intrastate propane gas retailers;

(3) One cooperative propane gas retailer;

(4) One wholesale propane gas wholesale distributor;

(5) One propane gas equipment dealer;

The director of agriculture or the director's designee and the state fire marshal or the fire marshal's designee also shall serve on the council.

(C) The director shall appoint members under divisions (B)(1) through (5) of this section from a list submitted by a qualified statewide propane association. The director shall not appoint a person as a member of the council unless the person is at least twenty-five years old and has at least five years of active experience in the propane gas industry.

(D) Not later than ninety days after the effective date of this section, the director shall make initial appointments to the council. Members shall serve three-year staggered terms of office~~ in accordance with rules adopted by the director~~.

Sec. 939.02. The director of agriculture shall do all of the following:

(A) Provide administrative leadership to soil and water conservation districts in planning, budgeting, staffing, and administering district programs and the training of district supervisors and personnel in their duties, responsibilities, and authorities as prescribed in this chapter and Chapter 940. of the Revised Code;

(B) Administer this chapter and Chapter 940. of the Revised Code pertaining to state responsibilities and provide staff assistance to the Ohio soil and water conservation commission in exercising its statutory responsibilities;

(C) Assist in expediting state responsibilities for watershed development and other soil and water conservation works of improvement, including assisting in watershed planning and management under section 940.41 of the Revised Code;

(D) Coordinate or support the development and implementation of cooperative programs and working agreements between soil and water conservation districts and the department of agriculture, department of natural resources, environmental protection agency, or other agencies of local, state, and federal government. The cooperative programs and working agreements shall be for the support of farm, rural, suburban, and urban conservation programs.

(E) Subject to the approval of the Ohio soil and water conservation commission, adopt rules in accordance with Chapter 119. of the Revised Code that do or comply with all of the following:

(1) Establish technically feasible and economically

reasonable standards to achieve a level of management and conservation practices in farming operations that will abate wind or water erosion of the soil or abate the degradation of the waters of the state by residual farm products, manure, or soil sediment, including attached substances, and establish criteria for determination of the acceptability of such management and conservation practices;

(2) Establish procedures for administration of rules for agricultural pollution abatement and for enforcement of those rules;

(3) Specify the pollution abatement practices eligible for state cost sharing and determine the conditions for eligibility, the construction standards and specifications, the useful life, the maintenance requirements, and the limits of cost sharing for those practices. Eligible practices shall be limited to practices that address agricultural operations and that require expenditures that are likely to exceed the economic returns to the owner or operator and that abate soil erosion or degradation of the waters of the state by residual farm products, manure, or soil sediment, including attached pollutants.

(4) Establish procedures for administering grants to owners or operators of agricultural land or animal feeding operations for the implementation of operation and management plans;

(5) Do both of the following with regard to composting conducted in conjunction with agricultural operations:

(a) Establish methods, techniques, or practices for composting dead animals, or particular types of dead animals, that are to be used at such operations, as the director

considers to be necessary or appropriate;

(b) Establish requirements and procedures governing the review and approval or disapproval of composting plans by the supervisors of soil and water conservation districts under division ~~(S)~~ (R) of section 940.06 of the Revised Code.

(6) Establish best management practices for inclusion in operation and management plans;

(7) Establish the amount of civil penalties assessed by the director under division (A) of section 939.07 of the Revised Code for violation of rules adopted under division (E) of this section;

(8) Not conflict with air or water quality standards adopted pursuant to section 3704.03 or 6111.041 of the Revised Code. Compliance with rules adopted under this section does not affect liability for noncompliance with air or water quality standards adopted pursuant to section 3704.03 or 6111.041 of the Revised Code. The application of a level of management and conservation practices recommended under this section to control windblown soil from farming operations creates a presumption of compliance with section 3704.03 of the Revised Code as that section applies to windblown soil.

(F) Cost share with landowners on practices established pursuant to division (E)(3) of this section as moneys are appropriated and available for that purpose. Any practice for which cost share is provided shall be maintained for its useful life. Failure to maintain a cost share practice for its useful life shall subject the landowner to full repayment to the department.

(G) Employ field assistants and other employees that are

necessary for the performance of the work prescribed by Chapter 940. of the Revised Code, for performance of work of the department under this chapter, and as agreed to under working agreements or contractual arrangements with soil and water conservation districts, prescribe their duties, and fix their compensation in accordance with schedules that are provided by law for the compensation of state employees. All such employees of the department, unless specifically exempted by law, shall be employed subject to the classified civil service laws in force at the time of employment.

(H) In connection with new or relocated projects involving highways, underground cables, pipelines, railroads, and other improvements affecting soil and water resources, including surface and subsurface drainage:

(1) Provide engineering services that are mutually agreeable to the Ohio soil and water conservation commission and the director to aid in the design and installation of soil and water conservation practices as a necessary component of such projects;

(2) Maintain close liaison between the owners of lands on which the projects are executed, soil and water conservation districts, and authorities responsible for such projects;

(3) Review plans for such projects to ensure their compliance with standards developed under division (E) of this section in cooperation with the department of transportation or with any other interested agency that is engaged in soil or water conservation projects in the state in order to minimize adverse impacts on soil and water resources adjacent to or otherwise affected by these projects;

(4) Recommend measures to retard erosion and protect soil and water resources through the installation of water impoundment or other soil and water conservation practices;

(5) Cooperate with other agencies and subdivisions of the state to protect the agricultural status of rural lands adjacent to such projects and control adverse impacts on soil and water resources.

(I) Collect, analyze, inventory, and interpret all available information pertaining to the origin, distribution, extent, use, and conservation of the soil resources of the state;

(J) Prepare and maintain up-to-date reports, maps, and other materials pertaining to the soil resources of the state and their use and make that information available to governmental agencies, public officials, conservation entities, and the public;

(K) Provide soil and water conservation districts with technical assistance including on-site soil investigations and soil interpretation reports on the suitability or limitations of soil to support a particular use or to plan soil conservation measures. The assistance shall be on terms that are mutually agreeable to the districts and the department of agriculture.

(L) Assist local government officials in utilizing land use planning and zoning, current agricultural use value assessment, development reviews, and land management activities;

(M) When necessary for the purposes of this chapter or Chapter 940. of the Revised Code, develop or approve operation and management plans. The director may designate an employee of the department to develop or approve operation and management

plans in lieu of the director.

This section does not restrict the manure of domestic or farm animals defecated on land outside an animal feeding operation or runoff from that land into the waters of the state.

Sec. 939.04. (A) A person who owns or operates an agricultural operation, or owns the animals raised by the owner or operator of an agricultural operation, and who wishes to conduct composting of dead animals resulting from the agricultural operation shall do both of the following:

(1) Participate in an educational course concerning composting conducted by OSU extension and obtain a certificate of completion for the course;

(2) Use the appropriate method, technique, or practice of composting established in rules adopted under division (E)(5) of section 939.02 of the Revised Code.

(B) A person who fails to comply with division (A) of this section shall prepare and operate under a composting plan required by the director of agriculture under division (A)(2) of section 939.02 of the Revised Code. If the person's proposed composting plan is disapproved by the supervisors of the appropriate soil and water conservation district under division ~~(S)(3)~~ (R)(3) of section 940.06 of the Revised Code, the person may appeal the plan disapproval to the director, who shall afford the person a hearing. Following the hearing, the director shall uphold the plan disapproval or reverse it. If the director reverses the disapproval, the plan shall be deemed approved.

Sec. 940.02. There is hereby established in the department of agriculture the Ohio soil and water conservation commission. The commission shall consist of seven members of equal status

and authority, six of whom shall be appointed by the governor with the advice and consent of the senate, and one of whom shall be designated by resolution of the board of directors of the Ohio federation of soil and water conservation districts. The directors of agriculture, environmental protection, and natural resources, the vice-president for agricultural administration of the Ohio state university, and an officer of the Ohio federation of soil and water conservation districts, or their designees, may serve as ex officio members of the commission, but without the power to vote. A vacancy in the office of an appointed member shall be filled by the governor, with the advice and consent of the senate. Any member appointed to fill a vacancy occurring prior to the expiration of the term for which the member's predecessor was appointed shall hold office for the remainder of that term. Of the appointed members, four shall be persons who have a knowledge of or interest in agricultural production and the natural resources of the state. One member shall represent rural interests and one member shall represent urban interests. Not more than three of the appointed members shall be members of the same political party.

Terms of office of the member designated by the board of directors of the federation and the members appointed by the governor shall be for four years, commencing on the first day of July and ending on the thirtieth day of June.

Each appointed member shall hold office from the date of appointment until the end of the term for which the member was appointed. Any appointed member shall continue in office subsequent to the expiration date of the member's term until the member's successor takes office, or until a period of sixty days has elapsed, whichever occurs first.

The commission shall organize by selecting from its members a chairperson and a vice-chairperson. The commission shall hold at least one regular meeting in each quarter of each calendar year and shall keep a record of its proceedings, which shall be open to the public for inspection. Special meetings may be called by the chairperson and shall be called by the chairperson upon receipt of a written request signed by two or more members of the commission. Written notice of the time and place of each meeting shall be sent to each member of the commission. A majority of the commission shall constitute a quorum.

~~The commission may adopt rules as necessary to carry out the purposes of this chapter, subject to Chapter 119. of the Revised Code.~~

The governor may remove any appointed member of the commission at any time for inefficiency, neglect of duty, or malfeasance in office, after giving to the member a copy of the charges against the member and an opportunity to be heard publicly in person or by counsel in the member's defense. Any such act of removal by the governor is final. A statement of the findings of the governor, the reason for the governor's action, and the answer, if any, of the member shall be filed by the governor with the secretary of state and shall be open to public inspection.

All members of the commission shall be reimbursed for the necessary expenses incurred by them in the performance of their duties as members.

Upon recommendation by the commission, the director of agriculture shall designate an executive secretary and provide staff necessary to carry out the powers and duties of the

commission.

The commission shall do all of the following:

(A) Determine distribution of funds under section 940.15 of the Revised Code, recommend to the director and other agencies the levels of appropriations to special funds established to assist soil and water conservation districts, and recommend the amount of federal funds to be requested and policies for the use of such funds in support of soil and water conservation district programs;

(B) Assist in keeping the board of supervisors of soil and water conservation districts informed of its powers and duties, program opportunities, and the activities and experience of all other districts, and facilitate the interchange of advice, experience, and cooperation between the districts;

(C) Seek the cooperation and assistance of the federal government or any of its agencies, and of agencies of this state, in the work of the districts;

(D) Adopt appropriate rules governing the conduct of elections provided for in this chapter, subject to Chapter 119. of the Revised Code, provided that only owners and occupiers of lands situated within the boundaries of the districts or proposed districts to which the elections apply shall be eligible to vote in the elections;

(E) Recommend to the director priorities for planning and construction of small watershed projects, and make recommendations to the director concerning coordination of programs as proposed and implemented in agreements with soil and water conservation districts;

(F) Recommend to the directors of agriculture,

environmental protection, and natural resources, the governor, and the general assembly programs and legislation with respect to the operations of soil and water conservation districts that will encourage proper soil, water, and other natural resource management for farm, rural, suburban, and urban land and promote the economic and social development of the state;

(G) Recommend to the director of agriculture a procedure for coordination of a program of agricultural pollution abatement. Implementation of such a program shall be based on water quality standards adopted pursuant to section 6111.041 of the Revised Code. The director of environmental protection may coordinate with the division of soil and water conservation in the department of agriculture and soil and water conservation districts for the abatement of agricultural pollution.

Sec. 940.31. (A) At the conclusion of the hearing conducted under section 940.30 of the Revised Code, the board of county commissioners shall vote to approve or dismiss the petition.

(B) The board may approve the petition if the board is reasonably certain that:

(1) The benefits of the proposed improvement outweigh the costs.

(2) The proposed improvement is necessary.

(3) The proposed improvement will be conducive to the public welfare.

(4) The proposed route and mode of construction of the improvement will improve water management and development in the county in which the district is located to the advantage of lands located in it.

(5) The proposed improvement will aid lands in the area by promoting the economic, environmental, or social development of the area.

(C) When, in the opinion of the board of county commissioners, it is necessary for the board to acquire real property or a right-of-way or other easement for an improvement project under this chapter, the board may make the acquisition through purchase or voluntary transfer, or the board may appropriate the real property or right-of-way or other easement in accordance with sections 163.01 to 163.62 of the Revised Code.

(D) If the board approves a petition for an improvement, the county engineer shall file with the county recorder all of the following:

(1) A property plat showing the landowners of record and parcel numbers along the improvement;

(2) The location of the improvement;

(3) The width of any permanent easement that is necessary for maintenance of the improvement granted in section 6137.12 of the Revised Code;

(4) An affidavit listing the landowners of record, complete property descriptions, and parcel numbers subject to the permanent easement. The county engineer shall note the property plat in the affidavit.

The county engineer shall include the permanent easement in the county's geographic information systems or other mapping system, if available.

In the case of an improvement that is an open ditch,

provisions that govern the permanent easement for maintenance of the ditch that are established in section 6137.12 of the Revised Code apply.

(E) A board of county commissioners shall follow competitive bidding requirements in sections 307.86 to 307.91 of the Revised Code in constructing an improvement. However, the board may designate the board of supervisors of a soil and water conservation district as the contracting agency. The board of supervisors shall follow division ~~(H)~~ (G) of section 940.06 of the Revised Code. If the improvement is being undertaken through the joint efforts and cooperation of the board of county commissioners or board of supervisors and another state or federal agency, and if the state or federal regulations or procedures are in conflict with those sections with respect to the procedures for the preparing of contracts, the issuing of bids, the making of awards, and generally the administering of the contracts, the board of county commissioners or board of supervisors may adopt the state or federal regulations or procedures in those areas where conflict exists and proceed with the improvement in accordance with the requirements of the state or federal regulations or procedures.

(F) If a board of county commissioners does not approve a petition for a proposed improvement, the applicable board of supervisors may revise the proposed improvement and submit the revision to the board of county commissioners for reconsideration of the petition.

Sec. 941.01. As used in this chapter:

(A) "Dangerously contagious or infectious disease" means any disease, including any foreign animal disease, or vector, that the director of agriculture, in the director's sound

discretion, determines to be of harmful effect on the animal or poultry industry or the public health and to be capable of transmission by any means from a carrier animal to a human or to another animal.

(B) "Disease of concern" means any disease, including any foreign animal disease, or vector, that the director determines may have an adverse impact on the animal or poultry industry or to the public health in this state, but that is not a disease that is reportable to the United States department of agriculture.

(C) "Geographic area" means any county or counties within this state or parts thereof as may be designated by the director.

(D) "Animal" means any animal that is a bird, reptile, amphibian, fish, or mammal, other than humans.

(E) "Domestic animal" includes livestock; other animals that through long association with humans have been bred to a degree resulting in genetic changes affecting the temperament, color, conformation, or other attributes of the species to an extent that makes them different from nondomestic animals of their kind; and other animals as defined ~~by rule~~ by the director.

(F) "Foreign animal disease" means a contagious or infectious disease that is not present in United States domestic or nondomestic species populations and is listed by the United States department of agriculture as a "foreign animal disease."

(G) "Nondomestic animal" means any animal that is not domestic, including at least nonindigenous animals and animals usually not in captivity.

(H) "Poultry" means any domesticated fowl kept in confinement, except for doves and pigeons, that are bred for the primary purpose of producing eggs or meat for human consumption. "Poultry" includes chickens, turkeys, waterfowl, and game birds.

(I) "Vector" means a disease carrier, usually from, but not limited to, the arthropod class, that transfers an infectious agent that may transmit a dangerously contagious or infectious disease from one host to another.

(J) "Residue" means any poisonous or deleterious pesticide governed by 40 C.F.R. 180, any poisonous or deleterious substance governed by 21 C.F.R. 109.6, or any other substance governed by 21 C.F.R. 556.

(K) "Seal" means any band or object made of metal, plastic, or other material placed on a vehicle or other means of conveyance so that when the vehicle or conveyance is opened, the band or object is affected, altered, or broken.

Sec. 941.03. ~~(A)~~ The director of agriculture, under Chapter 119. of the Revised Code, may adopt ~~and enforce~~ rules to ~~carry out this chapter, including designating~~ designate a disease or vector as a dangerously contagious or infectious disease or as a disease of concern.

~~(B) No person shall fail to comply with the rules adopted by the director under division (A) of this section.~~

Sec. 941.99. (A) Whoever violates sections ~~941.03,~~ 941.05, 941.06, 941.08, 941.14, 941.24, 941.25, 941.54, 941.56, or division (C) of section 941.07, division (B) of section 941.09, division (C) of section 941.10, division (B) of section 941.11, or division (A) of section 941.55 of the Revised Code is guilty of a misdemeanor of the fourth degree. For each subsequent

violation, such person is guilty of a misdemeanor of the third degree.

(B) Whoever violates division (A), (C), or (D) of section 941.041 of the Revised Code is guilty of a misdemeanor of the first degree.

(C) Whoever violates division (B) of section 941.041 of the Revised Code is guilty of a misdemeanor of the fourth degree on a first offense. On each subsequent violation, the person is guilty of a misdemeanor of the third degree.

(D) Except as otherwise provided in this section, whoever violates division (E) or (F) of section 941.041 of the Revised Code is guilty of a misdemeanor of the first degree. If the animal is found to be infected with or to have been exposed to a dangerously contagious or infectious disease or is adulterated with a residue or if the person previously has been convicted of or pleaded guilty to one violation of division (E) or (F) of section 941.041 of the Revised Code, the person is guilty of a felony of the fifth degree. Thereafter, on each subsequent violation, the person is guilty of a felony of the fourth degree.

Sec. 943.03. (A)(1) Application for a license as a dealer or broker shall be made in writing to the department of agriculture. The application shall state the nature of the business, the municipal corporation, township, and county, and the post-office address of the location where the business is to be conducted, the name of any employee authorized to act in the dealer's or broker's behalf, and such additional information as the department prescribes.

The applicant shall satisfy the department of the

applicant's good faith in seeking to engage in such business. The department shall issue to the applicant a license to conduct the business of a dealer or broker at the place named in the application. Licenses, unless revoked, shall expire annually on the thirty-first day of March and shall be renewed according to the standard renewal procedure of sections 4745.01 to 4745.03 of the Revised Code.

(2) No license shall be issued by the department to a dealer or broker having weighing facilities until the applicant has filed with the department a copy of a scale test certificate showing the weighing facilities to be in satisfactory condition, a copy of the license of each weigher employed by the applicant, and a certificate of inspection by the department showing livestock market facilities to be in satisfactory sanitary condition.

(3) Except as provided in division (A)(4) of this section, no license shall be issued by the department until the applicant has furnished proof of financial responsibility. Except as provided in division (C) of this section, such proof may be in the following forms:

(a) A bond of a surety company authorized to do business in this state in the form prescribed by and to the satisfaction of the department, conditioned for the payment of a judgment against the applicant furnishing the bond and arising out of the failure of such dealer or broker to pay for the livestock purchased for the dealer's or broker's own or for the accounts of others or to pay when due to the person entitled thereto the gross amount, less lawful charges, for which all of the livestock is sold. The amount of bond required, the termination of the bond, and the limitation on filing claims against the

dealer or broker or their surety shall be the same as prescribed in division (B) of this section.

(b) A deposit with a trustee acceptable to the department of the required amount in money or negotiable bonds of the United States or of this state or of a political subdivision of this state of that par or face value, or any combination thereof, for the purpose of securing the payment of a judgment against the dealer or broker furnishing the deposit and arising out of the failure of the dealer or broker to pay for the livestock purchased for the dealer's or broker's own or for the accounts of others, or to pay when due to the person entitled thereto the gross amount, less lawful charges, for which all of the livestock is sold. The deposit shall be made under a deposit agreement acceptable to the department. The deposit is not subject to attachment for any other claim or levy of execution upon a judgment based on any other claims.

(4) An applicant for a license as a dealer or broker of poultry is not required to maintain financial responsibility or furnish proof of financial responsibility.

(B) Any person damaged by failure of a dealer or broker to pay for the livestock purchased for the dealer's or broker's or for the accounts of others or to pay when due to the person entitled thereto the gross amount, less lawful charges, for which all of the livestock is sold may maintain an action against the broker or dealer and the sureties on the bonds, or the trustee, provided for in this section. The aggregate liability of the sureties or trustee for all such damage shall not exceed the amount of the bond or deposit.

Unless the person damaged files a claim with the dealer or broker and the sureties or trustee within sixty days from the

date of the transaction on which the claim is based, the person shall be barred from maintaining an action on the bond or for the application of the deposit. Upon the filing of a claim, the claimant shall notify the department of that action.

The amount of the bond or deposit shall not be less than the nearest multiple of one thousand dollars above the average daily value of livestock sold by the dealer or broker for the accounts of others and livestock purchased by the dealer or broker for the dealer's or broker's or for the accounts of others on the dealer's or broker's ten largest business days during the preceding twelve months or such part thereof as the dealer or broker was purchasing, selling, or exchanging livestock. In no case shall the amount of the bond or deposit total less than ten thousand dollars.

Whenever the amount of bond or deposit calculated as above specified exceeds fifty thousand dollars, the amount of the bond shall be fifty thousand dollars plus ten per cent of the valuation in excess of fifty thousand dollars.

In no case shall the bond or deposit covering the business of the dealer or broker be less than the amount specified above or such higher amount as may be specified by the "Packer and Stockyards Act of 1921," 42 Stat. 159, 7 U.S.C.A. 181, as amended.

Whenever in the judgment of the department the business volume of the licensee is such as to render the bond or deposit inadequate, the amount of the bond or deposit shall be adjusted, upon thirty days' notice, to meet sections 943.01 to 943.18 of the Revised Code ~~and rules adopted under them~~. All of the bonds or deposit agreements shall contain a provision requiring that at least thirty days' prior notice in writing be given to the

department and the packers and stockyards administration of the United States department of agriculture by the party terminating the bonds or deposit agreements in order to effect termination, except that a bond may be terminated as of the effective date of a replacement bond.

The termination of a bond shall not release the parties from any liability arising out of facts or transactions occurring prior to the termination date.

The termination of a deposit agreement shall neither release the party furnishing the deposit from any liability arising out of acts or transactions occurring prior to the termination date, nor shall the trustee permit the withdrawal of the deposit until after sixty days after the termination date, and then only if no claims under the agreement have been filed with the trustee. If any claims have been filed with the trustee, the withdrawal of the deposit shall not be permitted until the claims have been satisfied or released and evidence of the satisfaction or release filed with the trustee.

(C) If approved by the director of agriculture, in lieu of the bond or deposit required in division (A)(3) of this section, a broker or dealer subject to the "Packers and Stockyards Act of 1921," 42 Stat. 159, 7 U.S.C.A. 181, as amended, may furnish proof in a manner and form acceptable to the director that the broker or dealer has an irrevocable letter of credit on file with the packers and stockyards administration under regulations adopted by the packers and stockyards administration in 9 C.F.R. 201.35, as amended.

(D) No licensed livestock dealer or broker shall employ as an employee a person who, as a dealer or broker, previously defaulted on contracts pertaining to the purchase, exchange, or

sale of livestock until the licensee does both of the following:

(1) Increases the value of the dealer's or broker's bond, deposit, or letter of credit, in addition to the amount of any other bond, deposit, or letter of credit required by this section, by an amount equal to that owed by such person for the purchase, exchange, or sale of livestock prior to being employed by the licensee;

(2) Signs and files with the director an agreement that guarantees, without condition, all contracts pertaining to the purchase, exchange, or sale of livestock made by such person while in the employ of the licensee. The agreement shall be in addition to any other proof of financial responsibility required by this section. The director shall prescribe the form and content of the agreement.

(E) No licensed livestock dealer or broker shall employ a person whose dealer's or broker's license was revoked or is suspended.

Sec. 943.07. Each small dealer, dealer, or broker leasing, renting, operating, or owning livestock yards, pens, premises, or vehicles in which animals are quartered, fed, held, or transported, shall have a veterinary inspector approved by the department of agriculture, inspect, when directed, all such yards, premises, and vehicles and shall thoroughly and completely disinfect all such yards, pens, premises, and vehicles under the direction of the veterinary inspector and as prescribed by the department. The cost of the inspection and disinfection shall be borne by the small dealer, dealer, or broker.

The department shall not require such veterinary

inspection of yards, pens, premises, or other facilities where veterinary inspection is regularly maintained by the United States department of agriculture, or by the municipal corporation in which the same are located, or where livestock is transported to markets or slaughtering establishments where such inspection is maintained.

The department may adopt adequate sanitary requirements covering the construction and maintenance of buildings, pens, and chutes on all premises regularly used for the assembling, receiving, handling, feeding, watering, holding, buying, or selling of livestock~~, and may prescribe and enforce rules for the purpose of carrying into effect sections~~. Sections 943.01 to 943.18 of the Revised Code~~. Those sections~~ shall not apply to railroads subject to the "Interstate Commerce Act of 1887," 24 Stat. 379, 49 U.S.C.A. 1.

Sec. 943.14. (A) The department of agriculture or any of its authorized agents may inspect the records of any licensee or employee at any time to determine the origin and destination of any livestock handled by the licensee and to determine if sections 943.01 to 943.18 of the Revised Code~~, or the rules adopted thereunder,~~ have been violated.

(B) A small dealer, dealer, or broker, employee, or person described in division (B)(4) of section 943.01 of the Revised Code, who acquires or disposes of an animal by any means, shall make a record of the name and address of the person from whom the animal was acquired and to whom disposed. The record also shall show the individual identification of each animal at the time of acquisition or disposal. These records shall be maintained for a period of sixty months or longer from the date of acquisition or disposal.

(C) The individual identification in division (B) of this section shall be in a manner or form approved by the department.

(D) A person who is a soliciting agent for a video auction pursuant to division (C) of section 943.02 of the Revised Code shall maintain records in a manner or form approved by the department.

Sec. 943.24. The director of agriculture shall adopt rules in accordance with Chapter 119. of the Revised Code that establish all of the following:

(A) Requirements governing health monitoring and disease testing of monitored captive deer, captive deer with status, and captive deer with certified chronic wasting disease status, which testing may include, but is not limited to, testing for chronic wasting disease, brucellosis, and tuberculosis of such deer that are held at a facility licensed under section 1533.71 or 1533.721 of the Revised Code;

(B) Requirements governing captive whitetail deer licensees, including record-keeping requirements related to health monitoring and disease testing of monitored captive deer, captive deer with status, and captive deer with certified chronic wasting disease status;

(C) Requirements and procedures that are necessary to preserve the health, safety, and welfare of monitored captive deer, captive deer with status, or captive deer with certified chronic wasting disease status;

(D) Requirements and procedures governing the transfer of living game and nonnative wildlife, as defined in section 1531.01 of the Revised Code, from one wild animal hunting preserve licensed under section 1533.721 of the Revised Code to

another such wild animal hunting preserve;

(E) Tagging requirements for captive deer with status and captive deer with certified chronic wasting disease status for such deer that are propagated pursuant to a captive white-tailed deer propagation license issued under section 1533.71 of the Revised Code;

(F) Requirements governing the certification of captive deer with certified chronic wasting disease status~~;~~

~~(G) Any other requirements or procedures that are necessary to administer and enforce sections 943.20 to 943.26 of the Revised Code~~.

Sec. 947.06. (A) ~~The director of agriculture shall adopt rules, subject to Chapter 119. of the Revised Code, to implement, administer, and enforce this chapter. No person shall violate such a rule of the director.~~

~~(B)~~ In cooperation with law enforcement officers in this and other states, the director of agriculture shall develop a uniform procedure for notifying livestock marketing and slaughtering establishments of reported livestock thefts and of any brands or other identifying marks on such livestock.

~~(C)~~ (B) Moneys received by the director under sections 947.01 to 947.06 of the Revised Code shall be deposited in the state treasury to the credit of the animal and consumer protection laboratory fund created in section 901.43 of the Revised Code.

Sec. 947.99. (A) Whoever violates section 947.04 of the Revised Code is guilty of a misdemeanor of the second degree.

(B) Whoever violates division (A) or (B) of section 947.05

of the Revised Code is guilty of a felony of the fourth degree.

(C) Whoever violates division (C) of section 947.05 of the Revised Code is guilty of a misdemeanor of the first degree.

(D) Whoever violates division (D) of section 947.05 of the Revised Code is guilty of a minor misdemeanor.

(E) Whoever violates a rule of the director of agriculture adopted under section ~~947.06 or~~ 947.11 of the Revised Code is guilty of a misdemeanor of the third degree.

Sec. 955.52. (A)(1) The department of agriculture shall hear claims that are approved by the dog warden and supported by the wildlife officer pursuant to section 955.51 of the Revised Code in the order of their filing and may allow the claims in full or in part, or may disallow any claim, as the testimony and information submitted under that section show to be just. The department shall make the final determination of the fair market value of any animal that is the subject of a claim.

If the animal that is the subject of a claim dies as a result of the injuries that it received from a predator, the amount of indemnity is the fair market value of the animal on the date of its death. If the animal that is the subject of a claim does not die as a result of the injuries that it received from a predator, the amount of indemnity is the fair market value of the animal on the date that it received its injuries. If the animal that is the subject of a claim is registered or eligible for registration as described in division (B) of section 955.51 of the Revised Code, the amount of indemnity is one hundred twenty-five per cent of the fair market value of the animal on the date that the animal was killed or injured. If the date of death or injury of an animal cannot be determined, the

amount of indemnity shall be based on the fair market value of the animal on the date that the animal was discovered by its owner.

(2) If the owner of an animal does not agree with the department's determination of the animal's fair market value, the owner may appeal the determination in accordance with Chapter 119. of the Revised Code.

(3) The department shall certify any claim or part of a claim that has been found to be valid under division (A)(1) of this section. Claims certified in accordance with this section shall be paid out of money that has been appropriated from the general revenue fund for the purposes of sections 955.51 to 955.53 of the Revised Code, except that no claim shall be paid from that money if either of the following applies:

(a) A claim for the same loss or injury has been paid or is payable under a policy or policies of insurance. However, a claim may be paid for the amount of any deductible paid or payable by the claimant under such insurance.

(b) The owner of an animal who otherwise would receive indemnity under a claim has been paid more than five hundred dollars within the immediately preceding calendar year from money so appropriated. However, that owner may be paid if the owner has implemented a voluntary animal damage control plan that meets the requirements established in rules adopted under division (D) of this section.

(B) If at any time the money that has been appropriated from the general revenue fund for the purposes of sections 955.51 to 955.53 of the Revised Code for a fiscal year is not sufficient to pay certified claims, the department shall

disapprove those claims. Any claim that has been disapproved due to lack of money shall not be resubmitted.

(C) The department either may assist owners in developing and implementing a voluntary animal damage control plan to prevent and minimize loss or injury to animals by predators or may enter into an agreement with another state agency, a federal agency, or a person to provide such assistance. The department may use no more than fifty per cent or twenty-five thousand dollars, whichever is less, of the money that is appropriated for the purposes of sections 955.51 to 955.53 of the Revised Code to pay the costs incurred by the department for either providing assistance under this division or entering into an agreement under this division to provide that assistance.

(D) The director of agriculture shall adopt rules in accordance with Chapter 119. of the Revised Code ~~that are necessary to administer sections 955.51 to 955.53 of the Revised Code, including rules~~ that establish requirements governing voluntary animal damage control plans.

Sec. 956.03. (A) The director of agriculture shall adopt rules in accordance with Chapter 119. of the Revised Code establishing all of the following:

(1) Requirements and procedures governing high volume breeders, including the licensing and inspection of and record keeping by high volume breeders, in addition to the requirements and procedures established in this chapter. The rules shall include a requirement that a high volume breeder keep and maintain a record of veterinary care for each dog kept, housed, and maintained by the high volume breeder. The rules shall require the records to be kept and maintained for three years after the care is provided by a veterinarian.

(2) Requirements and procedures for conducting background investigations of each applicant for a license issued under section 956.04 of the Revised Code in order to determine if the applicant has been convicted of or pleaded guilty to an offense the director determines is a disqualifying offense under section 9.79 of the Revised Code;

(3) Requirements and procedures governing dog brokers, including the licensing of and record keeping by dog brokers, in addition to the requirements and procedures established in this chapter;

(4) The form of applications for licenses issued under this chapter and the information that is required to be submitted in the applications;

(5) The form of an application for registration and registration renewal as an animal rescue for dogs under this chapter and the information that is required to be provided with a registration or registration renewal, including the name and address of each foster home that an animal rescue for dogs utilizes;

(6) A requirement that each high volume breeder submit to the director, with an application for a high volume breeder license, evidence of insurance or, in the alternative, evidence of a surety bond payable to the state to ensure compliance with this chapter and rules adopted under it. The face value of the insurance coverage or bond shall be in the following amounts:

(a) Five thousand dollars for high volume breeders keeping, housing, and maintaining not more than twenty-five adult dogs;

(b) Ten thousand dollars for high volume breeders keeping,

housing, and maintaining at least twenty-six adult dogs, but not more than fifty adult dogs;

(c) Fifty thousand dollars for high volume breeders keeping, housing, and maintaining more than fifty adult dogs.

The rules shall require that the insurance be payable to the state or that the surety bond be subject to redemption by the state, as applicable, upon a suspension or revocation of a high volume breeder license for the purpose of paying for the maintenance and care of dogs that are seized or otherwise impounded from the high volume breeder in accordance with this chapter.

(7)(a) For high volume breeders, standards of care governing all of the following:

(i) Housing;

(ii) Nutrition;

(iii) Exercise;

(iv) Grooming;

(v) Biosecurity and disease control;

(vi) Waste management;

(vii) Whelping;

(viii) Any other general standards of care for dogs.

(b) In adopting rules under division (A)(7)(a) of this section, the director shall consider the following factors, without limitation:

(i) Best management practices for the care and well-being of dogs;

(ii) Biosecurity;

(iii) The prevention of disease;

(iv) Morbidity and mortality data;

(v) Generally accepted veterinary medical standards and ethical standards established by the American veterinary medical association;

(vi) Standards established by the United States department of agriculture under the federal animal welfare act as defined in section 959.131 of the Revised Code.

(8) Procedures for inspections conducted under section 956.10 of the Revised Code in addition to the procedures established in that section, and procedures for making records of the inspections;

(9)(a) A requirement that an in-state retailer of a puppy or adult dog provide to the purchaser the complete name, address, and telephone number of all high volume breeders, dog brokers, and private owners that kept, housed, or maintained the puppy or adult dog prior to its coming into the possession of the retailer or proof that the puppy or adult dog was acquired through an animal rescue for dogs, animal shelter for dogs, or humane society, or a valid health certificate from the state of origin pertaining to the puppy or adult dog;

(b) A requirement that an out-of-state retailer of a puppy or adult dog that is conducting business in this state provide to the purchaser a valid health certificate from the state of origin pertaining to the puppy or adult dog and the complete name, address, and telephone number of all breeders, brokers, and private owners that kept, housed, or maintained the puppy or adult dog prior to its coming into the possession of the

retailer or proof that the puppy or adult dog was acquired through an animal rescue for dogs, animal shelter for dogs, or humane society in this state or another state.

(10) A requirement that a high volume breeder or a dog broker who advertises the sale of a puppy or adult dog include with the advertisement the vendor number assigned by the tax commissioner to the high volume breeder or to the dog broker if the sale of the puppy or dog is subject to the tax levied under Chapter 5739. of the Revised Code;

(11) A requirement that a licensed high volume breeder and a licensed dog broker comply with Chapter 5739. of the Revised Code. The rules shall authorize the director to suspend or revoke a license for failure to comply with that chapter. The director shall work in conjunction with the tax commissioner for the purposes of rules adopted under this division.

(12) Requirements and procedures governing pet stores, including requirements and procedures governing the initial licensing of pet stores and the renewal of pet store licenses;

(13) The application form for a license issued under division (A) of section 956.21 of the Revised Code and the information that is required to be submitted in the application;

(14) Requirements governing permanent implanted identification microchips for dogs to be sold at a pet store and by a dog broker~~;~~

~~(15) Any other requirements and procedures that are determined by the director to be necessary for the administration and enforcement of this chapter and rules adopted under it. However, rules adopted under this division shall not establish additional requirements and procedures governing~~

~~animal rescues for dogs other than those adopted under division (A)(5) of this section~~.

(B) The director of agriculture may adopt rules in accordance with Chapter 119. of the Revised Code establishing disease testing protocols and vaccination requirements for dogs to be sold at a pet store.

Sec. 956.041. (A) As used in this section, "out-of-state dog breeder" means a dog breeder located outside of this state that, if located in this state, would be a high volume breeder.

(B) A dog broker or the owner or operator of a pet store that seeks to purchase a dog from an in-state high volume breeder or out-of-state dog breeder, prior to completing the transaction, shall request the breeder to sign a document prescribed and provided by the director of agriculture. The document shall state that the in-state high volume breeder or out-of-state dog breeder is in compliance with the standards of care established in rules adopted under section 956.03 and in section 956.031 of the Revised Code. The broker or owner or operator shall keep and maintain the signed document. If the in-state high volume breeder or out-of-state dog breeder does not provide the signed document, the broker or owner or operator shall not purchase the dog.

The broker or owner or operator shall allow the director to inspect the signed document during normal business hours. With respect to a pet store, the requirements established under this section are in addition to the requirements established under section 956.20 of the Revised Code.

(C) No dog broker or owner or operator of a pet store shall knowingly sell a dog unless the broker or owner or

operator has obtained a signed document with respect to the dog as required under division (B) of this section. The director shall not assess a civil penalty under section 956.13 of the Revised Code against a dog broker or the owner or operator of a pet store for a violation of this division if the broker or owner or operator has obtained such a document with regard to the dog.

~~(D) The director shall adopt rules in accordance with Chapter 119. of the Revised Code that establish requirements and procedures governing the administration and enforcement of this section.~~

Sec. 1112.08. (A) Upon the conclusion of the investigation required under section 1112.07 of the Revised Code, the superintendent of financial institutions shall issue a license to the applicant if the superintendent finds that all of the following conditions are met:

(1) The applicant is organized as a corporation or limited liability company under the laws of this state.

(2) The articles of incorporation or articles of organization of the applicant contain both of the following:

(a) A name for the family trust company that includes "family trust company" or "FTC" and that distinguishes it from any trust company licensed under Chapter 1111. of the Revised Code or any other family trust company licensed under this chapter;

(b) The purpose for which it is formed, including a statement that its services will be provided only to family clients of a designated relative.

(3) The individuals who will serve as directors or

officers of the corporation, or the managers or family members acting in a managerial capacity for the limited liability company, as applicable:

(a) Have a reputation for honesty, trustworthiness, and integrity and display competence to transact the business of a licensed family trust company;

(b) Have not been convicted of, or pleaded guilty or nolo contendere to, a felony or any crime involving fraud, misrepresentation, or moral turpitude;

(c) Have not made a false statement of material fact on the application;

(d) Have not had a license issued under Chapter 1111. of the Revised Code or under this chapter suspended or revoked within the ten years immediately preceding the date of the application;

(e) Have not had a trust company license issued in any other state or any foreign country suspended or revoked within the ten years immediately preceding the date of the application;

(f) Have not failed to comply with any of the provisions of this chapter ~~or any rule adopted thereunder~~ that, in the judgment of the superintendent, would render the person unfit for the proposed position.

(4) The qualifications of the directors and the president, vice-presidents, and treasurer of the corporation, or the managers and family members acting in a managerial capacity for the limited liability company, as applicable, are consistent with their responsibilities and duties.

(5) The initial stockholders' equity meets the minimum

requirement set forth in division (E)(2) of section 1112.14 of the Revised Code.

(B) If the superintendent does not find that all of the conditions set forth in division (A) of this section have been met, the superintendent shall enter an order denying the application and notify the applicant of the denial and the applicant's reasonable opportunity to be heard in accordance with Chapter 119. of the Revised Code, excepting any such related hearings shall not be open to the public. The notice shall be in writing, either served personally or sent by certified mail.

Sec. 1112.24. (A) The superintendent of financial institutions may revoke a license issued under this chapter if, after notice and an opportunity for hearing in accordance with Chapter 119. of the Revised Code (which hearing shall not be open to the public), the superintendent finds either of the following:

(1) An officer or director of, or any manager or family member acting in a managerial capacity for, the licensed family trust company has failed to comply with any provision of this chapter.

(2) The licensed family trust company, or any person authorized to act on its behalf, refuses to allow the superintendent or any deputy or examiner appointed by the superintendent to inspect all books, records, papers, and effects related to the family trust company's business.

(B) In addition to any other remedy provided under this chapter, the superintendent may impose a fine of not more than ten thousand dollars upon either of the following:

(1) A person who fails to comply with any provision of this chapter~~ or any rule adopted thereunder~~;

(2) A family trust company that is not licensed under this chapter that operates in any manner that is authorized only for licensed family trust companies.

Sec. 1115.05. (A) As used in this section:

(1) "Acquire" or "acquisition" means any of the following transactions or actions:

(a) A merger or consolidation with, or purchase of assets from, a bank holding company that has acquired an Ohio bank;

(b) The acquisition of the direct or indirect ownership or control of voting shares of an Ohio bank if, after the acquisition, the acquiring bank holding company will directly or indirectly own or control the Ohio bank, unless the superintendent of financial institutions determines, in the superintendent's discretion, due to the nature of the acquisition, it should not be subject to the limitations of this section;

(c) The merger or consolidation of an Ohio bank with, or the transfer of assets from an Ohio bank to, another bank, whether previously existing or chartered for the purpose of the transaction;

(d) Any other action that results in the direct or indirect control of an Ohio bank.

(2) "Ohio bank" means a state bank or a national bank whose principal place of business is in this state.

(B) Subject to division (C) of this section, a bank, bank holding company, federal savings association, or savings and

loan holding company whose principal place of business is in this state or any other state may charter or otherwise acquire an Ohio bank, and a bank may acquire banking offices in this state by merger or consolidation with or transfer of assets and liabilities from a bank, savings bank, or savings association that has offices in this state, if, upon consummation of the acquisition, both of the following will apply:

(1) The acquiring bank, bank holding company, federal savings association, or savings and loan holding company, with or through its affiliate banks, savings banks, and savings associations, does not control more than ten per cent of the total deposits of banks, savings banks, and savings associations in the United States, and either of the following applies:

(a) The acquiring bank, acquiring bank holding company, federal savings association, or savings and loan holding company, with or through its affiliate banks, savings banks, and savings associations, does not control more than thirty per cent of the total deposits of banks, savings banks, and savings associations in this state.

(b) The acquiring bank, acquiring bank holding company, federal savings association, or savings and loan holding company, with or through its affiliate banks, savings banks, and savings associations, controls more than thirty per cent of the total deposits of banks, savings banks, and savings associations in this state, and the superintendent approved the acquisition after determining the anticompetitive effects of the acquisition were clearly outweighed in the public interest by the probable effect of the transaction.

(2) Except in the case of a foreign bank subject to Chapter 1119. of the Revised Code or a bank that by the terms of

its articles of incorporation or association is not permitted to solicit or accept deposits other than trust funds, the Ohio bank or any bank that has banking offices in this state will be an insured bank as defined in section 3(h) of the "Federal Deposit Insurance Act," 92 Stat. 614 (1978), 12 U.S.C.A. 1813(h).

(C)(1) Any bank holding company proposing to charter a state bank under this section shall comply with Chapter 1113. or 1114. of the Revised Code ~~and any rules adopted to implement that chapter~~.

(2) If, after the proposed acquisition, the acquiring bank or bank holding company will control an existing state bank the acquiring bank or bank holding company did not control before the acquisition, and the acquisition does not include the merger or consolidation of the existing state bank with another bank, the acquiring bank or bank holding company shall comply with section 1115.06 of the Revised Code ~~and any rules adopted to implement that section~~.

(3) If the proposed acquisition will be accomplished by means of a merger or consolidation with a state bank and the resulting bank of the merger or consolidation will be a state bank, the state bank shall comply with section 1115.11 of the Revised Code ~~and any rules adopted to implement that section~~.

(4) If the proposed acquisition will be accomplished by means of a transfer of assets and liabilities to a state bank, the state bank shall comply with section 1115.14 of the Revised Code ~~and any rules adopted to implement that section~~.

(5) If the proposed acquisition will be accomplished by forming a bank to which the bank to be acquired will transfer assets and liabilities, or with which the bank to be acquired

will be merged or consolidated and the resulting bank will be a state bank, the acquiring bank holding company shall comply with section 1115.23 of the Revised Code ~~and any rules adopted to implement that section~~.

Sec. 1115.06. (A) As used in this section:

(1) "Control" of a state bank means either of the following:

(a) Power, directly or indirectly, to direct the management or policies of a state bank;

(b) Ownership or control of or power to vote twenty-five per cent or more of any class of voting securities of a state bank.

(2) "State bank" includes any bank holding company that controls a state bank, and any other company that controls a state bank and is not a bank holding company.

(B)(1) No person, acting directly or indirectly or through or in concert with one or more other persons, shall acquire control of a state bank through a purchase, assignment, transfer, pledge, or other disposition of voting securities of a state bank unless the superintendent of financial institutions has been given sixty days' prior written notice of the proposed acquisition and within that sixty days the superintendent has not done either of the following:

(a) Disapproved the acquisition;

(b) Extended the time during which the superintendent may disapprove the acquisition, as provided in division (B)(2) of this section.

(2) The superintendent may extend the time during which

the superintendent may disapprove a proposed acquisition of control, as follows:

(a) For an additional thirty days in the discretion of the superintendent;

(b) For two additional extensions of not more than forty-five days each, if any of the following applies:

(i) The superintendent determines any acquiring party has not furnished all of the information required under division (C) of this section.

(ii) In the superintendent's judgment, any material information submitted is substantially inaccurate.

(iii) The superintendent has been unable to complete the investigation of an acquiring person under division (E)(1) of this section because of any delay caused by, or the inadequate cooperation of, that acquiring person.

(iv) The superintendent determines additional time is needed to investigate and determine whether any acquiring person has a record of failing to comply with the requirements of subchapter II of chapter 53 of subtitle IV of Title 31 of the United States Code.

(3) An acquisition may be made prior to the expiration of the disapproval period if the superintendent issues written notice of the superintendent's intent not to disapprove the acquisition of control.

(C) A notice required under division (B) of this section shall contain such information as the superintendent may require by rule.

(D) Unless the superintendent determines an emergency

exists or disclosure of a proposed acquisition of control would seriously threaten the safety or soundness of the state bank, each person who gives a notice required under division (B) of this section shall, within a reasonable time after receiving the superintendent's acceptance of the notice, do both of the following:

(1) Publish the name of the state bank proposed to be acquired and the name of each person identified in the notice as a person by whom or for whom the acquisition is to be made;

(2) Solicit public comment on the proposed acquisition, particularly from persons in the geographic area where the state bank proposed to be acquired is located, before final consideration of the notice by the superintendent.

(E) Upon accepting a notice required under division (B) of this section, the superintendent shall do both of the following:

(1) Conduct an investigation of the competence, experience, integrity, and financial ability of each person named in the notice as a person by whom or for whom the acquisition is to be made;

(2) Make an independent determination of the accuracy and completeness of all information required to be in the notice.

(F) The superintendent may disapprove any proposed acquisition of control if the superintendent finds any of the following:

(1) The proposed acquisition of control would result in a monopoly or further any combination or conspiracy to monopolize or to attempt to monopolize the business of banking in any part of this state or any markets served by the state bank.

(2) The effect of the proposed acquisition of control in any part of this state and any markets served by the state bank may be to substantially lessen competition, tend to create a monopoly, or in any other manner restrain trade, and the anticompetitive effects of the proposed acquisition of control are not clearly outweighed in the public interest by the probable effect of the acquisition in meeting the convenience and needs of the community to be served.

(3) The financial condition of any acquiring person might jeopardize the financial stability of the state bank or prejudice the interests of the depositors of the state bank.

(4) The competence, experience, or integrity of any acquiring person or of any of the proposed management personnel indicates that it would not be in the interest of the depositors of the state bank, or in the interest of the public, to permit the acquiring person to control the state bank.

(5) The acquiring person neglects, fails, or refuses to furnish to the superintendent all of the information required by the superintendent.

(6) The superintendent determines the proposed transaction would have an adverse effect on the deposit insurance fund administered by the federal deposit insurance corporation.

(G) Within three days after deciding to disapprove any proposed acquisition of control of a state bank, the superintendent shall notify the acquiring person in writing of the disapproval. The notice of disapproval shall provide a statement of the basis for the disapproval.

(H) Within ten days after receipt of a notice of the disapproval, the acquiring person may, in accordance with

Chapter 119. of the Revised Code, request a hearing conducted in accordance with that chapter on the proposed acquisition.

(I) Whenever a change in control of a state bank occurs, the state bank shall promptly report to the superintendent any changes in or replacement of its chief executive officer or of any director that occurs in the next twelve-month period, and include in the report a statement of the past and current business and professional affiliations of the new chief executive officer or director.

(J)(1) The superintendent may exercise any authority vested in the superintendent under Chapter 1121. of the Revised Code in the course of conducting any investigation under division (E) of this section or any other investigation the superintendent, in the superintendent's discretion, considers necessary to determine whether any person has filed inaccurate, incomplete, or misleading information under this section or otherwise is violating, has violated, or is about to violate any provision of this section ~~or any rule implementing this section~~.

(2) Whenever it appears to the superintendent any person is violating, has violated, or is about to violate any provision of this section ~~or any rule implementing this section~~, the superintendent may, in the superintendent's discretion, apply to the court of common pleas of any county in which the state bank is doing business for either of the following:

(a) A temporary or permanent injunction or restraining order enjoining the person from violating this section ~~or any rule implementing this section~~;

(b) Other equitable relief, including divestiture, that may be necessary to prevent violation of this section ~~or of any~~

~~rule implementing this section~~.

(3)(a) The courts of this state have the same jurisdiction and power in connection with the exercise of any authority by the superintendent under this section as they have under Chapter 1121. of the Revised Code.

(b) The courts of this state have jurisdiction and power to issue any injunction or restraining order or grant any equitable relief described in division (J)(2) of this section. When a court finds it appropriate, the court may grant the injunction, order, or other equitable relief without requiring the posting of any bond.

(K) The resignation, termination of employment or participation, divestiture of control, or separation of or by a regulated person, including a separation caused by the closing of a state bank, shall not affect the jurisdiction and authority of the superintendent to issue any notice and otherwise proceed under this section against the regulated person, if the notice is issued no later than six years after the date of the regulated person's resignation, termination of employment or participation, or separation from or divestiture of control of a state bank.

For purposes of this division, "regulated person" has the same meaning as in section 1121.01 of the Revised Code.

Sec. 1115.24. (A) As used in this section:

(1) "Applicant" means the person or persons seeking a shelf charter under this section.

(2) "Control" has the same meaning as in section 1115.06 of the Revised Code~~ and any rules adopted under that section~~.

(3) "Shelf charter" means the preliminary conditional approval of a charter.

(B) The superintendent of financial institutions may, at the superintendent's sole discretion, grant a shelf charter to an applicant intending or desiring to enter into a transaction resulting in any of the following:

(1) Formation of an interim bank under this chapter to be used for the transactions contemplated by this section;

(2) Acquisition of control of a designated or undesignated state bank;

(3) Acquisition of control of a designated or undesignated bank chartered by the banking authority of any other state or the United States that the person or persons intend to convert to a state bank;

(4) Acquisition of assets from and assumption of liabilities, pursuant to this chapter, of a bank or from the federal deposit insurance corporation as receiver of a designated or undesignated bank headquartered in this state or any other state that the person or persons intend to convert to a state bank;

(5) Formation of a de novo bank pursuant to Title XI of the Revised Code.

(C) The superintendent shall prescribe the form for an application for a shelf charter. After reviewing an application, the superintendent may require the applicant to submit any additional information or documentation the superintendent considers necessary and appropriate. Factors to be considered by the superintendent shall include all of the following:

(1) The availability of adequate capital for the transaction;

(2) The existence of acceptable business plans;

(3) Whether acceptable management, directors, and control persons are identified;

(4) Whether all necessary approvals from state and federal agencies have been secured.

(D)(1) A shelf charter granted under this section, and any final approval for a transaction described in division (B) of this section, shall be subject to such conditions and ongoing requirements as the superintendent considers appropriate.

(2) An applicant granted a shelf charter under this section shall not exercise control over the bank or consummate the transaction authorized by the charter until the superintendent gives final approval of the transaction.

(E) A shelf charter shall expire twenty-four months after the date it is granted, subject to the following:

(1) The superintendent may extend the expiration date at any time sua sponte or upon approval by the superintendent of a written request for an extension submitted by the person or persons to whom the shelf charter was granted.

(2) The person or persons to whom the shelf charter was granted may withdraw it at any time.

(3) The superintendent may modify, suspend, or revoke any shelf charter granted under this section.

~~(F) Pursuant to the authority granted under section 1121.03 of the Revised Code, the superintendent may adopt rules~~

~~and issue interpretive guidelines the superintendent considers necessary and appropriate for the implementation of this section.~~

Sec. 1123.02. (A) The banking commission shall hold regular meetings at the times and places it fixes, and shall meet at any time on call of the deputy superintendent for banks upon two days' notice unless the commission by resolution provides for a shorter notice.

(B) A majority of the full commission constitutes a quorum, and action taken by a majority of those present at a meeting at which there is a quorum constitutes the action of the commission.

(C) No member shall participate before the commission in a proceeding involving any bank of which the member is, or was at any time in the preceding twelve months, a member of the board of directors, an officer, an employee, or a shareholder. A member may refrain from participating in a proceeding before the commission for any other cause the member considers sufficient.

(D) The commission may, by a majority vote of those present at a meeting at which there is a quorum, adopt and amend bylaws ~~and rules~~ the commission, in its judgment, considers necessary and proper. The commission shall select one of its members as secretary, who shall keep a record of all its proceedings.

Sec. 1181.08. ~~(A) In addition to the specific authority given the superintendent of financial institutions by other provisions of the Revised Code, the superintendent may from time to time adopt such rules as the superintendent considers necessary or appropriate for the administration of the division~~

~~of financial institutions or to carry out any other duty of the superintendent.~~

~~(B)~~ The superintendent shall not adopt any rule that has a retroactive effective date or apply any rule to conduct that took place exclusively before the effective date of that rule.

Sec. 1181.21. (A) As used in this section, "consumer finance company" has the same meaning as in section 1181.05 of the Revised Code.

(B) The superintendent of financial institutions shall see that the laws relating to consumer finance companies are executed and enforced.

(C) The deputy superintendent for consumer finance shall be the principal supervisor of consumer finance companies. In that position the deputy superintendent for consumer finance shall, notwithstanding section 1321.421, division (A) of section 1321.76, and sections 1321.07, 1321.55, 1322.34, 4727.05, and 4728.05 of the Revised Code, be responsible for conducting examinations and preparing examination reports under those sections and under Chapter 4712. of the Revised Code. In addition, the deputy superintendent for consumer finance shall, notwithstanding sections 1315.27, 1321.10, ~~1321.43, 1321.54, 1321.77, 1322.57,~~ 4712.14, 4727.13, and 4728.10 of the Revised Code, have the authority to adopt rules and standards in accordance with those sections. In performing or exercising any of the examination, rule-making, or other regulatory functions, powers, or duties vested by this division in the deputy superintendent for consumer finance, the deputy superintendent for consumer finance shall be subject to the control of the superintendent of financial institutions and the director of commerce.

Sec. 1181.23. (A) The superintendent of financial institutions may require persons licensed or registered by the division of financial institutions to participate in a multistate licensing system.

(B)(1) If the superintendent requires use of a multistate licensing system, the superintendent may establish, by ~~rule, regulation, or~~ order, requirements as necessary to enable information required by existing statutes providing for licensing or registration to be submitted to the superintendent through the multistate licensing system.

(2) The superintendent shall not adopt a requirement in conflict with a provision of the Revised Code, but may add to existing requirements with regard to all of the following:

(a) The manner of obtaining required criminal history records, civil or administrative records, or credit history records;

(b) The payment of fees required for the use of the multistate licensing system;

(c) The setting or resetting as necessary of renewal or reporting dates;

(d) The amending of or surrendering of a license or registration.

(C) Any person engaged in activity that requires licensure or registration pursuant to this section shall utilize the multistate licensing system for the application for, renewal of, amendment to, or surrender of a license or registration, as well as for any other activity as the superintendent may require. Such a person shall pay all applicable charges to utilize the multistate licensing system.

(D) The superintendent is authorized to establish relationships or contacts with the multistate licensing system or other entities designated by the multistate licensing system to collect and maintain records and process transaction fees or other fees related to licensees and registrants.

(E) Any confidentiality or privilege arising under federal or state law with respect to any information or material provided to the multistate licensing system shall continue to apply to the information or material after the information or material is provided to the multistate licensing system. The information and material so provided may be released to any state or federal regulatory official with applicable oversight authority without the loss of confidentiality or privilege protections provided by federal law or the law of any state.

(F) The superintendent may use the documents, materials, or other information made available to the superintendent through the multistate licensing system in furtherance of any action brought by the superintendent.

Sec. 1306.21. (A) With regard to state agency use of electronic records or electronic signatures, the department of administrative services, in consultation with the state archivist, shall adopt rules in accordance with section 111.15 of the Revised Code setting forth all of the following:

(1) The minimum requirements for the method of creation, maintenance, and security of electronic records and electronic signatures;

(2) If electronic records must be signed by electronic means, all of the following:

(a) The type of electronic signature required;

(b) The manner and format in which the electronic signature must be affixed to the electronic record;

(c) The identity of, or criteria that must be met by, any third party used by the person filing a document to facilitate the process.

(3) Control processes and procedures as appropriate to ensure adequate preservation, disposition, integrity, security, confidentiality, and auditability of electronic records;

(4) Any other required attributes for electronic records that are specified for corresponding nonelectronic records ~~or are reasonably necessary under the circumstances~~.

(B)(1) The department of administrative services may adopt rules in accordance with section 111.15 of the Revised Code to ensure consistency and interoperability among state agencies with regard to electronic transactions, electronic signatures, and security procedures.

(2) If the department of administrative services adopts rules pursuant to division (B)(1) of this section, the department shall consider consistency in applications and interoperability with governmental agencies of this state, agencies of other states, the federal government, and nongovernmental persons to the extent practicable when adopting rules pursuant to that division.

(C) With regard to electronic transactions, electronic signatures, and security procedures, the department of administrative services may publish recommendations for governmental agencies and nongovernmental persons to promote consistency and interoperability among nongovernmental persons, agencies of this state and other states, and the federal

government.

(D) For purposes of this section, "state agency" has the same meaning as in section 1306.20 of the Revised Code.

Sec. 1315.27. The superintendent of financial institutions shall adopt rules, in accordance with Chapter 119. of the Revised Code, ~~for the administration and enforcement of sections 1315.21 to 1315.30 of the Revised Code. The rules shall include, but shall not be limited to,~~that do both of the following:

(A) Record-keeping requirements that require check-cashing businesses to do all of the following:

(1) Maintain a daily cash reconcilement that:

(a) Summarizes daily activity;

(b) Reconciles cash-on-hand at the opening of business to cash-on-hand at the close of business;

(c) Separately reflects cash received from the sale of checks, cash disbursed in cashing of checks, redemption of returned items, bank cash deposits, and bank cash withdrawals.

(2) Maintain a general ledger that:

(a) Contains records of all assets, liabilities, capital, income, and expenses;

(b) Is posted monthly from the original entry records;

(c) Facilitates the preparation of an accurate trial balance of accounts in accordance with generally accepted accounting practices;

(d) May consolidate activity at two or more locations, provided that books of original entries are maintained separately for each location.

(3) Provide a receipt to each customer indicating the amount of the check and the fee charged;

(4) Maintain business records for at least two years.

(B) Reasonable business practices of persons licensed under sections 1315.21 to 1315.28 of the Revised Code.

Sec. 1321.37. (A) Application for an original or renewal license to make short-term loans shall be in writing, under oath, and in the form prescribed by the superintendent of financial institutions, and shall contain the name and address of the applicant, the location where the business of making loans is to be conducted, and any further information as the superintendent requires. At the time of making an application for an original license, the applicant shall pay to the superintendent a nonrefundable investigation fee of two hundred dollars. No investigation fee or any portion thereof shall be refunded after an original license has been issued. The application for an original or renewal license shall be accompanied by an original or renewal license fee, for each business location of one thousand dollars, except that applications for original licenses issued on or after the first day of July for any year shall be accompanied by an original license fee of five hundred dollars, and except that an application for an original or renewal license, for a nonprofit corporation that is incorporated under Chapter 1702. of the Revised Code, shall be accompanied by an original or renewal license fee, for each business location, that is one-half of the fee otherwise required. All fees paid to the superintendent pursuant to this division shall be deposited into the state treasury to the credit of the consumer finance fund.

(B) Upon the filing of an application for an original

license and, with respect to an application filed for a renewal license, on a schedule determined by the superintendent ~~by rule adopted pursuant to section 1321.43 of the Revised Code~~, and the payment of fees in accordance with division (A) of this section, the superintendent shall investigate the facts concerning the applicant and the requirements provided by this division. The superintendent shall request the superintendent of the bureau of criminal identification and investigation, or a vendor approved by the bureau, to conduct a criminal records check based on the applicant's fingerprints in accordance with section 109.572 of the Revised Code. Notwithstanding division (L) of section 121.08 of the Revised Code, the superintendent of financial institutions shall request that criminal record information from the federal bureau of investigation be obtained as part of the criminal records check. The superintendent of financial institutions shall conduct a civil records check. The superintendent shall approve an application and issue an original or renewal license to the applicant if the superintendent finds all of the following:

(1) The financial responsibility, experience, and general fitness of the applicant are such as to warrant the belief that the business of making loans will be operated lawfully, honestly, and fairly under sections 1321.35 to 1321.48 of the Revised Code and within the purposes of those sections; that the applicant has fully complied with those sections and any rule or order adopted or issued ~~pursuant to section 1321.43 of the Revised Code~~by the superintendent; and that the applicant is qualified to engage in the business of making loans under sections 1321.35 to 1321.48 of the Revised Code.

(2) The applicant is financially sound and has a net worth of not less than one hundred thousand dollars, or in the case of

a nonprofit corporation that is incorporated under Chapter 1702. of the Revised Code, a net worth of not less than fifty thousand dollars. The applicant's net worth shall be computed according to generally accepted accounting principles.

(3) The applicant has never had revoked a license to make loans under sections 1321.35 to 1321.48 of the Revised Code, under former sections 1315.35 to 1315.44 of the Revised Code, or to do business under sections 1315.21 to 1315.30 of the Revised Code.

(4) Neither the applicant nor any senior officer, or partner of the applicant, has pleaded guilty to or been convicted of a disqualifying offense as determined in accordance with section 9.79 of the Revised Code.

(5) Neither the applicant nor any senior officer, or partner of the applicant, has been subject to any adverse judgment for conversion, embezzlement, misappropriation of funds, fraud, misfeasance or malfeasance, or breach of fiduciary duty, or if the applicant or any of those other persons has been subject to such a judgment, the applicant has proven to the superintendent, by a preponderance of the evidence, that the applicant's or other person's activities and employment record since the judgment show that the applicant or other person is honest and truthful and there is no basis in fact for believing that the applicant or other person will be subject to such a judgment again.

(C) If the superintendent finds that the applicant does not meet the requirements of division (B) of this section, or the superintendent finds that the applicant knowingly or repeatedly contracts with or employs persons to directly engage in lending activities who have been convicted of a felony crime

listed in division (B)(5) of this section, the superintendent shall issue an order denying the application for an original or renewal license and giving the applicant an opportunity for a hearing on the denial in accordance with Chapter 119. of the Revised Code. The superintendent shall notify the applicant of the denial, the grounds for the denial, and the applicant's opportunity for a hearing. If the application is denied, the superintendent shall return the annual license fee but shall retain the investigation fee.

(D) No person licensed under sections 1321.35 to 1321.48 of the Revised Code shall conduct business in this state unless the licensee has obtained and maintains in effect at all times a corporate surety bond issued by a bonding company or insurance company authorized to do business in this state. The bond shall be in favor of the superintendent and in the penal sum of at least one hundred thousand dollars, or in the case of a nonprofit corporation that is incorporated under Chapter 1702. of the Revised Code, in the amount of fifty thousand dollars. The term of the bond shall coincide with the term of the license. The licensee shall file a copy of the bond with the superintendent. The bond shall be for the exclusive benefit of any borrower injured by a violation by a licensee or any employee of a licensee, of any provision of sections 1321.35 to 1321.48 of the Revised Code.

(E) Notwithstanding any provision of this section to the contrary, the superintendent shall issue an original license in accordance with Chapter 4796. of the Revised Code to an applicant if either of the following applies:

(1) The applicant holds a license in another state.

(2) The applicant has satisfactory work experience, a

government certification, or a private certification as described in that chapter as a short-term lender in a state that does not issue that license.

Sec. 1321.42. (A) The superintendent of financial institutions shall, in accordance with Chapter 119. of the Revised Code, suspend or revoke a license issued pursuant to sections 1321.35 to 1321.48 of the Revised Code, if the superintendent determines that either of the following applies:

(1) The licensee has failed to comply with any order issued by the superintendent pursuant to section 1321.43 of the Revised Code.

(2) Any fact or condition exists that if it had existed or had been known to exist at the time of original or renewal licensure pursuant to sections 1321.35 to 1321.48 of the Revised Code, the fact or condition clearly would have warranted the superintendent to refuse to issue a license pursuant to those sections.

(B) The superintendent may make any investigation and conduct any hearing the superintendent considers necessary to determine whether any person has violated sections 1321.35 to 1321.48 of the Revised Code, or any rule or order adopted or issued ~~under section 1321.43 of the Revised Code~~by the superintendent, or has otherwise engaged in conduct that would justify the suspension, revocation, or refusal of an original or renewal license or the imposition of a fine.

The superintendent may impose a monetary fine of not more than one thousand dollars for each such violation.

(C) In making any investigation or conducting any hearing pursuant to this section, the superintendent, or any person

designated by the superintendent, at any time may compel by subpoena witnesses, may take depositions of witnesses residing without the state in the manner provided for in civil actions, pay any witnesses the fees and mileage for their attendance provided under section 119.094 of the Revised Code, and administer oaths. The superintendent also may compel by order or subpoena duces tecum the production of, and examine, all relevant books, records, accounts, and other documents. If a person does not comply with a subpoena or subpoena duces tecum, the superintendent may apply to the court of common pleas of Franklin county for an order compelling the person to comply with the subpoena or subpoena duces tecum or, for failure to do so, an order to be held in contempt of court.

(D) In connection with any investigation under this section, the superintendent may file an action in the court of common pleas of Franklin county or the court of common pleas of the county in which the person who is the subject of the investigation resides, or is engaging in or proposing to engage in actions in violation of sections 1321.35 to 1321.48 of the Revised Code, to obtain an injunction, temporary restraining order, or other appropriate relief.

Sec. 1321.43. The superintendent of financial institutions, in accordance with Chapter 119. of the Revised Code, ~~may adopt rules and issue specific orders to enforce and carry out the purposes of sections 1321.35 to 1321.48 of the Revised Code. The superintendent~~ shall issue a rule defining "senior officer" for the purpose of section 1321.37 of the Revised Code. The superintendent may adopt, amend, and repeal substantive rules defining with reasonable specificity acts or practices that violate section 1321.45 of the Revised Code.

Sec. 1321.46. ~~(A)~~ Before initiating a short-term loan transaction with a borrower, a licensee shall make a reasonable attempt to verify the borrower's income for purposes of division (B)(2) of section 1321.39 and section 1321.391 of the Revised Code. At a minimum, the licensee shall obtain from the borrower one or more recent pay stubs or other written evidence of recurring income, such as a bank statement. The written evidence shall include at least one document that, when presented to the licensee, is dated not earlier than forty-five days prior to the borrower's initiation of the short-term loan transaction. If the borrower intends to provide a bank statement, the licensee shall permit the borrower to delete from the statement the information regarding to whom the debits listed on the statement are payable.

~~(B) The superintendent of financial institutions may adopt rules under section 1321.43 of the Revised Code that set forth any other procedures the superintendent considers necessary to ensure accurate verification of borrower income.~~

Sec. 1321.54. ~~(A) The division of financial institutions may adopt, in accordance with Chapter 119. of the Revised Code, rules that are necessary for the enforcement or administration of sections 1321.51 to 1321.60 of the Revised Code and that are consistent with those sections and rules to carry out the purposes of those sections.~~

~~(B)(1)~~ (A)(1) The division may, upon written notice to the registrant stating the contemplated action, the grounds for the action, and the registrant's reasonable opportunity to be heard on the action in accordance with Chapter 119. of the Revised Code, revoke, suspend, or refuse to renew any certificate issued under sections 1321.51 to 1321.60 of the Revised Code if it

finds any of the following:

(a) A violation of or failure to comply with any provision of sections 1321.51 to 1321.60 of the Revised Code or the rules adopted thereunder, any federal lending law, or any other law applicable to the business conducted under a certificate of registration;

(b) The person has been convicted of or pleaded guilty or nolo contendere to any criminal felony offense in a domestic, foreign, or military court;

(c) The person has been convicted of or pleaded guilty or nolo contendere to any criminal offense involving theft, receiving stolen property, embezzlement, forgery, fraud, passing bad checks, money laundering, breach of trust, dishonesty, or drug trafficking, or any criminal offense involving money or securities, in a domestic, foreign, or military court.

(2) In addition to, or in lieu of, any revocation, suspension, or denial, the division may impose a monetary fine after administrative hearing or in settlement of matters subject to claims under division ~~(B)(1)(a)~~ (A)(1)(a) of this section.

(3) The revocation, suspension, or refusal to renew shall not impair the obligation of any pre-existing lawful contract made under sections 1321.51 to 1321.60 of the Revised Code; provided, however, that a prior registrant shall make good faith efforts to promptly transfer the registrant's collection rights to another registrant or person exempt from registration, or be subject to additional monetary fines and legal or administrative action by the division. Nothing in division ~~(B)(3)~~ (A)(3) of this section shall limit a court's ability to impose a cease and desist order preventing any further business or servicing

activity.

~~(C)(1)~~ (B)(1) The superintendent of financial institutions may impose a fine for a violation of sections 1321.51 to 1321.60 of the Revised Code or any rule adopted thereunder. All fines collected pursuant to this section shall be paid to the treasurer of state to the credit of the consumer finance fund created in section 1321.21 of the Revised Code. In determining the amount of a fine to be imposed pursuant to this section, the superintendent may consider all of the following to the extent it is known to the division of financial institutions:

(a) The seriousness of the violation;

(b) The registrant's good faith efforts to prevent the violation;

(c) The registrant's history regarding violations and compliance with division orders;

(d) The registrant's financial resources;

(e) Any other matters the superintendent considers appropriate in enforcing sections 1321.51 to 1321.60 of the Revised Code.

(2) Monetary fines imposed under this division shall not exceed twenty-five thousand dollars and do not preclude any criminal fine imposed pursuant to section 1321.99 of the Revised Code.

~~(D)~~ (C) The superintendent may investigate alleged violations of sections 1321.51 to 1321.60 of the Revised Code, or the rules adopted thereunder, or complaints concerning any such violation. The superintendent may make application to the court of common pleas for an order enjoining any violation and,

upon a showing by the superintendent that a person has committed, or is about to commit, a violation, the court shall grant an injunction, restraining order, or other appropriate relief. The superintendent, in making application to the court of common pleas for an order enjoining a person from acting as a registrant, may also seek and obtain civil penalties for that unregistered conduct in an amount not to exceed five thousand dollars per violation.

~~(E)~~ (D) In conducting an investigation pursuant to this section, the superintendent may compel, by subpoena, witnesses to testify in relation to any matter over which the superintendent has jurisdiction, and may require the production or photocopying of any book, record, or other document pertaining to such matter. If a person fails to file any statement or report, obey any subpoena, give testimony, produce any book, record, or other document as required by such a subpoena, or permit photocopying of any book, record, or other document subpoenaed, the court of common pleas of any county in this state, upon application made to it by the superintendent, shall compel obedience by attachment proceedings for contempt, as in the case of disobedience of the requirements of a subpoena issued from the court, or a refusal to testify therein.

~~(F)~~ (E) If the superintendent determines that a person is engaged in, or is believed to be engaged in, activities that may constitute a violation of sections 1321.51 to 1321.60 of the Revised Code or the rules adopted thereunder, the superintendent may, after notice and a hearing conducted in accordance with Chapter 119. of the Revised Code, issue a cease and desist order. The superintendent, in taking administrative action to enjoin a person from acting as a registrant, may also seek and impose fines for those violations in an amount not to exceed

five thousand dollars per violation. Such an order shall be enforceable in the court of common pleas.

~~(G)(1)~~ (F)(1) To protect the public interest, the superintendent may, without a prior hearing, suspend the certificate of registration of a person who is convicted of or pleads guilty or nolo contendere to a criminal violation of sections 1321.51 to 1321.60 of the Revised Code or any criminal offense described in division ~~(B)(1)(b)~~ (A)(1)(b) or (c) of this section.

(2) The superintendent may, in accordance with Chapter 119. of the Revised Code, subsequently revoke any registration suspended under division ~~(G)(1)~~ (F)(1) of this section.

(3) The superintendent shall, in accordance with Chapter 119. of the Revised Code, adopt rules establishing the maximum amount of time a suspension under division ~~(G)(1)~~ (F)(1) of this section may continue before a hearing is conducted.

Sec. 1321.702. ~~The superintendent of financial institutions may adopt, in accordance with Chapter 119. of the Revised Code, rules that are necessary for the enforcement of sections 1321.62 to 1321.702 of the Revised Code and that are consistent with those sections. Each rule shall contain a reference to the section, division, or paragraph of the Revised Code to which it applies.~~ The superintendent shall send by regular mail to each licensee a copy of each rule ~~that is adopted pursuant to this section~~regarding sections 1321.62 to 1321.702 of the Revised Code.

Sec. 1321.77. The division of financial institutions ~~may adopt, in accordance with Chapter 119. of the Revised Code, rules that are necessary for the enforcement of sections 1321.71~~

~~to 1321.83 of the Revised Code and that are consistent with those sections. Each rule shall contain a reference to the section, division, or paragraph of the Revised Code to which it applies. The division~~ shall send by regular mail to each licensee a copy of each rule ~~that is adopted pursuant to this section~~regarding sections 1321.71 to 1321.83 of the Revised Code.

Sec. 1322.05. (A) A credit union service organization or depository institution seeking exemption from registration pursuant to division (H) or (I) of section 1322.04 of the Revised Code or rules adopted by the superintendent ~~in accordance with section 1322.02 of the Revised Code~~ shall submit an application to the superintendent of financial institutions along with a nonrefundable fee of three hundred fifty dollars for each location of an office to be maintained by the organization or institution seeking exemption. The application shall be in a form prescribed by the superintendent and shall include all of the following:

(1) The organization's or institution's business name and state of incorporation or business registration;

(2) The names of the owners, officers, or partners having control of the organization or institution;

(3) An attestation to all of the following:

(a) That the organization or institution and its owners, officers, or partners identified in division (A)(2) of this section have not had a credit union service organization registration or license, mortgage banker license, mortgage broker certificate of registration, or mortgage loan originator license, or any comparable authority, revoked in any

governmental jurisdiction;

(b) That the organization or institution and its owners, officers, or partners identified in division (A)(2) of this section have not been convicted of, or pleaded guilty or nolo contendere to, any of the following in a domestic, foreign, or military court:

(i) During the seven-year period immediately preceding the date of application for exemption, a misdemeanor involving theft or any felony;

(ii) At any time prior to the date the application for exemption is approved, a felony involving an act of fraud, dishonesty, a breach of trust, theft, or money laundering.

(c) That, with respect to financing residential mortgage loans, the organization or institution conducts business with residents of this state or secures its loans with property located in this state.

(4) The names of all mortgage loan originators or licensees under the organization's or institution's control and direction;

(5) An acknowledgment of understanding that the organization or institution is subject to the regulatory authority of the division of financial institutions as described in this section;

(6) Any further reasonable information that the superintendent may require.

(B)(1) If the superintendent determines that the credit union service organization or depository institution qualifies for exemption, the superintendent shall issue a letter of

exemption. Additional certified copies of a letter of exemption shall be provided upon request and the payment of seventy-five dollars per copy.

(2) If the superintendent determines that the organization or institution does not qualify for exemption, the superintendent shall issue a notice of denial, and the organization or institution may request a hearing in accordance with Chapter 119. of the Revised Code.

(C) All of the following conditions apply to any credit union service organization or depository institution holding a valid letter of exemption:

(1) The organization or institution shall be subject to examination in the same manner as a registrant with respect to the conduct of the organization's or institution's mortgage loan originators. In conducting any out-of-state examination, the organization or institution shall be responsible for paying the costs of the division in the same manner as a registrant.

(2) The organization or institution shall have an affirmative duty to supervise the conduct of its mortgage loan originators, and to cooperate with investigations by the division with respect to that conduct, in the same manner as is required of registrants.

(3) The organization or institution shall keep and maintain records of all transactions relating to the conduct of its mortgage loan originators in the same manner as is required of registrants.

(4) The organization or institution may provide the surety bond for its licensees in the same manner as is permitted for registrants.

(D) A letter of exemption expires annually on the thirty-first day of December and may be renewed on or before that date by submitting an application that meets the requirements of division (A) of this section and a nonrefundable renewal fee of three hundred fifty dollars for each location of an office to be maintained by the credit union service organization or depository institution.

(E) The superintendent may issue a notice to revoke or suspend a letter of exemption if the superintendent finds that the letter was obtained though a false or fraudulent representation of a material fact, or the omission of a material fact, required by law, or that a condition for exemption is no longer being met. Prior to issuing an order of revocation or suspension, the credit union service organization or depository institution shall be given an opportunity for a hearing in accordance with Chapter 119. of the Revised Code.

(F) All information obtained by the division pursuant to an examination or investigation under this section shall be subject to the confidentiality requirements set forth in section 1322.36 of the Revised Code.

(G) All money collected under this section shall be deposited into the state treasury to the credit of the consumer finance fund created in section 1321.21 of the Revised Code.

Sec. 1322.56. The superintendent of financial institutions may adopt, in accordance with Chapter 119. of the Revised Code, ~~any rule necessary to comply with the requirements of the nationwide mortgage licensing system and registry, including~~ requirements pertaining to all of the following:

(A) Payment of nonrefundable fees to apply for, maintain,

and renew licenses through the nationwide mortgage licensing system and registry;

(B) Renewal or reporting dates;

(C) Procedures to amend or to surrender a license;

(D) Any other activity necessary for participation in the nationwide mortgage licensing system and registry.

Sec. 1327.46. As used in sections 1327.46 to 1327.61 of the Revised Code:

(A) "Weights and measures" means all weights and measures of every kind, instruments and devices for weighing and measuring, and any appliances and accessories associated with any such instruments and devices, except that "weights and measures" shall not be construed to include meters for the measurement of electricity, gas, whether natural or manufactured, or water when the same are operated in a public utility system. Such electricity, gas, and water meters, and appliances or accessories associated therewith, are specifically excluded from the purview of the weights and measures laws.

(B) "Intrastate commerce" means all commerce or trade that is begun, carried on, and completed wholly within the limits of this state, and "introduced into intrastate commerce" defines the time and place in which the first sale and delivery of a commodity is made within the state, the delivery being made either directly to the purchaser or to a common carrier for shipment to the purchaser.

(C) "Package" means any commodity put up or packaged in any manner in advance of sale in units suitable for either wholesale or retail sale.

(D) "Consumer package" means a package that is customarily produced or distributed for sale through a retail sales agency for consumption by an individual or use by an individual.

(E) "Weight" as used in connection with any commodity means net weight.

(F) "Correct" as used in connection with weights and measures means conformity with all applicable requirements of sections 1327.46 to 1327.61 of the Revised Code and rules adopted pursuant to those sections.

(G) "Reference standards" means the physical standards of the state that serve as the legal reference from which all other standards and weights and measures are derived.

(H) "Working standards" means the physical standards that are traceable to the reference standards through comparisons, using acceptable laboratory procedures, and used in the enforcement of weights and measures laws and rules.

(I) "Sale from bulk" means the sale of commodities when the quantity is determined at the time of sale.

(J) "Net weight" means the weight of a commodity, excluding any materials, substances, or items not considered to be a part of the commodity. Materials, substances, or items not considered to be part of the commodity include, but are not limited to, containers, conveyances, bags, wrappers, packaging materials, labels, individual piece coverings, decorative accompaniments, and coupons.

(K) "Random weight package" means a package that is one of a lot, shipment, or delivery of packages of the same commodity with no fixed pattern of weights.

(L) "Sold" includes keeping, offering, or exposing for sale.

(M) "Commercially used weighing and measuring device" means a device described in the national institute of standards and technology handbook 44 or its supplements and revisions and any other weighing and measuring device ~~designated by rules adopted under division (C) of section 1327.50 of the Revised Code~~. "Commercially used weighing and measuring device" includes, but is not limited to, a livestock scale, vehicle scale, railway scale, vehicle tank meter, bulk rack meter, and LPG meter.

(N) "Livestock scale" means a scale equipped with stock racks and gates that is adapted to weighing livestock standing on the scale platform.

(O) "Vehicle scale" means a scale that is adapted to weighing highway, farm, or other large industrial vehicles other than railroad cars.

(P) "Railway scale" means a rail scale that is designed to weigh railroad cars.

(Q) "Vehicle tank meter" means a vehicle mounted device that is designed for the measurement and delivery of liquid products from a tank.

(R) "Bulk rack meter" means a wholesale device, usually mounted on a rack, that is designed for the measurement and delivery of liquid products.

(S) "LPG meter" means a system, including a mechanism or machine of the meter type, that is designed to measure and deliver liquefied petroleum gas in the liquid state by a definite quantity whether installed in a permanent location or

mounted on a vehicle.

(T) "Service person" means an individual who installs, services, repairs, reconditions, or places into service a commercially used weighing and measuring device for any type of compensation.

Sec. 1327.50. The director of agriculture shall:

(A) Maintain traceability of the state standards to those of the international system of units;

(B) Enforce sections 1327.46 to 1327.61 of the Revised Code;

(C) ~~Issue reasonable rules for the uniform enforcement of sections 1327.46 to 1327.61 of the Revised Code, which rules shall have the force and effect of law;~~

~~(D)~~ Establish standards of weight, measure, or count, reasonable standards of fill, and standards for the voluntary presentation of cost per unit information for any package;

~~(E)~~ (D) Grant any exemptions from sections 1327.46 to 1327.61 of the Revised Code, or any rules adopted under those sections, when appropriate to the maintenance of good commercial practices in the state;

~~(F)~~ (E) Conduct investigations to ensure compliance with sections 1327.46 to 1327.61 of the Revised Code;

~~(G)~~ (F) Delegate to appropriate personnel any of these responsibilities for the proper administration of the director's office;

~~(H)~~ (G) Test as often as is prescribed by rule the standards of weight and measure used by any municipal

corporation or county within the state, and approve the same when found to be correct;

~~(I)~~ (H) Inspect and test weights and measures that are sold;

~~(J)~~ (I) Inspect and test to ascertain if they are correct, weights and measures commercially used either:

(1) In determining the weight, measure, or count of commodities or things sold on the basis of weight, measure, or count;

(2) In computing the basic charge or payment for goods or services rendered on the basis of weight, measure, or count.

~~(K)~~ (J) Test all weights and measures used in checking the receipt or disbursement of supplies in every institution, for the maintenance of which funds are appropriated by the general assembly;

~~(L)~~ (K) Approve for use, and may mark, such weights and measures as the director finds to be correct, and shall reject and mark as rejected such weights and measures as the director finds to be incorrect. Weights and measures that have been rejected may be seized if not corrected within the time specified or if used or disposed of in a manner not specifically authorized, and may be condemned and seized if found to be incorrect and not capable of being made correct.

~~(M)~~ (L) Weigh, measure, or inspect packaged commodities that are sold or in the process of delivery to determine whether they contain the amounts represented and whether they are sold in accordance with sections 1327.46 to 1327.61 of the Revised Code or rules adopted under those sections. In carrying out this section, the director shall employ recognized sampling

procedures, such as those designated in the national institute of standards and technology handbook 133 "checking the net contents of packaged goods."

~~(N)~~ (M) Prescribe by rule the appropriate term or unit of weight or measure to be used, whenever the director determines in the case of a specific commodity that an existing practice of declaring the quantity by weight, measure, numerical count, or combination thereof, does not facilitate value comparisons by consumers, or offers an opportunity for consumer confusion;

~~(O)~~ (N) Allow reasonable variations from the stated quantity of contents, which shall include those caused by unavoidable deviations in good manufacturing practice and by loss or gain of moisture during the course of good distribution practice, only after the commodity has entered intrastate commerce;

~~(P)~~ (O) Provide for the weights and measures training of inspector personnel and establish minimum training requirements, which shall be met by all inspector personnel, whether county, municipal, or state;

~~(Q)~~ (P) Prescribe the methods of tests and inspections to be employed in the enforcement of sections 1327.46 to 1327.61 of the Revised Code. The director may prescribe the official test and inspection forms to be used.

~~(R)~~ (Q) Provide by rule for registration with the director of service persons who are employed by commercially used weighing and measuring device servicing agencies;

~~(S)~~ (R) In conjunction with the national institute of standards and technology, operate a type evaluation program for certification of weighing and measuring devices as part of the

national type evaluation program. The director shall establish a schedule of fees for services rendered by the department of agriculture for type evaluation services. The director may require any weighing or measuring instrument or device to be traceable to a national type evaluation program certificate of conformance prior to use for commercial or law enforcement purposes.

~~(T)~~(S) Verify advertised prices, price representations, and point-of-sale systems, as necessary, to determine both the accuracy of prices and computations and the correct use of the equipment and the accuracy of prices printed or recalled from a database if a system utilizes scanning or coding in lieu of manual entry. In order to implement this division, the director shall do all of the following:

(1) Employ recognized procedures such as those designated in the national institute of standards and technology handbook 130, uniform laws and regulations, "examination procedures for price verification";

(2) Adopt rules establishing requirements governing the accuracy of advertised prices and point-of-sale systems~~ and establishing requirements and procedures for the enforcement of this division~~;

(3) Conduct necessary inspections.

Sec. 1327.52. Any weights and measures official elected or appointed for a county or municipality shall have the duties enumerated in divisions ~~(I)~~(H) to ~~(M)~~(L) of section 1327.50 of the Revised Code, and the powers enumerated in section 1327.51 of the Revised Code. These powers and duties shall extend to the respective jurisdictions, except that the jurisdiction of a

county official shall not extend to any municipal corporation for which a weights and measures official has been appointed. The director of agriculture shall advise and assist these officials.

Sec. 1333.21. The department of taxation, through the tax commissioner, shall administer and enforce sections 1333.11 to 1333.20, inclusive, of the Revised Code. ~~The tax commissioner, pursuant to sections 119.01 to 119.13, inclusive, of the Revised Code may adopt, amend, and repeal rules and regulations necessary to enforce and administer sections 1333.11 to 1333.20, inclusive, of the Revised Code.~~ Upon notice and hearing in accordance with sections 119.01 to 119.13, inclusive, of the Revised Code, the tax commissioner may suspend or revoke any wholesale or retail cigarette license for the violation of, or the failure of the licensee to comply with, said sections. A certified copy of the order suspending or revoking said license shall be transmitted by the tax commissioner to the county auditor of the county in which the license was issued.

Sec. 1346.08. ~~(A) The tax commissioner and the attorney general may adopt administrative rules necessary to implement sections 1346.05 to 1346.10 of the Revised Code.~~

~~(B)~~ Subject to the requirements of section 1346.05 of the Revised Code, the attorney general may adopt an administrative rule requiring a tobacco product manufacturer to make required escrow deposits in quarterly installments during the year in which the sales covered by the deposits are made. If the attorney general adopts such a rule, the tax commissioner may require a tobacco product manufacturer or a stamping agent to produce information sufficient to enable the tax commissioner and the attorney general to determine the adequacy of the amount

of an installment deposit.

Sec. 1347.05. Every state or local agency that maintains a personal information system shall:

(A) Appoint one individual to be directly responsible for the system;

(B) ~~Adopt and implement rules that provide for the operation of the system in accordance with the provisions of this chapter that, in the case of state agencies, apply to state agencies or, in the case of local agencies, apply to local agencies;~~

~~(C)~~ Inform each of its employees who has any responsibility for the operation or maintenance of the system, or for the use of personal information maintained in the system, of the applicable provisions of this chapter and of all rules adopted in accordance with this section;

~~(D)~~ (C) Specify disciplinary measures to be applied to any employee who initiates or otherwise contributes to any disciplinary or other punitive action against any individual who brings to the attention of appropriate authorities, the press, or any member of the public, evidence of unauthorized use of information contained in the system;

~~(E)~~ (D) Inform a person who is asked to supply personal information for a system whether the person is legally required to, or may refuse to, supply the information;

~~(F)~~ (E) Develop procedures for purposes of monitoring the accuracy, relevance, timeliness, and completeness of the personal information in this system, and, in accordance with the procedures, maintain the personal information in the system with the accuracy, relevance, timeliness, and completeness that is

necessary to assure fairness in any determination made with respect to a person on the basis of the information;

~~(G)~~ (F) Take reasonable precautions to protect personal information in the system from unauthorized modification, destruction, use, or disclosure;

~~(H)~~ (G) Collect, maintain, and use only personal information that is necessary and relevant to the functions that the agency is required or authorized to perform by statute, ordinance, code, or rule, and eliminate personal information from the system when it is no longer necessary and relevant to those functions.

Sec. 1347.99. (A) No public official, public employee, or other person who maintains, or is employed by a person who maintains, a personal information system for a state or local agency shall purposely refuse to comply with division ~~(E)~~ (D), ~~(F)~~ (E), ~~(G)~~ (F), or ~~(H)~~ (G) of section 1347.05, section 1347.071, division (A), (B), or (C) of section 1347.08, or division (A) or (C) of section 1347.09 of the Revised Code. Whoever violates this section is guilty of a minor misdemeanor.

(B) Whoever violates division (H)(1) or (2) of section 1347.15 of the Revised Code is guilty of a misdemeanor of the first degree.

Sec. 1349.30. (A) A person has no liability under section 1349.31 of the Revised Code, and shall not be subject to any sanction by the superintendent of financial institutions, for any failure to comply with section 1349.26 or 1349.27 of the Revised Code, if within sixty days after discovering the error, whether pursuant to the person's own procedures or an examination or investigation by the superintendent under

division (A) or (B) of section 1349.34 of the Revised Code, and prior to the initiation of any action by the superintendent under divisions (C) to (F) of section 1349.34 of the Revised Code or the receipt of written notice of the error from the consumer, the person notifies the consumer or other person concerned of the error and makes whatever adjustments in the appropriate account are necessary to assure that the consumer will not be required to pay an amount in excess of the charge actually disclosed, or the dollar equivalent of the annual percentage rate actually disclosed, whichever is lower.

(B) A creditor or assignee shall not be held liable in any action brought under section 1349.29 of the Revised Code, if the creditor or assignee shows by a preponderance of evidence that the compliance failure was not intentional and resulted from a bona fide error notwithstanding the maintenance of procedures reasonably adapted to avoid any such error. For purposes of this division, "bona fide error" includes, but is not limited to, clerical, calculation, computer malfunction and programming, and printing errors. "Bona fide error" does not include an error of legal judgment with respect to a person's obligations under sections 1349.25 to ~~1349.36~~ 1349.35 of the Revised Code.

Sec. 1349.32. The purpose of sections 1349.25 to ~~1349.36~~ 1349.35 of the Revised Code is to bring Ohio law into conformance with the "Home Ownership and Equity Protection Act of 1994," 108 Stat. 2190, 15 U.S.C.A. 1601 note, as amended, and the regulations and interpretations adopted thereunder by the federal reserve board, in order to facilitate the uniform administration and enforcement of state and federal laws on the regulation of certain high cost mortgages.

In furtherance of that purpose, the regulations and

interpretations adopted by the federal reserve board to implement the "Home Ownership and Equity Protection Act of 1994," which regulations and interpretations are effective as of ~~the effective date of this section~~May 24, 2002, are hereby deemed applicable to sections 1349.25 to ~~1349.36~~ 1349.35 of the Revised Code. Such regulations and interpretations include the amendment of sections 226.32 and 226.34 of Title 12 of the Code of Federal Regulations, which amendment was approved by the federal reserve board on December 12, 2001, and takes effect October 1, 2002.

Sec. 1349.34. (A) As often as the superintendent of financial institutions considers it necessary, the superintendent may examine a person's records regarding covered loans. The superintendent may recover from the person any costs incurred in connection with and reasonably related to the examination.

(B) The superintendent may investigate alleged failures to comply with sections 1349.25 to ~~1349.36~~ 1349.35 of the Revised Code, or any rule adopted thereunder, or complaints concerning any such failure to comply. In conducting any investigation under this section, the superintendent may compel, by subpoena, witnesses to testify in relation to any matter over which the superintendent has jurisdiction and may require the production of any book, record, or other document pertaining to that matter. If a person fails to file any statement or report, obey any subpoena, give testimony, produce any book, record, or other document as required by a subpoena, or permit photocopying of any book, record, or other document subpoenaed, the court of common pleas of any county in this state, upon application made to it by the superintendent, shall compel obedience by attachment proceedings for contempt, as in the case of

disobedience of the requirements of a subpoena issued from the court or a refusal to testify therein.

(C) Whenever it appears to the superintendent that a person has engaged in, is engaging in, or is about to engage in, any activity constituting a failure to comply with section 1349.26 or 1349.27 of the Revised Code, the superintendent may make application to the court of common pleas of any county in this state for an order enjoining any such activity. Upon a showing by the superintendent that a person has engaged in, is engaging in, or is about to engage in, any activity constituting a failure to comply with section 1349.26 or 1349.27 of the Revised Code, the court shall grant an injunction, restraining order, or other appropriate relief.

(D) Whenever it appears to the superintendent that a person has engaged in, is engaging in, or is about to engage in, any activity that may constitute a failure to comply with section 1349.26 or 1349.27 of the Revised Code, the superintendent, after notice and a hearing conducted in accordance with Chapter 119. of the Revised Code, may issue a cease and desist order. Such an order shall be enforceable in any court of common pleas in this state.

(E) If a person that fails to comply with section 1349.26 or 1349.27 of the Revised Code is licensed, registered, or ~~chartered~~chartered by, or otherwise operates under the authority of, the superintendent, the superintendent may, in accordance with Chapter 119. of the Revised Code, suspend, revoke, or deny the renewal of such license, registration, charter, or other authority.

(F) If a person fails to comply with section 1349.26 or 1349.27 of the Revised Code, the superintendent may, in

accordance with Chapter 119. of the Revised Code, impose a fine of not more than two thousand five hundred dollars per compliance failure. If the person fails to comply two or more times, the superintendent may, in accordance with Chapter 119. of the Revised Code, impose a fine of not more than five thousand dollars per compliance failure. If the person injured by the failure to comply is sixty-five years of age or older, the superintendent may double the amount of the fine.

An order to pay a fine pursuant to this division shall be enforceable in any court of common pleas in this state. All fines collected under this division shall be paid to the superintendent and shall be deposited by the superintendent into the state treasury to the credit of the consumer finance fund created under section 1321.21 of the Revised Code.

In determining the amount of a fine to be imposed under this division, the superintendent shall consider all of the following:

(1) The seriousness of the conduct;

(2) The person's good faith efforts to prevent the conduct;

(3) The person's history regarding violations and compliance with the superintendent's orders;

(4) The person's financial resources;

(5) Any other matter the superintendent considers appropriate in enforcing sections 1349.26 and 1349.27 of the Revised Code.

The superintendent shall not impose a fine under this division if the superintendent has imposed or will impose a fine

under another provision of the Revised Code for the same conduct.

(G)(1) The superintendent may take any of the actions set forth in this section with respect to any person other than a federally chartered financial institution or its operating subsidiaries. Whenever it appears to the superintendent that a federally chartered financial institution or its operating subsidiary has engaged in, is engaging in, or is about to engage in, any activity that may constitute a failure to comply with section 1349.26 or 1349.27 of the Revised Code, the superintendent may present any evidence of such activity to the institution's appropriate federal regulatory authority, along with any recommendations regarding the imposition of specific sanctions.

(2) Any action taken by the superintendent under this section shall be commenced within three years after the alleged compliance failure.

(H) The remedies available to the superintendent under this section are cumulative and concurrent, and the exercise of one remedy by the superintendent does not preclude or require the exercise of any other remedy.

(I) The remedies available to the superintendent under this section or to the appropriate federal regulatory authority, the right of rescission described in section 1349.29 of the Revised Code, and the criminal penalty provided in section 1349.31 of the Revised Code shall constitute the sole and exclusive remedies for any failure to comply with section 1349.26 or 1349.27 of the Revised Code.

Sec. 1349.43. (A) As used in this section, "loan officer,"

"mortgage broker," and "nonbank mortgage lender" have the same meanings as in section 1345.01 of the Revised Code.

(B) The department of commerce shall establish and maintain an electronic database accessible through the internet that contains information on all of the following:

(1) The enforcement actions taken by the superintendent of financial institutions for each violation of or failure to comply with any provision of Chapter 1322. of the Revised Code, upon final disposition of the action;

(2) The enforcement actions taken by the attorney general under Chapter 1345. of the Revised Code against loan officers, mortgage brokers, and nonbank mortgage lenders, upon final disposition of each action;

(3) All judgments by courts of this state, concerning which appellate remedies have been exhausted or lost by the expiration of the time for appeal, finding either of the following:

(a) A violation of any provision of Chapter 1322. of the Revised Code;

(b) That specific acts or practices by a loan officer, mortgage broker, or nonbank mortgage lender violate section 1345.02, 1345.03, or 1345.031 of the Revised Code.

(C) The attorney general shall notify the department of all enforcement actions and judgments described in divisions (B)(2) and (3)(b) of this section.

(D) ~~The department may adopt rules in accordance with Chapter 119. of the Revised Code that are necessary to implement this section.~~

~~(E)~~ The electronic database maintained by the department in accordance with this section shall not include information that, pursuant to section 1322.36 of the Revised Code, is confidential.

~~(F)~~ (E) The department may use the multistate licensing system authorized in section 1181.23 of the Revised Code to fulfill its obligations under this section.

Sec. 1506.02. (A) The department of natural resources is hereby designated the lead agency for the development and implementation of a coastal management program. The director of natural resources:

(1) Shall develop and adopt the coastal management program document. The director shall cooperate and coordinate with other agencies of the state and its political subdivisions in the development of the document. Before adopting the document, the director shall hold four public hearings on it in the coastal area, and may hold additional public meetings, to give the public the opportunity to make comments and recommendations concerning its terms. The director shall consider the public comments and recommendations before adopting the document. The director may amend the coastal management program document, provided that, prior to making changes in it, the director notifies by mail those persons who submitted comments and recommendations concerning the original document and appropriate agencies of the state and its political subdivisions. The director may hold at least one public hearing on the proposed changes.

(2) Shall administer the coastal management program in accordance with the coastal management program document, this chapter, and rules adopted under it;

~~(3) Shall adopt and may amend or rescind rules under Chapter 119. of the Revised Code for the implementation, administration, and enforcement of the coastal management program and the other provisions of this chapter. Before the adoption, amendment, or rescission of rules under division (A)(3) of this section, the director shall do all of the following:~~

~~(a) Maintain a list of interested public and private organizations and mail notice to those organizations of any proposed rule or amendment to or rescission of a rule at least thirty days before any public hearing on the proposal;~~

~~(b) Mail a copy of each proposed rule, amendment, or rescission to any person who requests a copy within five days after receipt of the request;~~

~~(c) Consult with appropriate statewide organizations and units of local government that would be affected by the proposed rule, amendment, or rescission.~~

~~Although the director is expected to discharge these duties diligently, failure to mail any notice or copy or to so consult with any person is not jurisdictional and shall not be construed to invalidate any proceeding or action of the director.~~

~~(4)~~ Shall provide for consultation and coordination between and among state agencies, political subdivisions of the state, and interstate, regional, areawide, and federal agencies in carrying out the purposes of the coastal management program and the other provisions of this chapter;

~~(5)~~ (4) Shall, to the extent practicable and consistent with the protection of coastal area resources, coordinate the rules and policies of the department of natural resources with

the rules and policies of other state and federal agencies to simplify and consolidate the regulation of activities along the Lake Erie shoreline;

~~(6)~~ (5) May, to accomplish the purposes of the coastal management program and the other provisions of this chapter, contract with any person and may accept and expend gifts, bequests, and grants of money or property from any person.

(B) Every agency of the state, upon request of the director, shall cooperate with the department of natural resources in the implementation of the coastal management program.

(C) The director shall establish a coastal management assistance grant program. Grants may be awarded from federal funds received for that purpose and from such other funds as may be provided by law to any municipal corporation, county, township, park district created under section 511.18 or 1545.04 of the Revised Code, conservancy district established under Chapter 6101. of the Revised Code, port authority, other political subdivision, state agency, educational institution, or nonprofit corporation to help implement, administer, or enforce any aspect of the coastal management program. Grants may be used for any of the following purposes:

(1) Feasibility studies and engineering reports for projects that are consistent with the policies in the coastal management program document;

(2) The protection and preservation of wetlands, beaches, fish and wildlife habitats, minerals, natural areas, prime agricultural land, endangered plant and animal species, or other significant natural coastal resources;

(3) The management of shoreline development to prevent loss of life and property in coastal flood hazard areas and coastal erosion areas, to set ~~prioities~~priorities for water-dependent energy, commercial, industrial, agricultural, and recreational uses, or to identify environmentally acceptable sites for dredge spoil disposal;

(4) Increasing public access to Lake Erie and other public places in the coastal area;

(5) The protection and preservation of historical, cultural, or aesthetic coastal resources;

(6) Improving the predictability and efficiency of governmental decision making related to coastal area management;

(7) Adopting, administering, and enforcing zoning ordinances or resolutions relating to coastal flood hazard areas or coastal erosion areas;

(8) The redevelopment of deteriorating and underutilized waterfronts and ports;

(9) Other purposes approved by the director.

Sec. 1506.04. (A) No later than September 15, 1989, each county or municipal corporation within whose jurisdiction is a coastal flood hazard area shall either participate in and remain in compliance with the national flood insurance program or shall adopt resolutions or ordinances governing the coastal flood hazard area that meet or exceed the standards required for participation in the regular phase of the national flood insurance program.

(B) If the director of natural resources determines at any time that a county or municipal corporation that is

participating in the national flood insurance program or has adopted resolutions or ordinances under division (A) of this section is not in compliance with that program or those resolutions or ordinances, as applicable, the director shall so notify the legislative authority of the county or municipal corporation and shall also notify the legislative authority that it may respond to the determination in accordance with the procedure for doing so established by rules ~~adopted under section 1506.02 of the Revised Code~~. If after considering the legislative authority's response the director determines that the county or municipal corporation is still not in compliance with the national flood insurance program or resolutions or ordinances adopted under division (A) of this section, as applicable, the director may request the attorney general in writing to, and the attorney general shall, bring an action for appropriate relief in a court of competent jurisdiction against the county or municipal corporation.

(C) The attorney general, upon the written request of the director, shall bring an action for appropriate relief in a court of competent jurisdiction against any development that meets both of the following criteria:

(1) Is located in a county or municipal corporation that is not in compliance with division (A) of this section;

(2) Is not in compliance with the standards of the national flood insurance program.

(D) This section does not apply to any permits or approvals issued by any state agency prior to the effective date of rules adopted ~~under section 1506.02 of the Revised Code~~ for the implementation of this section.

(E) As used in this section, "national flood insurance program" and "development" have the same meanings as in section 1521.01 of the Revised Code.

Sec. 1506.34. (A) The director of natural resources, with the approval of the director of the Ohio history connection, shall establish policies ~~and may adopt rules~~ necessary to implement and administer sections 1506.30 to 1506.36 of the Revised Code. Not less than forty-five days prior to adopting a rule under ~~this section or~~ section 1506.31 of the Revised Code, the director of natural resources shall send a copy of the proposed rule to the director of the Ohio history connection, who shall promptly review it. Not more than thirty days after receiving the proposed rule, the director of the Ohio history connection shall return the rule to the director of natural resources together with the former director's written approval or disapproval of the proposed rule. If the director of the Ohio history connection disapproves the rule, the director shall explain the reasons for the disapproval and any amendments to the rule the director considers necessary to obtain the director's approval. The director of natural resources shall not adopt a rule under those sections that has not been approved by the director of the Ohio history connection. If the director of the Ohio history connection does not respond within thirty days as prescribed in this section, the rule is deemed approved by the director.

(B) The director of natural resources shall inform the public of the requirements of sections 1506.30 to 1506.36 of the Revised Code and any policies established and rules adopted under them. In complying with this section, the director may establish or conduct educational programs or seminars, print and distribute informational pamphlets, and provide detailed

information to organizations that conduct scuba diving training programs.

(C) The director of natural resources may hire or contract with a marine archaeologist, a marine historian, a marine surveyor, or any combination of these persons for the purposes of implementing and administering sections 1506.30 to 1506.36 of the Revised Code and any rules adopted under them.

Sec. 1509.03. (A) The chief of the division of oil and gas resources management shall adopt, rescind, and amend, in accordance with Chapter 119. of the Revised Code, rules for the ~~administration, implementation, and enforcement of this chapter. The rules shall include an~~ identification of the subjects that the chief shall address when attaching terms and conditions to a permit with respect to a well and production facilities of a well that are located within an urbanized area or with respect to a horizontal well and production facilities associated with a horizontal well. The subjects shall include all of the following:

(1) Safety concerning the drilling or operation of a well;

(2) Protection of the public and private water supply, including the amount of water used and the source or sources of the water;

(3) Fencing and screening of surface facilities of a well;

(4) Containment and disposal of drilling and production wastes;

(5) Construction of access roads for purposes of the drilling and operation of a well;

(6) Noise mitigation for purposes of the drilling of a

well and the operation of a well, excluding safety and maintenance operations.

No person shall violate any rule of the chief adopted under this chapter.

(B)(1) Any order issuing, denying, or modifying a permit or notices required to be made by the chief pursuant to this chapter shall be made in compliance with Chapter 119. of the Revised Code, except that personal service may be used in lieu of service by mail. Every order issuing, denying, or modifying a permit under this chapter and described as such shall be considered an adjudication order for purposes of Chapter 119. of the Revised Code. Division (B)(1) of this section does not apply to a permit issued under section 1509.06 of the Revised Code.

(2) Where notice to any person is required by this chapter, the notice shall be given in order to meet the requirements of law.

(C) The chief or the chief's authorized representative may at any time enter upon lands, public or private, for the purpose of administration or enforcement of this chapter, the rules adopted or orders made thereunder, or terms or conditions of permits or registration certificates issued thereunder and may examine and copy records pertaining to the drilling, conversion, or operation of a well for injection of fluids and logs required by division (C) of section 1509.223 of the Revised Code. No person shall prevent or hinder the chief or the chief's authorized representative in the performance of official duties. If entry is prevented or hindered, the chief or the chief's authorized representative may apply for, and the court of common pleas may issue, an appropriate inspection warrant necessary to achieve the purposes of this chapter within the court's

territorial jurisdiction.

(D) The chief may issue orders to enforce this chapter, rules adopted thereunder, and terms or conditions of permits issued thereunder. Any such order shall be considered an adjudication order for the purposes of Chapter 119. of the Revised Code. No person shall violate any order of the chief issued under this chapter. No person shall violate a term or condition of a permit or registration certificate issued under this chapter.

(E) Orders of the chief denying, suspending, or revoking a registration certificate; approving or denying approval of an application for revision of a registered transporter's plan for disposal; or to implement, administer, or enforce division (A) of section 1509.224 and sections 1509.22, 1509.222, 1509.223, 1509.225, and 1509.226 of the Revised Code pertaining to the transportation of brine by vehicle and the disposal of brine so transported are not adjudication orders for purposes of Chapter 119. of the Revised Code. The chief shall issue such orders under division (A) or (B) of section 1509.224 of the Revised Code, as appropriate.

Sec. 1509.061. An owner of a well who has been issued a permit under section 1509.06 of the Revised Code may submit to the chief of the division of oil and gas resources management, on a form prescribed by the chief, a request to revise an existing tract upon which exists a producing or idle well. The chief shall adopt, and may amend and rescind, rules ~~under section 1509.03 of the Revised Code that are necessary for the administration of this section. The rules at least shall~~ to stipulate the information to be included on the request form and ~~shall~~ to establish a fee to be paid by the person submitting the

request, which fee shall not exceed two hundred fifty dollars.

The chief shall approve a request submitted under this section unless it would result in a violation of this chapter or rules adopted under it, including provisions establishing spacing or minimum acreage requirements.

Sec. 1509.222. (A)(1) Except as provided in section 1509.226 of the Revised Code, no person shall transport brine by vehicle in this state unless the business entity that employs the person first registers with and obtains a registration certificate and identification number from the chief of the division of oil and gas resources management.

(2) No more than one registration certificate shall be required of any business entity. Registration certificates issued under this section are not transferable. An applicant shall file an application with the chief, containing such information in such form as the chief prescribes. The application shall include at least all of the following:

(a) A list that identifies each vehicle, vessel, railcar, and container that will be used in the transportation of brine;

(b) A plan for disposal that provides for compliance with the requirements of this chapter and rules of the chief pertaining to the transportation of brine by vehicle and the disposal of brine so transported and that lists all disposal sites that the applicant intends to use;

(c) The bond required by section 1509.225 of the Revised Code;

(d) A certificate issued by an insurance company authorized to do business in this state certifying that the applicant has in force a liability insurance policy in an amount

not less than three hundred thousand dollars bodily injury coverage and three hundred thousand dollars property damage coverage to pay damages for injury to persons or property caused by the collecting, handling, transportation, or disposal of brine.

The insurance policy required by division (A)(2)(d) of this section shall be maintained in effect during the term of the registration certificate. The policy or policies providing the coverage shall require the insurance company to give notice to the chief if the policy or policies lapse for any reason. Upon such termination of the policy, the chief may suspend the registration certificate until proper insurance coverage is obtained.

(3) Each application for a registration certificate shall be accompanied by a nonrefundable fee of fifty dollars.

(4) If a business entity that has been issued a registration certificate under this section changes its name due to a business reorganization or merger, the business entity shall revise the bond or certificates of deposit required by section 1509.225 of the Revised Code and obtain a new certificate from an insurance company in accordance with division ~~(A)(2)(c)~~ (A)(2)(d) of this section to reflect the change in the name of the business entity.

(B) The chief shall issue an order denying an application for a registration certificate if the chief finds that either of the following applies:

(1) The applicant, at the time of applying for the registration certificate, has been found liable by a final nonappealable order of a court of competent jurisdiction for

damage to streets, roads, highways, bridges, culverts, or drainways pursuant to section 4513.34 or 5577.12 of the Revised Code until the applicant provides the chief with evidence of compliance with the order.

(2) The applicant's plan for disposal does not provide for compliance with the requirements of this chapter and rules of the chief pertaining to the transportation of brine by vehicle and the disposal of brine so transported.

(C) No applicant shall attempt to circumvent division (B) of this section by applying for a registration certificate under a different name or business organization name, by transferring responsibility to another person or entity, or by any similar act.

(D) A registered transporter shall apply to revise a disposal plan under procedures that the chief shall prescribe by rule. However, at a minimum, an application for a revision shall list all sources and disposal sites of brine currently transported. The chief shall deny any application for a revision of a plan under this division if the chief finds that the proposed revised plan does not provide for compliance with the requirements of this chapter and rules of the chief pertaining to the transportation of brine by vehicle and the disposal of brine so transported. Approvals and denials of revisions shall be by order of the chief.

(E) The chief may ~~adopt rules,~~ issue orders~~,~~ and attach terms and conditions to registration certificates as may be necessary to administer, implement, and enforce sections 1509.222 to 1509.226 of the Revised Code for protection of public health or safety or conservation of natural resources.

Sec. 1513.02. (A) The division of mineral resources management shall administer, enforce, and implement this chapter. The chief of the division of mineral resources management shall do all of the following:

(1) Adopt, amend, and rescind rules:

(a) ~~To administer and enforce this chapter;~~

~~(b) To implement the requirements of this chapter for~~ For the reclamation of lands affected by coal mining, including such rules governing mining practices and procedures, segregation and placement of soil and topsoil, backfilling, grading, terracing, resoiling, soil conditioning and reconditioning, planting, establishment of drainage patterns, construction of impoundments, and the construction, maintenance, and disposition of haul roads, ditches, and dikes, as may be necessary or desirable, under varying conditions of slope, drainage, physical and chemical characteristics of soil and overburden, erodability of materials, season, growth characteristics of plants, and other factors affecting coal mining and reclamation, to facilitate the return of the land to a condition required by this chapter; to prevent pollution or substantial diminution of waters of the state, substantial erosion, substantial deposition of sediment, landslides, accumulation and discharge of acid water, and flooding, both during mining and reclamation and thereafter; to restore the recharge capacity of the mined area to approximate premining conditions; and to ensure full compliance with all requirements of this chapter relating to reclamation, and the attainment of those objectives in the interest of the public health, safety, and welfare to which these reclamation requirements are directed;

~~(c)~~ (b) To meet the requirements of the "Surface Mining

Control and Reclamation Act of 1977," 91 Stat. 445, 30 U.S.C. 1201.

(2) Issue orders to enforce this chapter and rules adopted under it;

(3) Adopt rules for the internal management of the division that do not affect private rights;

(4) Adopt programs~~, rules,~~ and procedures designed to assist the coal operator in this state with the permitting process and complying with the environmental standards of this chapter. Upon request of the applicant for a permit, the chief shall make a determination of the probable hydrologic consequences required in division (B)(1)(k) of section 1513.07 of the Revised Code within sixty days after a permit has been submitted to the division for those applications requesting the chief to perform the study. The chief shall perform the chemical analysis of test borings or core samplings for operators who have a total annual production of coal at all locations that does not exceed one hundred thousand tons.

(5) Adopt programs, rules, and procedures designed to ensure that reclamation is performed on operations for which the performance security has been forfeited pursuant to section 1513.16 of the Revised Code;

(6) Receive, administer, and expend moneys obtained from the United States department of the interior and other federal agencies to implement the state's permanent coal regulatory program;

(7)(a) Regulate the beneficial use of coal combustion byproducts at coal mining and reclamation operations and abandoned mine lands that are regulated under this chapter and

rules adopted under it. The beneficial use of coal combustion byproducts at such coal mining and reclamation operations and abandoned mine lands is subject to all applicable performance standards and requirements established under this chapter and rules adopted under it, including, without limitation, standards and requirements established under section 1513.16 of the Revised Code and rules adopted pursuant to it.

The beneficial use of coal combustion byproducts that is authorized at coal mining and reclamation operations and abandoned mine lands that are regulated under this chapter and rules adopted under it is not subject to the following provisions of Chapters 3734. and 6111. of the Revised Code and rules adopted under those provisions:

(i) Permit and license requirements for solid waste facilities established under sections 3734.02 and 3734.05 of the Revised Code;

(ii) The prohibition against the open dumping of solid wastes established in section 3734.03 of the Revised Code;

(iii) Solid waste generation and disposal fees established under sections 3734.57 to 3734.574 of the Revised Code;

(iv) Permit to install and plan approval requirements established under sections 6111.03, 6111.44, and 6111.45 of the Revised Code.

Nothing in division (A)(7) of this section shall be construed to limit any other requirements that are applicable to the beneficial use of coal combustion byproducts and that are established under Chapter 3704., 3714., 3734., or 6111. of the Revised Code or under local or federal laws, including, without limitation, requirements governing air pollution control

permits, hazardous waste, national pollutant discharge elimination system permits, and section 401 water quality certifications.

(b) As used in division (A)(7) of this section:

(i) "Coal combustion byproducts" means fly ash, bottom ash, coal slag, flue gas desulphurization and fluidized bed combustion byproducts, air or water pollution control residues from the operation of a coal-fired electric or steam generation facility, and any material from a clean coal technology demonstration project or other innovative process at a coal-fired electric or steam generation facility.

(ii) "Beneficial use" means the use of coal combustion byproducts in a manner that is not equivalent to the establishment of a disposal system or a solid waste disposal facility and that is unlikely to affect human health or safety or the environment adversely or to degrade the existing quality of the land, air, or water. "Beneficial use" includes, without limitation, land application uses for agronomic value; land reclamation uses; and discrete, controlled uses for structural fill, pavement aggregate, pipe bedding aggregate, mine sealing, alternative drainage or capping material, and pilot demonstration projects.

(iii) "Structural fill" means the discrete, controlled use of a coal combustion byproduct as a substitute for a conventional aggregate, raw material, or soil under or immediately adjacent to a building or structure. "Structural fill" does not include uses that involve general filling or grading operations or valley fills.

(iv) "Pavement aggregate" means the discrete, controlled

use of a coal combustion byproduct as a subbase material or drainage layer under or immediately adjacent to a paved road or a paved parking lot where the coal combustion byproduct is a substitute for a conventional aggregate, raw material, or soil.

(v) "Pipe bedding aggregate" means the discrete, controlled use of a coal combustion byproduct as a substitute for a conventional aggregate, raw material, or soil under, around, or immediately adjacent to a water, sewer, or other pipeline.

(vi) "Coal-fired electric or steam generation facility" includes any boiler that is fired with coal or with coal in combination with petroleum coke, oil, natural gas, or any other fossil fuel.

(vii) "Solid waste disposal facility" means a facility for the disposal of solid wastes as provided in Chapter 3734. of the Revised Code and rules adopted under it.

(viii) "Disposal system" has the same meaning as in section 6111.01 of the Revised Code.

(8) Establish programs and adopt rules and procedures governing terms, limitations, and conditions for the use of diesel equipment in an underground coal mine.

(B) The chief, by rule, may designate as unsuitable for coal mining natural areas maintained on the registry of natural areas of the department of natural resources pursuant to Chapter 1517. of the Revised Code, wild, scenic, or recreational river areas designated pursuant to that chapter, publicly owned or dedicated parks, and other areas of unique and irreplaceable natural beauty or condition, or areas within specified distances of a public road, occupied dwelling, public building, school,

church, community, or institutional building, public park, or cemetery. Such a designation may include land adjacent to the perimeters of those areas that may be necessary to protect their integrity.

(C)(1) The adoption, amendment, and rescission of rules under divisions ~~(A)(1), (4)~~ (A)(4), (5), and, (8), (B), and (J) of this section are subject to Chapter 119. of the Revised Code.

(2) The issuance of orders under division (A)(2) of this section and appeals therefrom are not governed by or subject to Chapter 119. of the Revised Code, but are governed by this chapter.

(D)(1) When the chief or an authorized representative of the chief determines that any condition or practice exists or that any permittee is in violation of any requirement of this chapter or any permit condition required by this chapter, which condition, practice, or violation creates an imminent danger to the health or safety of the public or is causing, or can reasonably be expected to cause, significant, imminent environmental harm to land, air, or water resources, the chief or the authorized representative immediately shall order the cessation of coal mining and reclamation operations or the portion thereof relevant to the condition, practice, or violation. The cessation order shall remain in effect until the chief or the authorized representative determines that the condition, practice, or violation has been abated or until the order is modified, vacated, or terminated by the chief or the authorized representative pursuant to division (D)(4) of this section or by the reclamation commission pursuant to section 1513.13 of the Revised Code. When the chief or the authorized representative finds that the ordered cessation of coal mining

and reclamation operations or any portion thereof will not completely abate the imminent danger to the health or safety of the public or the significant, imminent environmental harm to land, air, or water resources, the chief or the authorized representative, in addition to the cessation order, shall order the operator to take whatever steps the chief or the authorized representative considers necessary to abate the imminent danger or the significant environmental harm.

(2) When the chief or an authorized representative of the chief determines that any person is in violation of any requirement of this chapter or any permit condition required by this chapter, but the violation does not create an imminent danger to the health or safety of the public or cannot reasonably be expected to cause significant, imminent environmental harm to land, air, or water resources, the chief or the authorized representative shall issue a notice of violation to the person or the person's agent fixing a reasonable time for the abatement of the violation, provided that the time afforded a person to abate the violation shall not exceed the time limitations prescribed by the secretary of the interior in 30 C.F.R. Part 843 for an approvable state regulatory program under the "Surface Mining Control and Reclamation Act of 1977," 91 Stat. 445, 30 U.S.C. 1201.

If, upon expiration of the period of time as originally fixed or subsequently extended for good cause shown and upon the written finding of the chief or the authorized representative, the chief or the authorized representative finds that the violation has not been abated, the chief or the authorized representative immediately shall order the cessation of coal mining and reclamation operations or the portion thereof relevant to the violation. The cessation order shall remain in

effect until the chief or the authorized representative determines that the violation has been abated or until the order is modified, vacated, or terminated by the chief or the authorized representative pursuant to division (D)(4) of this section or by the reclamation commission pursuant to section 1513.13 of the Revised Code. In a cessation order issued under division (D)(2) of this section, the chief or the authorized representative shall prescribe the steps necessary to abate the violation in the most expeditious manner possible.

(3) When in the judgment of the chief or an authorized representative of the chief a pattern of violations of any requirements of this chapter or any permit conditions required by this chapter exists or has existed and the violations are caused by the unwarranted failure of the permittee to comply with any requirements of this chapter or any permit conditions or are willfully caused by the permittee, the chief or the authorized representative immediately shall issue an order to the permittee to show cause why the permit should not be suspended or revoked. If a hearing is requested, the chief shall inform all interested parties of the time and place of the hearing and conduct the hearing pursuant to division (D) of section 1513.13 of the Revised Code. Upon the permittee's failure to show cause why the permit should not be suspended or revoked, the chief or the authorized representative immediately shall suspend or revoke the permit.

(4) Notices of violation and orders issued pursuant to this section shall set forth with reasonable specificity the nature of the violation and the remedial action required, the period of time established for abatement, and a reasonable description of the portion of the coal mining and reclamation operation to which the notice or order applies. Each notice or

order issued under this section shall be given promptly to the alleged violator or the agent of the alleged violator by the chief or an authorized representative of the chief who issues the notice or order. Notices and orders shall be in writing and shall be signed by the chief or the authorized representative and may be modified, vacated, or terminated by the chief or the authorized representative. Any notice or order issued pursuant to this section that requires cessation of mining by the operator shall expire within thirty days after actual notice to the operator unless a public hearing pursuant to section 1513.13 of the Revised Code is held at the site or within such reasonable proximity to the site that any viewings of the site can be conducted during the course of the public hearing.

(E)(1) A person who violates a permit condition or any other provision of this chapter may be assessed a civil penalty by the chief, except that if the violation leads to the issuance of a cessation order under division (D) of this section, the civil penalty shall be assessed for each day until the person initiates the necessary corrective steps. The penalty shall not exceed five thousand dollars for each violation. Each day of continuing violation may be deemed a separate violation for purposes of penalty assessments. In determining the amount of the penalty, consideration shall be given to the person's history of previous violation at the particular coal mining operation; the seriousness of the violation, including any irreparable harm to the environment and any hazard to the health or safety of the public; whether the person was negligent; and the demonstrated diligence of the person charged in attempting to achieve rapid compliance after notification of the violation.

(2) A civil penalty shall be assessed by the chief only after the person charged with a violation under division (E)(1)

of this section has been given an opportunity for a public hearing. If a person charged with such a violation fails to avail oneself of the opportunity for a public hearing, a civil penalty shall be assessed by the chief after the chief has determined that a violation did occur, and the amount of the penalty that is warranted, and has issued an order requiring that the penalty be paid.

(3) Upon the issuance of a notice or order charging that a violation of this chapter has occurred, the chief shall inform the operator within thirty days of the proposed amount of the penalty and provide opportunity for an adjudicatory hearing pursuant to section 1513.13 of the Revised Code. The person charged with the penalty then shall have thirty days to pay the proposed penalty in full or, if the person wishes to contest either the amount of the penalty or the fact of the violation, file a petition for review of the proposed assessment with the secretary of the reclamation commission pursuant to section 1513.13 of the Revised Code. If, after the hearing, the commission affirms or modifies the proposed amount of the penalty, the person charged with the penalty then shall have thirty days after receipt of the written decision to pay the amount in full or file an appeal with the court of appeals in accordance with section 1513.14 of the Revised Code. At the time the petition for review of the proposed assessment is filed with the secretary, the person shall forward the amount of the penalty to the secretary for placement in the reclamation penalty fund, which is hereby created. The fund shall be in the custody of the treasurer of state, but shall not be a part of the state treasury. Pursuant to administrative or judicial review of the penalty, the secretary, within thirty days, shall remit the appropriate amount of the penalty to the person, with

interest, if it is determined that no violation occurred or that the amount of the penalty should be reduced, and the secretary shall forward the balance of the penalty or, if the penalty was not reduced, the entire amount of the penalty, with interest, to the chief for deposit in the reclamation forfeiture fund created in section 1513.18 of the Revised Code. Failure to forward the money to the secretary within thirty days after the chief informs the operator of the proposed amount of the penalty shall result in a waiver of all legal rights to contest the violation or the amount of the penalty. Within fifteen days after being informed of the penalty, the person charged with the penalty may request in writing an informal assessment conference to review the amount of the penalty. The conference shall be presided over by the chief or an individual appointed by the chief other than the inspector that issued the notice of violation or order upon which the penalty is based. The chief shall adopt rules governing procedures to be followed in informal conferences. Time allowed for payment of the penalty or appeal to the commission shall be tolled while the penalty is being reviewed in an informal conference.

(4) An operator who fails to correct a violation for which a notice of violation or order has been issued under division (D) of this section within the period permitted for its correction shall be assessed a civil penalty of not less than seven hundred fifty dollars for each day during which the failure or violation continues. However, a civil penalty shall not be assessed under division (E)(4) of this section if the commission orders the suspension of the abatement requirement after determining, based upon the findings of an expedited hearing held under section 1513.13 of the Revised Code at the request of the operator, that the operator will suffer

irreparable loss or damage from the application of the abatement requirement or if the court orders suspension of the abatement requirement pursuant to review proceedings held under section 1513.14 of the Revised Code at the request of the operator.

(F) The chief may enter into a cooperative agreement with the secretary of the interior to provide for state regulation of coal mining and reclamation operations on federal lands within the state.

(G) The chief may prohibit augering if necessary to maximize the utilization, recoverability, or conservation of the solid fuel resources or to protect against adverse water quality impacts.

(H) The chief shall transmit copies of all schedules submitted under section 1513.07 of the Revised Code pertaining to violations of air or water quality laws and rules adopted and orders issued under those laws in connection with coal mining operations to the director of environmental protection for verification.

(I) For the purposes of sections 1513.18, 1513.24, 1513.37, and 1514.06 of the Revised Code, the chief triennially shall determine the average wage rate for companies performing reclamation work for the division under those sections by averaging the wage rate paid by all companies performing such reclamation work during the three years immediately preceding the determination. However, in making the initial determination under this division, the chief shall average the wage rate paid by all companies performing such reclamation work during the ten years immediately preceding October 29, 1995.

(J) If this state becomes covered by a state programmatic

general permit issued by the United States army corps of engineers for the discharge of dredged or fill material into the waters of the United States by operations that conduct surface and underground coal mining and reclamation operations and the restoration of abandoned mine lands, the chief may establish programs and adopt rules and procedures designed to implement the terms, limitations, and conditions of the permit. The purpose of the programs, rules, and procedures shall be to enable the state to reduce or eliminate duplicative state and federal project evaluation, simplify the regulatory approval process, provide environmental protection for aquatic resources that is equivalent to federal protection, and satisfy the requirements of the United States army corps of engineers regulatory program under which the permit is issued and that is established under section 404 of the "Federal Water Pollution Control Act," 86 Stat. 48 (1972), 33 U.S.C. 1344, as amended by the "Clean Water Act of 1977," 91 Stat. 1600, 33 U.S.C. 1344; section 10 of the "Rivers and Harbors Act of 1899," 30 Stat. 1151, 33 U.S.C. 403; and section 103 of the "Marine Protection, Research, and Sanctuaries Act of 1972," 86 Stat. 1055, 33 U.S.C. 1413.

Sec. 1513.07. (A)(1) No operator shall conduct a coal mining operation without a permit for the operation issued by the chief of the division of mineral resources management.

(2) All permits issued pursuant to this chapter shall be issued for a term not to exceed five years, except that, if the applicant demonstrates that a specified longer term is reasonably needed to allow the applicant to obtain necessary financing for equipment and the opening of the operation and if the application is full and complete for the specified longer term, the chief may grant a permit for the longer term. A

successor in interest to a permittee who applies for a new permit within thirty days after succeeding to the interest and who is able to obtain the performance security of the original permittee may continue coal mining and reclamation operations according to the approved mining and reclamation plan of the original permittee until the successor's application is granted or denied.

(3) A permit shall terminate if the permittee has not commenced the coal mining operations covered by the permit within three years after the issuance of the permit, except that the chief may grant reasonable extensions of the time upon a showing that the extensions are necessary by reason of litigation precluding the commencement or threatening substantial economic loss to the permittee or by reason of conditions beyond the control and without the fault or negligence of the permittee, and except that with respect to coal to be mined for use in a synthetic fuel facility or specified major electric generating facility, the permittee shall be deemed to have commenced coal mining operations at the time construction of the synthetic fuel or generating facility is initiated.

(4)(a) Any permit issued pursuant to this chapter shall carry with it the right of successive renewal upon expiration with respect to areas within the boundaries of the permit. The holders of the permit may apply for renewal and the renewal shall be issued unless the chief determines by written findings, subsequent to fulfillment of the public notice requirements of this section and section 1513.071 of the Revised Code through demonstrations by opponents of renewal or otherwise, that one or more of the following circumstances exists:

(i) The terms and conditions of the existing permit are not being satisfactorily met.

(ii) The present coal mining and reclamation operation is not in compliance with the environmental protection standards of this chapter.

(iii) The renewal requested substantially jeopardizes the operator's continuing responsibilities on existing permit areas.

(iv) The applicant has not provided evidence that the performance security in effect for the operation will continue in effect for any renewal requested in the application.

(v) Any additional, revised, or updated information required by the chief has not been provided. Prior to the approval of any renewal of a permit, the chief shall provide notice to the appropriate public authorities as prescribed by rule of the chief.

(b) If an application for renewal of a valid permit includes a proposal to extend the mining operation beyond the boundaries authorized in the existing permit, the portion of the application for renewal of a valid permit that addresses any new land areas shall be subject to the full standards applicable to new applications under this chapter.

(c) A permit renewal shall be for a term not to exceed the period of the original permit established by this chapter. Application for permit renewal shall be made at least one hundred twenty days prior to the expiration of the valid permit.

(5) A permit issued pursuant to this chapter does not eliminate the requirements for obtaining a permit to install or modify a disposal system or any part thereof or to discharge sewage, industrial waste, or other wastes into the waters of the

state in accordance with Chapter 6111. of the Revised Code.

(B)(1) The permit application shall be submitted in a manner satisfactory to the chief and shall contain, among other things, all of the following:

(a) The names and addresses of all of the following:

(i) The permit applicant;

(ii) Every legal owner of record of the property, surface and mineral, to be mined;

(iii) The holders of record of any leasehold interest in the property;

(iv) Any purchaser of record of the property under a real estate contract;

(v) The operator if different from the applicant;

(vi) If any of these are business entities other than a single proprietor, the names and addresses of the principals, officers, and statutory agent for service of process.

(b) The names and addresses of the owners of record of all surface and subsurface areas adjacent to any part of the permit area;

(c) A statement of any current or previous coal mining permits in the United States held by the applicant, the permit identification, and any pending applications;

(d) If the applicant is a partnership, corporation, association, or other business entity, the following where applicable: the names and addresses of every officer, partner, director, or person performing a function similar to a director, of the applicant, the name and address of any person owning, of

record, ten per cent or more of any class of voting stock of the applicant, a list of all names under which the applicant, partner, or principal shareholder previously operated a coal mining operation within the United States within the five-year period preceding the date of submission of the application, and a list of the person or persons primarily responsible for ensuring that the applicant complies with the requirements of this chapter and rules adopted pursuant thereto while mining and reclaiming under the permit;

(e) A statement of whether the applicant, any subsidiary, affiliate, or persons controlled by or under common control with the applicant, any partner if the applicant is a partnership, any officer, principal shareholder, or director if the applicant is a corporation, or any other person who has a right to control or in fact controls the management of the applicant or the selection of officers, directors, or managers of the applicant:

(i) Has ever held a federal or state coal mining permit that in the five-year period prior to the date of submission of the application has been suspended or revoked or has had a coal mining bond, performance security, or similar security deposited in lieu of bond forfeited and, if so, a brief explanation of the facts involved;

(ii) Has been an officer, partner, director, principal shareholder, or person having the right to control or has in fact controlled the management of or the selection of officers, directors, or managers of a business entity that has had a coal mining or surface mining permit that in the five-year period prior to the date of submission of the application has been suspended or revoked or has had a coal mining or surface mining bond, performance security, or similar security deposited in

lieu of bond forfeited and, if so, a brief explanation of the facts involved.

(f) A copy of the applicant's advertisement to be published in a newspaper of general circulation in the locality of the proposed site at least once a week for four successive weeks, which shall include the ownership of the proposed mine, a description of the exact location and boundaries of the proposed site sufficient to make the proposed operation readily identifiable by local residents, and the location where the application is available for public inspection;

(g) A description of the type and method of coal mining operation that exists or is proposed, the engineering techniques proposed or used, and the equipment used or proposed to be used;

(h) The anticipated or actual starting and termination dates of each phase of the mining operation and number of acres of land to be affected;

(i) An accurate map or plan, to an appropriate scale, clearly showing the land to be affected, the land upon which the applicant has the legal right to enter and commence coal mining operations, and the land for which the applicant will acquire the legal right to enter and commence coal mining operations during the term of the permit, copies of those documents upon which is based the applicant's legal right to enter and commence coal mining operations or a notarized statement describing the applicant's legal right to enter and commence coal mining operations, and a statement whether that right is the subject of pending litigation. This chapter does not authorize the chief to adjudicate property title disputes.

(j) The name of the watershed and location of the surface

stream or tributary into which drainage from the operation will be discharged;

(k) A determination of the probable hydrologic consequences of the mining and reclamation operations, both on and off the mine site, with respect to the hydrologic regime, providing information on the quantity and quality of water in surface and ground water systems including the dissolved and suspended solids under seasonal flow conditions and the collection of sufficient data for the mine site and surrounding areas so that an assessment can be made by the chief of the probable cumulative impacts of all anticipated mining in the area upon the hydrology of the area and particularly upon water availability, but this determination shall not be required until hydrologic information of the general area prior to mining is made available from an appropriate federal or state agency; however, the permit shall not be approved until the information is available and is incorporated into the application;

(l) When requested by the chief, the climatological factors that are peculiar to the locality of the land to be affected, including the average seasonal precipitation, the average direction and velocity of prevailing winds, and the seasonal temperature ranges;

(m) Accurate maps prepared by or under the direction of and certified by a qualified registered professional engineer, registered surveyor, or licensed landscape architect to an appropriate scale clearly showing all types of information set forth on topographical maps of the United States geological survey of a scale of not more than four hundred feet to the inch, including all artificial features and significant known archeological sites. The map, among other things specified by

the chief, shall show all boundaries of the land to be affected, the boundary lines and names of present owners of record of all surface areas abutting the permit area, and the location of all buildings within one thousand feet of the permit area.

(n)(i) Cross-section maps or plans of the land to be affected including the actual area to be mined, prepared by or under the direction of and certified by a qualified registered professional engineer or certified professional geologist with assistance from experts in related fields such as hydrology, hydrogeology, geology, and landscape architecture, showing pertinent elevations and locations of test borings or core samplings and depicting the following information: the nature and depth of the various strata of overburden; the nature and thickness of any coal or rider seam above the coal seam to be mined; the nature of the stratum immediately beneath the coal seam to be mined; all mineral crop lines and the strike and dip of the coal to be mined within the area to be affected; existing or previous coal mining limits; the location and extent of known workings of any underground mines, including mine openings to the surface; the location of spoil, waste, or refuse areas and topsoil preservation areas; the location of all impoundments for waste or erosion control; any settling or water treatment facility; constructed or natural drainways and the location of any discharges to any surface body of water on the land to be affected or adjacent thereto; profiles at appropriate cross sections of the anticipated final surface configuration that will be achieved pursuant to the operator's proposed reclamation plan; the location of subsurface water, if encountered; the location and quality of aquifers; and the estimated elevation of the water table. Registered surveyors shall be allowed to perform all plans, maps, and certifications under this chapter

as they are authorized under Chapter 4733. of the Revised Code.

(ii) A statement of the quality and locations of subsurface water. The chief shall provide by rule the number of locations to be sampled, frequency of collection, and parameters to be analyzed to obtain the statement required.

(o) A statement of the results of test borings or core samplings from the permit area, including logs of the drill holes, the thickness of the coal seam found, an analysis of the chemical properties of the coal, the sulfur content of any coal seam, chemical analysis of potentially acid or toxic forming sections of the overburden, and chemical analysis of the stratum lying immediately underneath the coal to be mined, except that this division may be waived by the chief with respect to the specific application by a written determination that its requirements are unnecessary. If the test borings or core samplings from the permit area indicate the existence of potentially acid forming or toxic forming quantities of sulfur in the coal or overburden to be disturbed by mining, the application also shall include a statement of the acid generating potential and the acid neutralizing potential of the rock strata to be disturbed as calculated in accordance with the calculation method established under section 1513.075 of the Revised Code or with another calculation method.

(p) For those lands in the permit application that a reconnaissance inspection suggests may be prime farmlands, a soil survey shall be made or obtained according to standards established by the secretary of the United States department of agriculture in order to confirm the exact location of the prime farmlands, if any;

(q) A certificate issued by an insurance company

authorized to do business in this state certifying that the applicant has a public liability insurance policy in force for the coal mining and reclamation operations for which the permit is sought or evidence that the applicant has satisfied other state self-insurance requirements. The policy shall provide for personal injury and property damage protection in an amount adequate to compensate any persons damaged as a result of coal mining and reclamation operations, including the use of explosives, and entitled to compensation under the applicable provisions of state law. The policy shall be maintained in effect during the term of the permit or any renewal, including the length of all reclamation operations. The insurance company shall give prompt notice to the permittee and the chief if the public liability insurance policy lapses for any reason including the nonpayment of insurance premiums. Upon the lapse of the policy, the chief may suspend the permit and all other outstanding permits until proper insurance coverage is obtained.

(r) The business telephone number of the applicant;

(s) If the applicant seeks an authorization under division (E)(7) of this section to conduct coal mining and reclamation operations on areas to be covered by the permit that were affected by coal mining operations before August 3, 1977, that have resulted in continuing water pollution from or on the previously mined areas, such additional information pertaining to those previously mined areas as may be required by the chief, including, without limitation, maps, plans, cross sections, data necessary to determine existing water quality from or on those areas with respect to pH, iron, and manganese, and a pollution abatement plan that may improve water quality from or on those areas with respect to pH, iron, and manganese.

(2) Information pertaining to coal seams, test borings, core samplings, or soil samples as required by this section shall be made available by the chief to any person with an interest that is or may be adversely affected, except that information that pertains only to the analysis of the chemical and physical properties of the coal, excluding information regarding mineral or elemental content that is potentially toxic in the environment, shall be kept confidential and not made a matter of public record.

(3)(a) If the chief finds that the probable total annual production at all locations of any operator will not exceed three hundred thousand tons, the following activities, upon the written request of the operator in connection with a permit application, shall be performed by a qualified public or private laboratory or another public or private qualified entity designated by the chief, and the cost of the activities shall be assumed by the chief, provided that sufficient moneys for such assistance are available:

(i) The determination of probable hydrologic consequences required under division (B)(1)(k) of this section;

(ii) The development of cross-section maps and plans required under division (B)(1)(n)(i) of this section;

(iii) The geologic drilling and statement of results of test borings and core samplings required under division (B)(1)(o) of this section;

(iv) The collection of archaeological information required under division (B)(1)(m) of this section and any other archaeological and historical information required by the chief, and the preparation of plans necessitated thereby;

(v) Pre-blast surveys required under division (B)(5) of section 1513.161 of the Revised Code;

(vi) The collection of site-specific resource information and production of protection and enhancement plans for fish and wildlife habitats and other environmental values required by the chief under this chapter.

(b) A coal operator that has received assistance under division (B)(3)(a) of this section shall reimburse the chief for the cost of the services rendered if the chief finds that the operator's actual and attributed annual production of coal for all locations exceeds three hundred thousand tons during the twelve months immediately following the date on which the operator was issued a coal mining and reclamation permit.

(4) Each applicant for a permit shall submit to the chief as part of the permit application a reclamation plan that meets the requirements of this chapter.

(5) Each applicant for a coal mining and reclamation permit shall file a copy of the application for a permit, excluding that information pertaining to the coal seam itself, for public inspection with the county recorder or an appropriate public office approved by the chief in the county where the mining is proposed to occur.

(6) Each applicant for a coal mining and reclamation permit shall submit to the chief as part of the permit application a blasting plan that describes the procedures and standards by which the operator will comply with section 1513.161 of the Revised Code.

(C) Each reclamation plan submitted as part of a permit application shall include, in the detail necessary to

demonstrate that reclamation required by this chapter can be accomplished and in the detail necessary for the chief to determine the estimated cost of reclamation if the reclamation has to be performed by the division of mineral resources management in the event of forfeiture of the performance security by the applicant, a statement of:

(1) The identification of the lands subject to coal mining operations over the estimated life of those operations and the size, sequence, and timing of the subareas for which it is anticipated that individual permits for mining will be sought;

(2) The condition of the land to be covered by the permit prior to any mining, including all of the following:

(a) The uses existing at the time of the application and, if the land has a history of previous mining, the uses that preceded any mining;

(b) The capability of the land prior to any mining to support a variety of uses, giving consideration to soil and foundation characteristics, topography, and vegetative cover and, if applicable, a soil survey prepared pursuant to division (B)(1)(p) of this section;

(c) The productivity of the land prior to mining, including appropriate classification as prime farmlands as well as the average yield of food, fiber, forage, or wood products obtained from the land under high levels of management.

(3) The use that is proposed to be made of the land following reclamation, including information regarding the utility and capacity of the reclaimed land to support a variety of alternative uses, the relationship of the proposed use to existing land use policies and plans, and the comments of any

owner of the land and state and local governments or agencies thereof that would have to initiate, implement, approve, or authorize the proposed use of the land following reclamation;

(4) A detailed description of how the proposed postmining land use is to be achieved and the necessary support activities that may be needed to achieve the proposed land use;

(5) The engineering techniques proposed to be used in mining and reclamation and a description of the major equipment; a plan for the control of surface water drainage and of water accumulation; a plan, where appropriate, for backfilling, soil stabilization, and compacting, grading, and appropriate revegetation; a plan for soil reconstruction, replacement, and stabilization, pursuant to the performance standards in section 1513.16 of the Revised Code, for those food, forage, and forest lands identified in that section; and a statement as to how the permittee plans to comply with each of the requirements set out in section 1513.16 of the Revised Code;

(6) A description of the means by which the utilization and conservation of the solid fuel resource being recovered will be maximized so that reaffecting the land in the future can be minimized;

(7) A detailed estimated timetable for the accomplishment of each major step in the reclamation plan;

(8) A description of the degree to which the coal mining and reclamation operations are consistent with surface owner plans and applicable state and local land use plans and programs;

(9) The steps to be taken to comply with applicable air and water quality laws and regulations and any applicable health

and safety standards;

(10) A description of the degree to which the reclamation plan is consistent with local physical, environmental, and climatological conditions;

(11) A description of all lands, interests in lands, or options on such interests held by the applicant or pending bids on interests in lands by the applicant, which lands are contiguous to the area to be covered by the permit;

(12) The results of test borings that the applicant has made at the area to be covered by the permit, or other equivalent information and data in a form satisfactory to the chief, including the location of subsurface water, and an analysis of the chemical properties, including acid forming properties of the mineral and overburden; except that information that pertains only to the analysis of the chemical and physical properties of the coal, excluding information regarding mineral or elemental contents that are potentially toxic in the environment, shall be kept confidential and not made a matter of public record;

(13) A detailed description of the measures to be taken during the mining and reclamation process to ensure the protection of all of the following:

(a) The quality of surface and ground water systems, both on- and off-site, from adverse effects of the mining and reclamation process;

(b) The rights of present users to such water;

(c) The quantity of surface and ground water systems, both on- and off-site, from adverse effects of the mining and reclamation process or, where such protection of quantity cannot

be assured, provision of alternative sources of water.

~~(14) Any other requirements the chief prescribes by rule.~~

(D)(1) Any information required by division (C) of this section that is not on public file pursuant to this chapter shall be held in confidence by the chief.

(2) With regard to requests for an exemption from the requirements of this chapter for coal extraction incidental to the extraction of other minerals, as described in division (H)(1)(a) of section 1513.01 of the Revised Code, confidential information includes and is limited to information concerning trade secrets or privileged commercial or financial information relating to the competitive rights of the persons intending to conduct the extraction of minerals.

(E)(1) Upon the basis of a complete mining application and reclamation plan or a revision or renewal thereof, as required by this chapter, and information obtained as a result of public notification and public hearing, if any, as provided by section 1513.071 of the Revised Code, the chief shall grant, require modification of, or deny the application for a permit and notify the applicant in writing in accordance with division (I)(3) of this section. An application is deemed to be complete as submitted to the chief unless the chief, within fourteen days of the submission, identifies deficiencies in the application in writing and subsequently submits a copy of a written list of deficiencies to the applicant. An application shall not be considered incomplete or denied by reason of right of entry documentation, provided that the applicant documents the applicant's legal right to enter and mine at least sixty-seven per cent of the total area for which coal mining operations are proposed.

A decision of the chief denying a permit shall state in writing the specific reasons for the denial.

The applicant for a permit or revision of a permit has the burden of establishing that the application is in compliance with all the requirements of this chapter. Within ten days after the granting of a permit, the chief shall notify the boards of township trustees and county commissioners, the mayor, and the legislative authority in the township, county, and municipal corporation in which the area of land to be affected is located that a permit has been issued and shall describe the location of the land. However, failure of the chief to notify the local officials shall not affect the status of the permit.

(2) No permit application or application for revision of an existing permit shall be approved unless the application affirmatively demonstrates and the chief finds in writing on the basis of the information set forth in the application or from information otherwise available, which shall be documented in the approval and made available to the applicant, all of the following:

(a) The application is accurate and complete and all the requirements of this chapter have been complied with.

(b) The applicant has demonstrated that the reclamation required by this chapter can be accomplished under the reclamation plan contained in the application.

(c)(i) Assessment of the probable cumulative impact of all anticipated mining in the general and adjacent area on the hydrologic balance specified in division (B)(1)(k) of this section has been made by the chief, and the proposed operation has been designed to prevent material damage to hydrologic

balance outside the permit area.

(ii) There shall be an ongoing process conducted by the chief in cooperation with other state and federal agencies to review all assessments of probable cumulative impact of coal mining in light of post-mining data and any other hydrologic information as it becomes available to determine if the assessments were realistic. The chief shall take appropriate action as indicated in the review process.

(d) The area proposed to be mined is not included within an area designated unsuitable for coal mining pursuant to section 1513.073 of the Revised Code or is not within an area under study for such designation in an administrative proceeding commenced pursuant to division (A)(3)(c) or (B) of section 1513.073 of the Revised Code unless in an area as to which an administrative proceeding has commenced pursuant to division (A)(3)(c) or (B) of section 1513.073 of the Revised Code, the operator making the permit application demonstrates that, prior to January 1, 1977, the operator made substantial legal and financial commitments in relation to the operation for which a permit is sought.

(e) In cases where the private mineral estate has been severed from the private surface estate and surface disturbance will result from the applicant's proposed use of a strip mining method, the applicant has submitted to the chief one of the following:

(i) The written consent of the surface owner to the surface disturbance that will result from the extraction of coal by the applicant's proposed strip mining method;

(ii) A conveyance that expressly grants or reserves the

right to extract the coal by strip mining methods that cause surface disturbance;

(iii) If the conveyance does not expressly grant the right to extract coal by strip mining methods that cause surface disturbance, the surface-subsurface legal relationship concerning surface disturbance shall be determined under the law of this state. This chapter does not authorize the chief to adjudicate property rights disputes.

(3)(a) The applicant shall file with the permit application a schedule listing all notices of violations of any law, rule, or regulation of the United States or of any department or agency thereof or of any state pertaining to air or water environmental protection incurred by the applicant in connection with any coal mining operation during the three-year period prior to the date of application. The schedule also shall indicate the final resolution of such a notice of violation. Upon receipt of an application, the chief shall provide a schedule listing all notices of violations of this chapter pertaining to air or water environmental protection incurred by the applicant during the three-year period prior to receipt of the application and the final resolution of all such notices of violation. The chief shall provide this schedule to the applicant for filing by the applicant with the application filed for public review, as required by division (B)(5) of this section. When the schedule or other information available to the chief indicates that any coal mining operation owned or controlled by the applicant is currently in violation of such laws, the permit shall not be issued until the applicant submits proof that the violation has been corrected or is in the process of being corrected to the satisfaction of the regulatory authority, department, or agency that has jurisdiction over the

violation and that any civil penalties owed to the state for a violation and not the subject of an appeal have been paid. No permit shall be issued to an applicant after a finding by the chief that the applicant or the operator specified in the application controls or has controlled mining operations with a demonstrated pattern of willful violations of this chapter of a nature and duration to result in irreparable damage to the environment as to indicate an intent not to comply with or a disregard of this chapter.

(b) For the purposes of division (E)(3)(a) of this section, any violation resulting from an unanticipated event or condition at a surface coal mining operation on lands eligible for remining under a permit held by the person submitting an application for a coal mining permit under this section shall not prevent issuance of that permit. As used in this division, "unanticipated event or condition" means an event or condition encountered in a remining operation that was not contemplated by the applicable surface coal mining and reclamation permit.

(4)(a) In addition to finding the application in compliance with division (E)(2) of this section, if the area proposed to be mined contains prime farmland as determined pursuant to division (B)(1)(p) of this section, the chief, after consultation with the secretary of the United States department of agriculture and pursuant to regulations issued by the secretary of the interior with the concurrence of the secretary of agriculture, may grant a permit to mine on prime farmland if the chief finds in writing that the operator has the technological capability to restore the mined area, within a reasonable time, to equivalent or higher levels of yield as nonmined prime farmland in the surrounding area under equivalent levels of management and can meet the soil reconstruction

standards in section 1513.16 of the Revised Code.

(b) Division (E)(4)(a) of this section does not apply to a permit issued prior to August 3, 1977, or revisions or renewals thereof.

(5) The chief shall issue an order denying a permit after finding that the applicant has misrepresented or omitted any material fact in the application for the permit.

(6) The chief may issue an order denying a permit after finding that the applicant, any partner, if the applicant is a partnership, any officer, principal shareholder, or director, if the applicant is a corporation, or any other person who has a right to control or in fact controls the management of the applicant or the selection of officers, directors, or managers of the applicant has been a sole proprietor or partner, officer, director, principal shareholder, or person having the right to control or has in fact controlled the management of or the selection of officers, directors, or managers of a business entity that ever has had a coal mining license or permit issued by this or any other state or the United States suspended or revoked, ever has forfeited a coal or surface mining bond, performance security, or similar security deposited in lieu of bond in this or any other state or with the United States, or ever has substantially or materially failed to comply with this chapter.

(7) When issuing a permit under this section, the chief may authorize an applicant to conduct coal mining and reclamation operations on areas to be covered by the permit that were affected by coal mining operations before August 3, 1977, that have resulted in continuing water pollution from or on the previously mined areas for the purpose of potentially reducing

the pollution loadings of pH, iron, and manganese from discharges from or on the previously mined areas. Following the chief's authorization to conduct such operations on those areas, the areas shall be designated as pollution abatement areas for the purposes of this chapter.

The chief shall not grant an authorization under division (E)(7) of this section to conduct coal mining and reclamation operations on any such previously mined areas unless the applicant demonstrates to the chief's satisfaction that all of the following conditions are met:

(a) The applicant's pollution abatement plan for mining and reclaiming the previously mined areas represents the best available technology economically achievable.

(b) Implementation of the plan will potentially reduce pollutant loadings of pH, iron, and manganese resulting from discharges of surface waters or ground water from or on the previously mined areas within the permit area.

(c) Implementation of the plan will not cause any additional degradation of surface water quality off the permit area with respect to pH, iron, and manganese.

(d) Implementation of the plan will not cause any additional degradation of ground water.

(e) The plan meets the requirements governing mining and reclamation of such previously mined pollution abatement areas established by the chief in rules adopted under section 1513.02 of the Revised Code.

(f) Neither the applicant; any partner, if the applicant is a partnership; any officer, principal shareholder, or director, if the applicant is a corporation; any other person

who has a right to control or in fact controls the management of the applicant or the selection of officers, directors, or managers of the applicant; nor any contractor or subcontractor of the applicant, has any of the following:

(i) Responsibility or liability under this chapter or rules adopted under it as an operator for treating the discharges of water pollutants from or on the previously mined areas for which the authorization is sought;

(ii) Any responsibility or liability under this chapter or rules adopted under it for reclaiming the previously mined areas for which the authorization is sought;

(iii) During the eighteen months prior to submitting the permit application requesting an authorization under division (E)(7) of this section, had a coal mining and reclamation permit suspended or revoked under division (D)(3) of section 1513.02 of the Revised Code for violating this chapter or Chapter 6111. of the Revised Code or rules adopted under them with respect to water quality, effluent limitations, or surface or ground water monitoring;

(iv) Ever forfeited a coal or surface mining bond, performance security, or similar security deposited in lieu of a bond in this or any other state or with the United States.

(8) In the case of the issuance of a permit that involves a conflict of results between various methods of calculating potential acidity and neutralization potential for purposes of assessing the potential for acid mine drainage to occur at a mine site, the permit shall include provisions for monitoring and record keeping to identify the creation of unanticipated acid water at the mine site. If the monitoring detects the

creation of acid water at the site, the permit shall impose on the permittee additional requirements regarding mining practices and site reclamation to prevent the discharge of acid mine drainage from the mine site. As used in division (E)(8) of this section, "potential acidity" and "neutralization potential" have the same meanings as in section 1513.075 of the Revised Code.

(F)(1) During the term of the permit, the permittee may submit an application for a revision of the permit, together with a revised reclamation plan, to the chief.

(2) An application for a revision of a permit shall not be approved unless the chief finds that reclamation required by this chapter can be accomplished under the revised reclamation plan. The revision shall be approved or disapproved within ninety days after receipt of a complete revision application. The chief shall establish, by rule, criteria for determining the extent to which all permit application information requirements and procedures, including notice and hearings, shall apply to the revision request, except that any revisions that propose significant alterations in the reclamation plan, at a minimum, shall be subject to notice and hearing requirements.

(3) Any extensions to the area covered by the permit except incidental boundary revisions shall be made by application for a permit.

(4) Documents or a notarized statement that form the basis of the applicant's legal right to enter and commence coal mining operations on land that is located within an area covered by the permit and that was legally acquired subsequent to the issuance of the permit for the area shall be submitted with an application for a revision of the permit.

(G) No transfer, assignment, or sale of the rights granted under a permit issued pursuant to this chapter shall be made without the written approval of the chief.

(H) The chief, within a time limit prescribed in the chief's rules, shall review outstanding permits and may require reasonable revision or modification of a permit. A revision or modification shall be based upon a written finding and subject to notice and hearing requirements established by rule of the chief.

(I)(1) If an informal conference has been held pursuant to section 1513.071 of the Revised Code, the chief shall issue and furnish the applicant for a permit, persons who participated in the informal conference, and persons who filed written objections pursuant to division (B) of section 1513.071 of the Revised Code, with the written finding of the chief granting or denying the permit in whole or in part and stating the reasons therefor within sixty days of the conference, provided that the chief shall comply with the time frames established in division (I)(3) of this section.

(2) If there has been no informal conference held pursuant to section 1513.071 of the Revised Code, the chief shall submit to the applicant for a permit the written finding of the chief granting or denying the permit in whole or in part and stating the reasons therefor within the time frames established in division (I)(3) of this section.

(3) The chief shall grant or deny a permit not later than two hundred forty days after the submission of a complete application for the permit. Any time during which the applicant is making revisions to an application or providing additional information requested by the chief regarding an application

shall not be included in the two hundred forty days. If the chief determines that a permit cannot be granted or denied within the two-hundred-forty-day time frame, the chief, not later than two hundred ten days after the submission of a complete application for the permit, shall provide the applicant with written notice of the expected delay.

(4) If the application is approved, the permit shall be issued. However, the permit shall prohibit the commencement of coal mining operations on any land that is located within an area covered by the permit if the permittee has not provided to the chief documents that form the basis of the permittee's legal right to enter and conduct coal mining operations on that land. If the application is disapproved, specific reasons therefor shall be set forth in the notification. Within thirty days after the applicant is notified of the final decision of the chief on the permit application, the applicant or any person with an interest that is or may be adversely affected may appeal the decision to the reclamation commission pursuant to section 1513.13 of the Revised Code.

(5) Any applicant or any person with an interest that is or may be adversely affected who has participated in the administrative proceedings as an objector and is aggrieved by the decision of the reclamation commission, or if the commission fails to act within the time limits specified in this chapter, may appeal in accordance with section 1513.14 of the Revised Code.

Sec. 1513.16. (A) Any permit issued under this chapter to conduct coal mining operations shall require that the operations meet all applicable performance standards of this chapter ~~and such other requirements as the chief of the division of mineral~~

~~resources management shall adopt by rule~~. General performance standards shall apply to all coal mining and reclamation operations and shall require the operator at a minimum to do all of the following:

(1) Conduct coal mining operations so as to maximize the utilization and conservation of the solid fuel resource being recovered so that reaffecting the land in the future through coal mining can be minimized;

(2) Restore the land affected to a condition capable of supporting the uses that it was capable of supporting prior to any mining, or higher or better uses of which there is reasonable likelihood, so long as the uses do not present any actual or probable hazard to public health or safety or pose any actual or probable threat of diminution or pollution of the waters of the state, and the permit applicants' declared proposed land uses following reclamation are not considered to be impractical or unreasonable, to be inconsistent with applicable land use policies and plans, to involve unreasonable delay in implementation, or to violate federal, state, or local law;

(3) Except as provided in division (B) of this section, with respect to all coal mining operations, backfill, compact where advisable to ensure stability or to prevent leaching of toxic materials, and grade in order to restore the approximate original contour of the land with all highwalls, spoil piles, and depressions eliminated unless small depressions are needed in order to retain moisture to assist revegetation or as otherwise authorized pursuant to this chapter, provided that if the operator demonstrates that due to volumetric expansion the amount of overburden and the spoil and waste materials removed

in the course of the mining operation are more than sufficient to restore the approximate original contour, the operator shall backfill, grade, and compact the excess overburden and other spoil and waste materials to attain the lowest grade, but not more than the angle of repose, and to cover all acid-forming and other toxic materials in order to achieve an ecologically sound land use compatible with the surrounding region in accordance with the approved mining plan. The overburden or spoil shall be shaped and graded in such a way as to prevent slides, erosion, and water pollution and shall be revegetated in accordance with this chapter.

(4) Stabilize and protect all surface areas, including spoil piles affected by the coal mining and reclamation operation, to control erosion and attendant air and water pollution effectively;

(5) Remove the topsoil from the land in a separate layer, replace it on the backfill area, or, if not utilized immediately, segregate it in a separate pile from the spoil, and when the topsoil is not replaced on a backfill area within a time short enough to avoid deterioration of the topsoil, maintain a successful cover by quick-growing plants or other means thereafter so that the topsoil is preserved from wind and water erosion, remains free of any contamination by acid or other toxic material, and is in a usable condition for sustaining vegetation when restored during reclamation. If the topsoil is of insufficient quantity or of poor quality for sustaining vegetation or if other strata can be shown to be more suitable for vegetation requirements, the operator shall remove, segregate, and preserve in a like manner such other strata as are best able to support vegetation.

(6) Restore the topsoil or the best available subsoil that is best able to support vegetation;

(7) For all prime farmlands as identified in division (B)(1)(p) of section 1513.07 of the Revised Code to be mined and reclaimed, perform soil removal, storage, replacement, and reconstruction in accordance with specifications established by the secretary of the United States department of agriculture under the "Surface Mining Control and Reclamation Act of 1977," 91 Stat. 445, 30 U.S.C.A. 1201. The operator, at a minimum, shall be required to do all of the following:

(a) Segregate the A horizon of the natural soil, except where it can be shown that other available soil materials will create a final soil having a greater productive capacity, and, if not utilized immediately, stockpile this material separately from the spoil and provide needed protection from wind and water erosion or contamination by acid or other toxic material;

(b) Segregate the B horizon of the natural soil, or underlying C horizons or other strata, or a combination of such horizons or other strata that are shown to be both texturally and chemically suitable for plant growth and that can be shown to be equally or more favorable for plant growth than the B horizon, in sufficient quantities to create in the regraded final soil a root zone of comparable depth and quality to that which existed in the natural soil, and, if not utilized immediately, stockpile this material separately from the spoil and provide needed protection from wind and water erosion or contamination by acid or other toxic material;

(c) Replace and regrade the root zone material described in division (A)(7)(b) of this section with proper compaction and uniform depth over the regraded spoil material;

(d) Redistribute and grade in a uniform manner the surface soil horizon described in division (A)(7)(a) of this section.

(8) Create, if authorized in the approved mining and reclamation plan and permit, permanent impoundments of water on mining sites as part of reclamation activities only when it is adequately demonstrated by the operator that all of the following conditions will be met:

(a) The size of the impoundment is adequate for its intended purposes.

(b) The impoundment dam construction will be so designed as to achieve necessary stability with an adequate margin of safety compatible with that of structures constructed under the "Watershed Protection and Flood Prevention Act," 68 Stat. 666 (1954), 16 U.S.C. 1001, as amended.

(c) The quality of impounded water will be suitable on a permanent basis for its intended use and discharges from the impoundment will not degrade the water quality below water quality standards established pursuant to applicable federal and state law in the receiving stream.

(d) The level of water will be reasonably stable.

(e) Final grading will provide adequate safety and access for proposed water users.

(f) The water impoundments will not result in the diminution of the quality or quantity of water utilized by adjacent or surrounding landowners for agricultural, industrial, recreational, or domestic uses.

(9) Conduct any augering operation associated with strip mining in a manner to maximize recoverability of mineral

reserves remaining after the operation and reclamation are complete and seal all auger holes with an impervious and noncombustible material in order to prevent drainage, except where the chief determines that the resulting impoundment of water in such auger holes may create a hazard to the environment or the public health or safety. The chief may prohibit augering if necessary to maximize the utilization, recoverability, or conservation of the solid fuel resources or to protect against adverse water quality impacts.

(10) Minimize the disturbances to the prevailing hydrologic balance at the mine site and in associated offsite areas and to the quality and quantity of water in surface and ground water systems both during and after coal mining operations and during reclamation by doing all of the following:

(a) Avoiding acid or other toxic mine drainage by such measures as, but not limited to:

(i) Preventing or removing water from contact with toxic producing deposits;

(ii) Treating drainage to reduce toxic content that adversely affects downstream water upon being released to water courses in accordance with rules adopted by the chief in accordance with section 1513.02 of the Revised Code;

(iii) Casing, sealing, or otherwise managing boreholes, shafts, and wells, and keeping acid or other toxic drainage from entering ground and surface waters.

(b)(i) Conducting coal mining operations so as to prevent, to the extent possible using the best technology currently available, additional contributions of suspended solids to streamflow or runoff outside the permit area, but in no event

shall contributions be in excess of requirements set by applicable state or federal laws;

(ii) Constructing any siltation structures pursuant to division (A)(10)(b)(i) of this section prior to commencement of coal mining operations. The structures shall be certified by persons approved by the chief to be constructed as designed and as approved in the reclamation plan.

(c) Cleaning out and removing temporary or large settling ponds or other siltation structures from drainways after disturbed areas are revegetated and stabilized, and depositing the silt and debris at a site and in a manner approved by the chief;

(d) Restoring recharge capacity of the mined area to approximate premining conditions;

(e) Avoiding channel deepening or enlargement in operations requiring the discharge of water from mines;

(f) Such other actions as the chief may prescribe.

(11) With respect to surface disposal of mine wastes, tailings, coal processing wastes, and other wastes in areas other than the mine working areas or excavations, stabilize all waste piles in designated areas through construction in compacted layers, including the use of noncombustible and impervious materials if necessary, and ensure that the final contour of the waste pile will be compatible with natural surroundings and that the site can and will be stabilized and revegetated according to this chapter;

(12) Refrain from coal mining within five hundred feet of active and abandoned underground mines in order to prevent breakthroughs and to protect the health or safety of miners. The

chief shall permit an operator to mine near, through, or partially through an abandoned underground mine or closer than five hundred feet to an active underground mine if both of the following conditions are met:

(a) The nature, timing, and sequencing of the approximate coincidence of specific strip mine activities with specific underground mine activities are approved by the chief.

(b) The operations will result in improved resource recovery, abatement of water pollution, or elimination of hazards to the health and safety of the public.

(13) Design, locate, construct, operate, maintain, enlarge, modify, and remove or abandon, in accordance with the standards and criteria developed pursuant to rules adopted by the chief, all existing and new coal mine waste piles consisting of mine wastes, tailings, coal processing wastes, or other liquid and solid wastes, and used either temporarily or permanently as dams or embankments;

(14) Ensure that all debris, acid-forming materials, toxic materials, or materials constituting a fire hazard are treated or buried and compacted or otherwise disposed of in a manner designed to prevent contamination of ground or surface waters and that contingency plans are developed to prevent sustained combustion;

(15) Ensure that all reclamation efforts proceed in an environmentally sound manner and as contemporaneously as practicable with the coal mining operations, except that where the applicant proposes to combine strip mining operations with underground mining operations to ensure maximum practical recovery of the mineral resources, the chief may grant a

variance for specific areas within the reclamation plan from the requirement that reclamation efforts proceed as contemporaneously as practicable to permit underground mining operations prior to reclamation if:

(a) The chief finds in writing that:

(i) The applicant has presented, as part of the permit application, specific, feasible plans for the proposed underground mining operations.

(ii) The proposed underground mining operations are necessary or desirable to ensure maximum practical recovery of the mineral resource and will avoid multiple disturbance of the surface.

(iii) The applicant has satisfactorily demonstrated that the plan for the underground mining operations conforms to requirements for underground mining in this state and that permits necessary for the underground mining operations have been issued by the appropriate authority.

(iv) The areas proposed for the variance have been shown by the applicant to be necessary for the implementing of the proposed underground mining operations.

(v) No substantial adverse environmental damage, either on-site or off-site, will result from the delay in completion of reclamation as required by this chapter.

(vi) Provisions for the off-site storage of spoil will comply with division (A)(21) of this section.

(b) The chief has adopted specific rules to govern the granting of such variances in accordance with this division and has imposed such additional requirements as the chief considers

necessary.

(c) Variances granted under this division shall be reviewed by the chief not more than three years from the date of issuance of the permit.

(d) Liability under the performance security filed by the applicant with the chief pursuant to section 1513.08 of the Revised Code shall be for the duration of the underground mining operations and until the requirements of this section and section 1513.08 of the Revised Code have been fully complied with.

(16) Ensure that the construction, maintenance, and postmining conditions of access roads into and across the site of operations will control or prevent erosion and siltation, pollution of water, and damage to fish or wildlife or their habitat, or to public or private property;

(17) Refrain from the construction of roads or other access ways up a stream bed or drainage channel or in such proximity to the channel as to seriously alter the normal flow of water;

(18) Establish, on the regraded areas and all other lands affected, a diverse, effective, and permanent vegetative cover of the same seasonal variety native to the area of land to be affected and capable of self-regeneration and plant succession at least equal in extent of cover to the natural vegetation of the area, except that introduced species may be used in the revegetation process where desirable and necessary to achieve the approved postmining land use plan;

(19)(a) Assume the responsibility for successful revegetation, as required by division (A)(18) of this section,

for a period of five full years after the last year of augmented seeding, fertilizing, irrigation, or other work in order to ensure compliance with that division, except that when the chief approves a long-term intensive agricultural postmining land use, the applicable five-year period of responsibility for revegetation shall commence at the date of initial planting for that long-term intensive agricultural postmining land use, and except that when the chief issues a written finding approving a long-term intensive agricultural postmining land use as part of the mining and reclamation plan, the chief may grant an exception to division (A)(18) of this section;

(b) On lands eligible for remining, assume the responsibility for successful revegetation, as required by division (A)(18) of this section, for a period of two full years after the last year of augmented seeding, fertilizing, irrigation, or other work in order to ensure compliance with that division.

(20) Protect off-site areas from slides or damage occurring during the coal mining and reclamation operations and not deposit spoil material or locate any part of the operations or waste accumulations outside the permit area;

(21) Place all excess spoil material resulting from coal mining and reclamation operations in such a manner that all of the following apply:

(a) Spoil is transported and placed in a controlled manner in position for concurrent compaction and in such a way as to ensure mass stability and to prevent mass movement.

(b) The areas of disposal are within the permit areas for which performance security has been provided. All organic matter

shall be removed immediately prior to spoil placement except in the zoned concept method.

(c) Appropriate surface and internal drainage systems and diversion ditches are used so as to prevent spoil erosion and mass movement.

(d) The disposal area does not contain springs, natural watercourses, or wet weather seeps unless lateral drains are constructed from the wet areas to the main underdrains in such a manner that filtration of the water into the spoil pile will be prevented unless the zoned concept method is used.

(e) If placed on a slope, the spoil is placed upon the most moderate slope among those slopes upon which, in the judgment of the chief, the spoil could be placed in compliance with all the requirements of this chapter and is placed, where possible, upon, or above, a natural terrace, bench, or berm if that placement provides additional stability and prevents mass movement.

(f) Where the toe of the spoil rests on a downslope, a rock toe buttress of sufficient size to prevent mass movement is constructed.

(g) The final configuration is compatible with the natural drainage pattern and surroundings and suitable for intended uses.

(h) Design of the spoil disposal area is certified by a qualified registered professional engineer in conformance with professional standards.

(i) All other provisions of this chapter are met.

(22) Meet such other criteria as are necessary to achieve

reclamation in accordance with the purpose of this chapter, taking into consideration the physical, climatological, and other characteristics of the site;

(23) To the extent possible, using the best technology currently available, minimize disturbances and adverse impacts of the operation on fish, wildlife, and related environmental values, and achieve enhancement of such resources where practicable;

(24) Provide for an undisturbed natural barrier beginning at the elevation of the lowest coal seam to be mined and extending from the outslope for such distance as the chief shall determine to be retained in place as a barrier to slides and erosion;

(25) Restore on the permit area streams and wetlands affected by mining operations unless the chief approves restoration off the permit area without a permit required by section 1513.07 or 1513.074 of the Revised Code, instead of restoration on the permit area, of a stream or wetland or a portion of a stream or wetland, provided that the chief first makes all of the following written determinations:

(a) A hydrologic and engineering assessment of the affected lands, submitted by the operator, demonstrates that restoration on the permit area is not possible.

(b) The proposed mitigation plan under which mitigation activities described in division (A)(25)(c) of this section will be conducted is limited to a stream or wetland, or a portion of a stream or wetland, for which restoration on the permit area is not possible.

(c) Mitigation activities off the permit area, including

mitigation banking and payment of in-lieu mitigation fees, will be performed pursuant to a permit issued under sections 401 and 404 of the "Federal Water Pollution Control Act" as defined in section 6111.01 of the Revised Code or an isolated wetland permit issued under Chapter 6111. of the Revised Code or pursuant to a no-cost reclamation contract for the restoration of water resources affected by past mining activities pursuant to section 1513.37 of the Revised Code.

(d) The proposed mitigation plan and mitigation activities comply with the standards established in this section.

If the chief approves restoration off the permit area in accordance with this division, the operator shall complete all mitigation construction or other activities required by the mitigation plan.

Performance security for reclamation activities on the permit area shall be released pursuant to division (F) of this section, except that the release of the remaining portion of performance security under division (F)(3)(c) of this section shall not be approved prior to the construction of required mitigation activities off the permit area.

(B)(1) The chief may permit mining operations for the purposes set forth in division (B)(3) of this section.

(2) When an applicant meets the requirements of divisions (B)(3) and (4) of this section, a permit without regard to the requirement to restore to approximate original contour known as mountain top removal set forth in divisions (A)(3) or (C)(2) and (3) of this section may be granted for the mining of coal where the mining operation will remove an entire coal seam or seams running through the upper fraction of a mountain, ridge, or

hill, except as provided in division (B)(4)(a) of this section, by removing all of the overburden and creating a level plateau or a gently rolling contour with no highwalls remaining, and capable of supporting postmining uses in accordance with this division.

(3) In cases where an industrial, commercial, agricultural, residential, or public facility use, including recreational facilities, is proposed for the postmining use of the affected land, the chief may grant a permit for a mining operation of the nature described in division (B)(2) of this section when all of the following apply:

(a) After consultation with the appropriate land use planning agencies, if any, the proposed postmining land use is considered to constitute an equal or better economic or public use of the affected land, as compared with premining use.

(b) The applicant presents specific plans for the proposed postmining land use and appropriate assurances that the use will be all of the following:

(i) Compatible with adjacent land uses;

(ii) Obtainable according to data regarding expected need and market;

(iii) Assured of investment in necessary public facilities;

(iv) Supported by commitments from public agencies where appropriate;

(v) Practicable with respect to private financial capability for completion of the proposed use;

(vi) Planned pursuant to a schedule attached to the

reclamation plan so as to integrate the mining operation and reclamation with the postmining land use;

(vii) Designed by a registered engineer in conformity with professional standards established to ensure the stability, drainage, and configuration necessary for the intended use of the site.

(c) The proposed use is consistent with adjacent land uses and existing state and local land use plans and programs.

(d) The chief provides the governing body of the unit of general-purpose local government in which the land is located, and any state or federal agency that the chief, in the chief's discretion, determines to have an interest in the proposed use, an opportunity of not more than sixty days to review and comment on the proposed use.

(e) All other requirements of this chapter will be met.

(4) In granting a permit pursuant to this division, the chief shall require that each of the following is met:

(a) The toe of the lowest coal seam and the overburden associated with it are retained in place as a barrier to slides and erosion.

(b) The reclaimed area is stable.

(c) The resulting plateau or rolling contour drains inward from the outslopes except at specified points.

(d) No damage will be done to natural watercourses.

(e) Spoil will be placed on the mountaintop bench as is necessary to achieve the planned postmining land use, except that all excess spoil material not retained on the mountaintop

bench shall be placed in accordance with division (A)(21) of this section.

(f) Stability of the spoil retained on the mountaintop bench is ensured and the other requirements of this chapter are met.

(5) The chief shall adopt specific rules to govern the granting of permits in accordance with divisions (B)(1) to (4) of this section ~~and may impose such additional requirements as the chief considers necessary~~.

(6) All permits granted under divisions (B)(1) to (4) of this section shall be reviewed not more than three years from the date of issuance of the permit unless the applicant affirmatively demonstrates that the proposed development is proceeding in accordance with the terms of the approved schedule and reclamation plan.

(C) All of the following performance standards apply to steep-slope coal mining and are in addition to those general performance standards required by this section, except that this division does not apply to those situations in which an operator is mining on flat or gently rolling terrain on which an occasional steep slope is encountered through which the mining operation is to proceed, leaving a plain or predominantly flat area, or where an operator is in compliance with division (B) of this section:

(1) The operator shall ensure that when performing coal mining on steep slopes, no debris, abandoned or disabled equipment, spoil material, or waste mineral matter is placed on the downslope below the bench or mining cut. Spoil material in excess of that required for the reconstruction of the

approximate original contour under division (A)(3) or (C)(2) of this section shall be permanently stored pursuant to division (A)(21) of this section.

(2) The operator shall complete backfilling with spoil material to cover completely the highwall and return the site to the approximate original contour, which material will maintain stability following mining and reclamation.

(3) The operator shall not disturb land above the top of the highwall unless the chief finds that the disturbance will facilitate compliance with the environmental protection standards of this section, except that any such disturbance involving land above the highwall shall be limited to that amount of land necessary to facilitate compliance.

(D)(1) The chief may permit variances for the purposes set forth in division (D)(3) of this section, provided that the watershed control of the area is improved and that complete backfilling with spoil material shall be required to cover completely the highwall, which material will maintain stability following mining and reclamation.

(2) Where an applicant meets the requirements of divisions (D)(3) and (4) of this section, a variance from the requirement to restore to approximate original contour set forth in division (C)(2) of this section may be granted for the mining of coal when the owner of the surface knowingly requests in writing, as a part of the permit application, that such a variance be granted so as to render the land, after reclamation, suitable for an industrial, commercial, residential, or public use, including recreational facilities, in accordance with divisions (D)(3) and (4) of this section.

(3) A variance pursuant to division (D)(2) of this section may be granted if:

(a) After consultation with the appropriate land use planning agencies, if any, the potential use of the affected land is considered to constitute an equal or better economic or public use.

(b) The postmining land condition is designed and certified by a registered professional engineer in conformity with professional standards established to ensure the stability, drainage, and configuration necessary for the intended use of the site.

(c) After approval of the appropriate state environmental agencies, the watershed of the affected land is considered to be improved.

(4) In granting a variance pursuant to division (D) of this section, the chief shall require that only such amount of spoil will be placed off the mine bench as is necessary to achieve the planned postmining land use, ensure stability of the spoil retained on the bench, and meet all other requirements of this chapter. All spoil placement off the mine bench shall comply with division (A)(21) of this section.

(5) The chief shall adopt specific rules to govern the granting of variances under division (D) of this section ~~and may impose such additional requirements as the chief considers necessary~~.

(6) All variances granted under division (D) of this section shall be reviewed not more than three years from the date of issuance of the permit unless the permittee affirmatively demonstrates that the proposed development is

proceeding in accordance with the terms of the reclamation plan.

(E) The chief shall establish standards and criteria regulating the design, location, construction, operation, maintenance, enlargement, modification, removal, and abandonment of new and existing coal mine waste piles referred to in division (A)(13) of this section and division (A)(5) of section 1513.35 of the Revised Code. The standards and criteria shall conform to the standards and criteria used by the chief of the United States army corps of engineers to ensure that flood control structures are safe and effectively perform their intended function. In addition to engineering and other technical specifications, the standards and criteria developed pursuant to this division shall include provisions for review and approval of plans and specifications prior to construction, enlargement, modification, removal, or abandonment; performance of periodic inspections during construction; issuance of certificates of approval upon completion of construction; performance of periodic safety inspections; and issuance of notices for required remedial or maintenance work.

(F)(1) The permittee may file a request with the chief for release of a part of a performance security under division (F)(3) of this section. Within thirty days after any request for performance security release under this section has been filed with the chief, the operator shall submit a copy of an advertisement placed at least once a week for four successive weeks in a newspaper of general circulation in the locality of the coal mining operation. The advertisement shall be considered part of any performance security release application and shall contain a notification of the precise location of the land affected, the number of acres, the permit number and the date approved, the amount of the performance security filed and the

portion sought to be released, the type and appropriate dates of reclamation work performed, and a description of the results achieved as they relate to the operator's approved reclamation plan and, if applicable, the operator's pollution abatement plan. In addition, as part of any performance security release application, the applicant shall submit copies of the letters sent to adjoining property owners, local governmental bodies, planning agencies, and sewage and water treatment authorities or water companies in the locality in which the coal mining and reclamation activities took place, notifying them of the applicant's intention to seek release from the performance security.

(2) Upon receipt of a copy of the advertisement and request for release of a performance security under division (F)(3)(c) of this section, the chief, within thirty days, shall conduct an inspection and evaluation of the reclamation work involved. The evaluation shall consider, among other things, the degree of difficulty to complete any remaining reclamation, whether pollution of surface and subsurface water is occurring, the probability of continuation or future occurrence of the pollution, and the estimated cost of abating the pollution. The chief shall notify the permittee in writing of the decision to release or not to release all or part of the performance security within sixty days after the filing of the request if no public hearing is held pursuant to division (F)(6) of this section or, if there has been a public hearing held pursuant to division (F)(6) of this section, within thirty days thereafter.

(3) The chief may release the performance security if the reclamation covered by the performance security or portion thereof has been accomplished as required by this chapter and rules adopted under it according to the following schedule:

(a) When the operator completes the backfilling, regrading, and drainage control of an area for which performance security has been provided in accordance with the approved reclamation plan, and, if the area covered by the performance security is one for which an authorization was made under division (E)(7) of section 1513.07 of the Revised Code, the operator has complied with the approved pollution abatement plan and all additional requirements established by the chief in rules adopted under section 1513.02 of the Revised Code governing coal mining and reclamation operations on pollution abatement areas, the chief shall grant a release of fifty per cent of the performance security for the applicable permit area.

(b) After resoiling and revegetation have been established on the regraded mined lands in accordance with the approved reclamation plan, the chief shall grant a release in an amount not exceeding thirty-five per cent of the original performance security for all or part of the affected area under the permit. When determining the amount of performance security to be released after successful revegetation has been established, the chief shall retain that amount of performance security for the revegetated area that would be sufficient for a third party to cover the cost of reestablishing revegetation for the period specified for operator responsibility in this section for reestablishing revegetation. No part of the performance security shall be released under this division so long as the lands to which the release would be applicable are contributing suspended solids to streamflow or runoff outside the permit area in excess of the requirements of this section or until soil productivity for prime farmlands has returned to equivalent levels of yield as nonmined land of the same soil type in the surrounding area under equivalent management practices as determined from the

soil survey performed pursuant to section 1513.07 of the Revised Code. If the area covered by the performance security is one for which an authorization was made under division (E)(7) of section 1513.07 of the Revised Code, no part of the performance security shall be released under this division until the operator has complied with the approved pollution abatement plan and all additional requirements established by the chief in rules adopted under section 1513.02 of the Revised Code governing coal mining and reclamation operations on pollution abatement areas. Where a silt dam is to be retained as a permanent impoundment pursuant to division (A)(10) of this section, the portion of performance security may be released under this division so long as provisions for sound future maintenance by the operator or the landowner have been made with the chief.

(c) When the operator has completed successfully all coal mining and reclamation activities, including, if applicable, all additional requirements established in the pollution abatement plan approved under division (E)(7) of section 1513.07 of the Revised Code and all additional requirements established by the chief in rules adopted under section 1513.02 of the Revised Code governing coal mining and reclamation operations on pollution abatement areas, the chief shall release all or any of the remaining portion of the performance security for all or part of the affected area under a permit, but not before the expiration of the period specified for operator responsibility in this section, except that the chief may adopt rules for a variance to the operator period of responsibility considering vegetation success and probability of continued growth and consent of the landowner, provided that no performance security shall be fully released until all reclamation requirements of this chapter are fully met.

(4) If the chief disapproves the application for release of the performance security or portion thereof, the chief shall notify the permittee, in writing, stating the reasons for disapproval and recommending corrective actions necessary to secure the release, and allowing the opportunity for a public adjudicatory hearing.

(5) When any application for total or partial performance security release is filed with the chief under this section, the chief shall notify the municipal corporation in which the coal mining operation is located by certified mail at least thirty days prior to the release of all or a portion of the performance security.

(6) A person with a valid legal interest that might be adversely affected by release of a performance security under this section or the responsible officer or head of any federal, state, or local government agency that has jurisdiction by law or special expertise with respect to any environmental, social, or economic impact involved in the operation or is authorized to develop and enforce environmental standards with respect to such operations may file written objections to the proposed release from the performance security with the chief within thirty days after the last publication of the notice required by division (F)(1) of this section. If written objections are filed and an informal conference is requested, the chief shall inform all interested parties of the time and place of the conference. The date, time, and location of the informal conference shall be advertised by the chief in a newspaper of general circulation in the locality of the coal mining operation proposed for performance security release for at least once a week for two consecutive weeks. The informal conference shall be held in the locality of the coal mining operation proposed for performance

security release or in Franklin county, at the option of the objector, within thirty days after the request for the conference. An electronic record shall be made of the conference proceeding unless waived by all parties. The record shall be maintained and shall be accessible to the parties until final release of the performance security at issue. In the event all parties requesting the informal conference stipulate agreement prior to the requested informal conference and withdraw their request, the informal conference need not be held.

(7) If an informal conference has been held pursuant to division (F)(6) of this section, the chief shall issue and furnish the applicant and persons who participated in the conference with the written decision regarding the release within sixty days after the conference. Within thirty days after notification of the final decision of the chief regarding the performance security release, the applicant or any person with an interest that is or may be adversely affected by the decision may appeal the decision to the reclamation commission pursuant to section 1513.13 of the Revised Code.

(8)(a) If the chief determines that a permittee is responsible for mine drainage that requires water treatment after reclamation is completed under the terms of the permit or that a permittee must provide an alternative water supply after reclamation is completed under the terms of the permit, the permittee shall provide alternative financial security in an amount determined by the chief prior to the release of the remaining portion of performance security under division (F)(3)(c) of this section. The alternative financial security shall be in an amount that is equal to or greater than the present value of the estimated cost over time to develop and implement mine drainage plans and provide water treatment or in an amount that

is necessary to provide and maintain an alternative water supply, as applicable. The alternative financial security shall include a contract, trust, or other agreement or mechanism that is enforceable under law to provide long-term water treatment or a long-term alternative water supply, or both. The contract, trust, or other agreement or mechanism included with the alternative financial security may provide for the funding of the alternative financial security incrementally over a period of time, not to exceed five years, with reliance on guarantees or other collateral provided by the permittee and approved by the chief for the balance of the alternative financial security required until the alternative financial security has been fully funded by the permittee.

(b) The chief shall adopt rules in accordance with Chapter 119. of the Revised Code that are necessary for the administration of division (F)(8)(a) of this section.

(c) If the chief determines that a permittee must provide alternative financial security under division (F)(8)(a) of this section and the performance security for the permit was provided under division (C)(2) of section 1513.08 of the Revised Code, the permittee may fund the alternative financial security incrementally over a period of time, not to exceed five years, with reliance on the reclamation forfeiture fund created in section 1513.18 of the Revised Code for the balance of the alternative financial security required until the alternative financial security has been fully funded by the permittee. The permittee semiannually shall pay to the division of mineral resources management a fee that is equal to seven and one-half per cent of the average balance of the alternative financial security that is being provided by reliance on the reclamation forfeiture fund over the previous six months. All money received

from the fee shall be credited to the reclamation forfeiture fund.

(9) Final release of the performance security in accordance with division (F)(3)(c) of this section terminates the jurisdiction of the chief under this chapter over the reclaimed site of a surface coal mining and reclamation operation or applicable portion of an operation. However, the chief shall reassert jurisdiction over such a site if the release was based on fraud, collusion, or misrepresentation of a material fact and the chief, in writing, demonstrates evidence of the fraud, collusion, or misrepresentation. Any person with an interest that is or may be adversely affected by the chief's determination may appeal the determination to the reclamation commission in accordance with section 1513.13 of the Revised Code.

(G) The chief shall adopt rules governing the criteria for forfeiture of performance security, the method of determining the forfeited amount, and the procedures to be followed in the event of forfeiture. Cash received as the result of such forfeiture is the property of the state.

Sec. 1513.171. (A) For the purpose of claiming a credit under section 5749.11 of the Revised Code, an operator with a valid permit issued under section 1513.07 of the Revised Code may submit an application to the chief of the division of mineral resources management to perform reclamation on land or water resources that are not within the area of the applicant's permit and that have been adversely affected by past coal mining for which the performance security was forfeited. The chief shall provide the application form. The application shall include all of the following:

(1) The operator's name, address, and telephone number;

(2) The valid permit number of the operator;

(3) An identification of the area or areas to be reclaimed;

(4) An identification of the owner of the land;

(5) A reclamation plan that describes the work to be done to reclaim the land or water resources. The plan shall include a description of how the plan is consistent with local physical, environmental, and climatological conditions and the measures to be taken during the reclamation to ensure the protection of water systems.

(6) An estimate of the total cost of the reclamation;

(7) An estimate of the timetables for accomplishing the reclamation~~;~~

~~(8) Any other requirements that the chief prescribes by rule~~.

The chief shall approve, disapprove, or approve with modifications the application concerning the proposed reclamation work. If the chief approves the application, the applicant may commence reclamation in accordance with the timetables included in the application. Upon the completion of the reclamation to the satisfaction of the chief, the chief shall issue a numbered reclamation tax credit certificate showing the amount of the credit and the identity of the recipient. Prior to the close of the fiscal quarter in which the tax credit certificate is issued, the chief shall certify to the tax commissioner the amount of the credit and the identity of the recipient.

(B) The chief shall determine the amount of the credit in accordance with this section and rules adopted under it. The amount of the credit shall be equal to the cost that the division of mineral resources management would have expended from the reclamation forfeiture fund created in section 1513.18 of the Revised Code to complete the reclamation.

(C) The chief shall adopt rules in accordance with Chapter 119. of the Revised Code that are necessary to administer this section. The rules shall establish all of the following:

(1) A procedure that the chief shall use to determine the amount of the credit issued under this section;

(2) A procedure by which the chief may obtain consent of the owners of land or water resources to allow reclamation work for purposes of this section;

(3) A procedure for delivery of notice to the owners of land or water resources on which the reclamation work is to be performed. The rules shall require the notice to include the date on which the reclamation work is scheduled to begin.

Sec. 1513.18. (A) All money that becomes the property of the state under division (G) of section 1513.16 of the Revised Code shall be deposited in the reclamation forfeiture fund, which is hereby created in the state treasury. Disbursements from the fund shall be made by the chief of the division of mineral resources management for the purpose of reclaiming areas of land affected by coal mining under a coal mining and reclamation permit issued on or after September 1, 1981, on which an operator has defaulted.

(B) The fund also shall consist of all money from the collection of liens under section 1513.081 of the Revised Code,

all money credited to the fund from the fee levied by division ~~(F)(8)(c)~~ (F)(8)(b) of section 1513.16 of the Revised Code, fines collected under division (E) of section 1513.02 and section 1513.99 of the Revised Code, fines collected for a violation of section 2921.31 of the Revised Code that, prior to July 1, 1996, would have been a violation of division (G) of section 1513.17 of the Revised Code as it existed prior to that date, and money collected and credited to it pursuant to section 5749.02 of the Revised Code. Disbursements from the fund shall be made by the chief in accordance with division (D) of this section for the purpose of reclaiming areas that an operator has affected by mining and failed to reclaim under a coal mining and reclamation permit issued under this chapter.

The chief may expend money from the fund to pay necessary administrative costs, including engineering and design services, incurred by the division of mineral resources management in reclaiming these areas. The chief also may expend money from the fund to pay necessary administrative costs of the reclamation forfeiture fund advisory board created in section 1513.182 of the Revised Code as authorized by the board under that section. Expenditures from the fund to pay such administrative costs need not be made under contract.

(C) Except when paying necessary administrative costs authorized by division (B) of this section, expenditures from the fund shall be made under contracts entered into by the chief, with the approval of the director of natural resources, in accordance with procedures established by the chief~~, by rules adopted in accordance with section 1513.02 of the Revised Code~~. The chief may reclaim the land in the same manner as set forth in sections 1513.21 to 1513.24 of the Revised Code. Each contract awarded by the chief shall be awarded to the lowest

responsive and responsible bidder, in accordance with section 9.312 of the Revised Code, after sealed bids are received, opened, and published at the time and place fixed by the chief. The chief shall publish notice of the time and place at which bids will be received, opened, and published, at least once and at least ten days before the date of the opening of the bids, in a newspaper of general circulation in the county in which the area of land to be reclaimed under the contract is located. If, after advertising, no bids are received at the time and place fixed for receiving them, the chief may advertise again for bids, or, if the chief considers the public interest will best be served, the chief may enter into a contract for the reclamation of the area of land without further advertisement for bids. The chief may reject any or all bids received and again publish notice of the time and place at which bids for contracts will be received, opened, and published. The chief, with the approval of the director, may enter into a contract with the landowner, a coal mine operator or surface mine operator mining under a current, valid permit issued under this chapter or Chapter 1514. of the Revised Code, or a contractor hired by the surety or trustee, if the performance security is held in trust, to complete reclamation on land affected by coal mining on which an operator has defaulted, or with a contractor hired by the trust administrator of an alternative financial security that is provided in accordance with division (F)(8) of section 1513.16 of the Revised Code to provide long-term water treatment or a long-term alternative water supply on areas affected by coal mining on which a permittee has defaulted or not fully funded an alternative financial security, without advertising for bids.

(D)(1) The chief shall expend money credited to the

reclamation forfeiture fund from the forfeiture of the performance security applicable to an area of land to pay for the cost of completing reclamation to the standards established by this chapter and rules adopted under it.

(2) If the performance security for the area of land was provided under division (C)(1) of section 1513.08 of the Revised Code, the chief shall use the money from the forfeited performance security and any alternative financial security provided under division (F)(8) of section 1513.16 of the Revised Code to complete the reclamation that the operator failed to do under the operator's applicable coal mining and reclamation permit issued under this chapter.

(3) If the performance security for the area of land was provided under division (C)(2) of section 1513.08 of the Revised Code, the chief shall use the money from the forfeited performance security and any alternative financial security provided under division (F)(8) of section 1513.16 of the Revised Code to complete the reclamation that the operator failed to do under the operator's applicable coal mining and reclamation permit issued under this chapter. If the money credited to the reclamation forfeiture fund from the forfeiture of the performance security provided under division (C)(2) of section 1513.08 of the Revised Code and any alternative financial security provided under division (F)(8) of section 1513.16 of the Revised Code is not sufficient to complete the reclamation to the standards established by this chapter and rules adopted under it, the chief shall notify the reclamation forfeiture fund advisory board of the amount of the insufficiency. The chief may expend money credited to the reclamation forfeiture fund under section 5749.02 of the Revised Code or credited to the reclamation forfeiture fund from the fee levied by division ~~(F)~~

~~(8)(c)~~ (F)(8)(b) of section 1513.16 of the Revised Code to complete the reclamation to the standards established by this chapter and rules adopted under it. Except as provided in division (D)(5) of this section, the chief shall not expend money from the fund in an amount that exceeds the difference between the amount of the performance security provided under division (C)(2) of section 1513.08 of the Revised Code and the estimated cost of reclamation as determined by the chief under divisions (B) and (E) of that section.

(4) Except as provided in division (D)(5) of this section, money from the reclamation forfeiture fund shall not be used for reclamation of land or water resources affected by mine drainage that requires extended water treatment after reclamation is completed under the terms of the permit. In addition, money from the reclamation forfeiture fund shall not be used to supplement the performance security of an applicant or permittee that has provided performance security in accordance with division (C)(1) of section 1513.08 of the Revised Code.

(5) If a permittee relies in part on the reclamation forfeiture fund for alternative financial security under division (F)(8)(c) of section 1513.16 of the Revised Code, money from the reclamation forfeiture fund may be used for reclamation of the land or water resources affected by mine drainage that requires water treatment after reclamation is completed under the terms of the permit or an alternative water supply after reclamation is completed under the terms of the permit in an amount not to exceed the balance of the alternative financial security provided by the reclamation forfeiture fund under that division.

(E) The chief shall keep a detailed accounting of the

expenditures from the reclamation forfeiture fund to complete reclamation of the land or water resources, as applicable, and, upon completion of the reclamation, shall certify the expenditures to the attorney general. Upon the chief's certification of the expenditures from the reclamation forfeiture fund, the attorney general shall bring an action for that amount of money. The operator is liable for that expense in addition to any other liabilities imposed by law. Money so recovered shall be credited to the reclamation forfeiture fund. The chief shall not postpone the reclamation because of any action brought by the attorney general under this division. Prior to completing reclamation, the chief may collect through the attorney general any additional amount that the chief believes will be necessary for reclamation in excess of the forfeited performance security and any alternative financial security amount applicable to the land or water resources that the operator should have, but failed to, reclaim.

(F) Except as otherwise provided in division (H) of this section, if any part of the money in the reclamation forfeiture fund remains in the fund after the chief has caused the area of land to be reclaimed and has paid all the reclamation costs and expenses, the chief may expend ~~those~~ money to complete other reclamation work performed under this section on forfeiture areas affected under a coal mining and reclamation permit issued on or after September 1, 1981.

(G) The chief shall require every contractor performing reclamation work pursuant to this section to pay workers at the greater of their regular rate of pay, as established by contract, agreement, or prior custom or practice, or the average wage rate paid in this state for the same or similar work as determined by the chief under section 1513.02 of the Revised

Code.

(H) All investment earnings of the fund shall be credited to the fund and shall be used only for the reclamation of land for which performance security was provided under division (C)(2) of section 1513.08 of the Revised Code.

Sec. 1513.35. (A) In addition to the other requirements of this chapter, each permit issued by the chief of the division of mineral resources management under section 1513.07 of the Revised Code for underground coal mining shall require the operator to:

(1) Implement measures consistent with known technology in order to prevent subsidence from causing material damage to the extent technologically and economically feasible, maximize mine stability, and maintain the value and reasonably foreseeable use of such surface lands, except in those instances where the mining technology used requires planned subsidence in a predictable and controlled manner. This section does not prohibit the standard method of room and pillar mining.

(2) Seal all portals, entryways, drifts, shafts, or other openings between the surface and underground mine workings when no longer needed for mining operations;

(3) Fill or seal exploratory holes no longer necessary for mining, maximizing to the extent technologically and economically feasible the return of mining and processing waste, tailings, and any other waste incident to the mining operation, to the mine workings or excavations;

(4) With respect to the surface disposal of mine wastes, tailings, coal processing wastes, and other wastes in areas other than the mine workings or excavations, stabilize all

surface waste piles created by the operator from current operations through construction in compacted layers, including the use of noncombustible and impervious materials if necessary, and ensure that the leachate will not degrade below water quality standards established pursuant to applicable federal and state law surface or ground waters, that the final contour of the waste pile will be compatible with natural surroundings, and that the site is stabilized and revegetated according to this section;

(5) Design, locate, construct, operate, maintain, enlarge, modify, and remove or abandon, in accordance with rules adopted by the chief, all existing and new coal mine waste piles consisting of mine wastes, tailings, coal processing wastes, or other liquid and solid wastes and used either temporarily or permanently as dams or embankments;

(6) Establish on regraded areas and all other lands affected, a diverse and permanent vegetative cover capable of self-regeneration and plant succession and at least equal in extent of cover to the natural vegetation of the area;

(7) Protect offsite areas from damage that may result from such mining operations;

(8) Eliminate fire hazards and conditions that may constitute a hazard to the health and safety of the public;

(9) Minimize the disturbances of the prevailing hydrologic balance at the minesite and in associated offsite areas and to the quantity of water in surface and ground water systems both during and after coal mining operations and during reclamation by:

(a) Avoiding acid or other toxic mine drainage by such

measures as, but not limited to:

(i) Preventing or removing water from contact with toxic producing deposits;

(ii) Treating drainage to reduce toxic content that adversely affects downstream water upon being released to water courses;

(iii) Casing, sealing, or otherwise managing boreholes, shafts, and wells to keep acid or other toxic drainage from entering ground and surface waters.

(b) Conducting coal mining operations so as to prevent, to the extent possible using the best technology currently available, additional contributions of suspended solids to streamflow or runoff outside the permit area, but in no event shall such contributions be in excess of requirements set by applicable state or federal law, and avoiding channel deepening or enlargement in operations requiring the discharge of water from mines.

(10) With respect to other surface impacts not specified in this division, including the construction of new roads or in improvement or use of existing roads for hauling or to gain access to the site, repair areas, storage areas, processing areas, shipping areas, or other areas upon which are sited structures, facilities, or other property or materials on the surface, resulting from or incident to such activities, operate in accordance with the standards established under section 1513.16 of the Revised Code for such effects that result from coal mining operations. The chief shall make such modifications in the requirements imposed by this division as are necessary to accommodate the difference between strip and underground coal

mining.

(11) Minimize disturbances and adverse impacts of the operation on wildlife, fish, and related environmental values, and achieve enhancement of such resources where practicable, to the extent possible using the best currently available technology;

(12) Locate openings for all new drift mines working acid-producing or iron-producing coal seams in such a manner so as to prevent a gravity discharge of water from the mine in accordance with rules adopted by the chief.

(B) In order to protect the stability of the land, the chief shall suspend underground coal mining under urbanized areas, municipal corporations, or unincorporated communities or adjacent to industrial or commercial buildings, major impoundments, or permanent streams, if the chief finds imminent danger to inhabitants of the urbanized areas, municipal corporations, and unincorporated communities.

(C) This chapter is applicable to surface operations and surface impacts incident to an underground coal mine with modifications as are necessary to accommodate the difference between surface coal mining and underground coal mining. The chief shall adopt the modifications by rule in accordance with ~~section 1513.02 and~~ Chapter 119. of the Revised Code.

Sec. 1513.37. (A) There is hereby created in the state treasury the abandoned mine reclamation fund, which shall be administered by the chief of the division of mineral resources management. The fund shall consist of grants from the secretary of the interior from the federal abandoned mine reclamation fund established by Title IV of the "Surface Mining Control and

Reclamation Act of 1977," 91 Stat. 445, 30 U.S.C.A. 1201, regulations adopted under it, and amendments to the act and regulations and the federal "Infrastructure Investment and Jobs Act," Pub. L. No. 177-58. Expenditures from the abandoned mine reclamation fund shall be made by the chief for the following purposes:

(1) Reclamation and restoration of land and water resources adversely affected by past coal mining, including, but not limited to, reclamation and restoration of abandoned strip mine areas, abandoned coal processing areas, and abandoned coal refuse disposal areas; sealing and filling of abandoned deep mine entries and voids; planting of land adversely affected by past coal mining; prevention of erosion and sedimentation; prevention, abatement, treatment, and control of water pollution created by coal mine drainage, including restoration of streambeds and construction and operation of water treatment plants; prevention, abatement, and control of burning coal refuse disposal areas and burning coal in situ; and prevention, abatement, and control of coal mine subsidence;

(2) Acquisition and filling of voids and sealing of tunnels, shafts, and entryways of noncoal lands;

(3) Reclaiming land, public or private, affected by mining, or controlling mine drainage under section 1513.27 of the Revised Code in accordance with the requirements of the federal "Infrastructure Investment and Jobs Act," Pub. L. No. 177-58;

(4) Acquisition of land as provided for in this section;

(5) Administrative expenses incurred in accomplishing the purposes of this section;

(6) All other necessary expenses to accomplish the purposes of this section.

(B) Expenditures of money from the abandoned mine reclamation fund on land and water eligible pursuant to division (C) of this section shall reflect the following priorities in the order stated:

(1) The protection of public health, safety, general welfare, and property from extreme danger of adverse effects of coal mining practices;

(2) The protection of public health, safety, and general welfare from adverse effects of coal mining practices;

(3) The restoration of land and water resources and the environment previously degraded by adverse effects of coal mining practices, including measures for the conservation and development of soil and water (excluding channelization), woodland, fish and wildlife, recreation resources, and agricultural productivity;

(4) Research and demonstration projects relating to the development of coal mining reclamation and water quality control program methods and techniques;

(5) The protection, repair, replacement, construction, or enhancement of public facilities such as utilities, roads, recreation facilities, and conservation facilities adversely affected by coal mining practices;

(6) The development of publicly owned land adversely affected by coal mining practices, including land acquired as provided in this section for recreation and historic purposes, conservation and reclamation purposes, and open space benefits.

(C)(1) Lands and water eligible for reclamation or drainage abatement expenditures under this section are those that were mined for coal or were affected by such mining, wastebanks, coal processing, or other coal mining processes and that meet one of the following criteria:

(a) Are lands that were abandoned or left in an inadequate reclamation status prior to August 3, 1977, and for which there is no continuing reclamation responsibility under state or federal laws;

(b) Are lands for which the chief finds that surface coal mining operations occurred at any time between August 4, 1977, and August 16, 1982, and that any money for reclamation or abatement that are available pursuant to a bond, performance security, or other form of financial guarantee or from any other source are not sufficient to provide for adequate reclamation or abatement at the site;

(c) Are lands for which the chief finds that surface coal mining operations occurred at any time between August 4, 1977, and November 5, 1990, that the surety of the mining operator became insolvent during that time, and that, as of November 5, 1990, any money immediately available from proceedings relating to that insolvency or from any financial guarantee or other source are not sufficient to provide for adequate reclamation or abatement at the site.

(2) In determining which sites to reclaim pursuant to divisions (C)(1)(b) and (c) of this section, the chief shall follow the priorities stated in divisions (B)(1) and (2) of this section and shall ensure that priority is given to those sites that are in the immediate vicinity of a residential area or that have an adverse economic impact on a local community.

(3) Surface coal mining operations on lands eligible for remining shall not affect the eligibility of those lands for reclamation and restoration under this section after the release of the bond, performance security, or other form of financial guarantee for any such operation as provided under division (F) of section 1513.16 of the Revised Code. If the bond, performance security, or other form of financial guarantee for a surface coal mining operation on lands eligible for remining is forfeited, money available under this section may be used if the amount of the bond, performance security, or other form of financial guarantee is not sufficient to provide for adequate reclamation or abatement, except that if conditions warrant, the chief immediately shall exercise the authority granted under division (L) of this section.

(D) The chief may submit to the secretary of the interior a state reclamation plan and annual projects to carry out the purposes of this section.

(1) The reclamation plan generally shall identify the areas to be reclaimed, the purposes for which the reclamation is proposed, the relationship of the lands to be reclaimed and the proposed reclamation to surrounding areas, the specific criteria for ranking and identifying projects to be funded, and the legal authority and programmatic capability to perform the work in accordance with this section.

(2) On an annual basis, the chief may submit to the secretary an application for support of the abandoned mine reclamation fund and implementation of specific reclamation projects. The annual requests shall include such information as may be requested by the secretary.

(3) The costs for each proposed project under this section

shall include actual construction costs, actual operation and maintenance costs of permanent facilities, planning and engineering costs, construction inspection costs, and other necessary administrative expenses.

(4) The chief may submit annual and other reports required by the secretary when funds are provided by the secretary under either of the following:

(a) Title IV of the "Surface Mining Control and Reclamation Act of 1977," 91 Stat. 445, 30 U.S.C.A. 1201, regulations adopted under it, and amendments to the act and regulations;

(b) The federal "Infrastructure Investment and Jobs Act," Pub. L. No. 177-58.

(E)(1) There is hereby created in the state treasury the acid mine drainage abatement and treatment fund, which shall be administered by the chief. The fund shall consist of grants from the secretary of the interior from the federal abandoned mine reclamation fund pursuant to section 402(g)(6) of Title IV of the "Surface Mining Control and Reclamation Act of 1977," 91 Stat. 445, 30 U.S.C.A. 1201. All investment earnings of the fund shall be credited to the fund.

(2) The chief shall make expenditures from the fund, in consultation with the United States department of agriculture, soil conservation service, to implement acid mine drainage abatement and treatment plans approved by the secretary. The plans shall provide for the comprehensive abatement of the causes and treatment of the effects of acid mine drainage within qualified hydrologic units affected by coal mining practices and shall include at least all of the following:

(a) An identification of the qualified hydrologic unit. As used in division (E) of this section, "qualified hydrologic unit" means a hydrologic unit that meets all of the following criteria:

(i) The water quality in the unit has been significantly affected by acid mine drainage from coal mining practices in a manner that has an adverse impact on biological resources.

(ii) The unit contains lands and waters that meet the eligibility requirements established under division (C) of this section and any of the priorities established in divisions (B)(1) to (3) of this section.

(iii) The unit contains lands and waters that are proposed to be the subject of expenditures from the reclamation forfeiture fund created in section 1513.18 of the Revised Code or the mining regulation and safety fund created in section 1513.30 of the Revised Code.

(b) The extent to which acid mine drainage is affecting the water quality and biological resources within the hydrologic unit;

(c) An identification of the sources of acid mine drainage within the hydrologic unit;

(d) An identification of individual projects and the measures proposed to be undertaken to abate and treat the causes or effects of acid mine drainage within the hydrologic unit;

(e) The cost of undertaking the proposed abatement and treatment measures;

(f) An identification of existing and proposed sources of funding for those measures;

(g) An analysis of the cost-effectiveness and environmental benefits of abatement and treatment measures.

(3) The chief may make grants of money from the acid mine drainage abatement and treatment fund to watershed groups for conducting projects to accomplish the purposes of this section. A grant may be made in an amount equal to not more than fifty per cent of each of the following:

(a) Reasonable and necessary expenses for the collection and analysis of data sufficient to do either or both of the following:

(i) Identify a watershed as a qualified hydrologic unit;

(ii) Monitor the quality of water in a qualified hydrologic unit before, during, and at any time after completion of the project by the watershed group.

(b) Engineering design costs and construction costs involved in the project, provided that the project is conducted in a qualified hydrologic unit and the chief considers the project to be a priority.

A watershed group that wishes to obtain a grant under division (E)(3) of this section shall submit an application to the chief on forms provided by the division of mineral resources management, together with detailed estimates and timetables for accomplishing the stated goals of the project and any other information that the chief requires.

For the purposes of establishing priorities for awarding grants under division (E)(3) of this section, the chief shall consider each project's feasibility, cost-effectiveness, and environmental benefit, together with the availability of matching funding, including in-kind services, for the project.

The chief shall enter into a contract for funding with each applicant awarded a grant to ensure that the money granted is used for the purposes of this section and that the work that the project involves is done properly. The contract is not subject to division (B) of section 127.16 of the Revised Code. The final payment of grant money shall not be made until the chief inspects and approves the completed project.

The chief shall require each applicant awarded a grant under this section who conducts a project involving construction work to pay workers at the greater of their regular rate of pay, as established by contract, agreement, or prior custom or practice, or the average wage rate paid in this state for the same or similar work performed in the same or a similar locality by private companies doing similar work on similar projects.

As used in division (E)(3) of this section, "watershed group" means a charitable organization as defined in section 1716.01 of the Revised Code that has been established for the purpose of conducting reclamation of land and waters adversely affected by coal mining practices and specifically for conducting acid mine drainage abatement.

(F)(1) If the chief makes a finding of fact that land or water resources have been adversely affected by past coal mining practices; the adverse effects are at a stage where, in the public interest, action to restore, reclaim, abate, control, or prevent the adverse effects should be taken; the owners of the land or water resources where entry must be made to restore, reclaim, abate, control, or prevent the adverse effects of past coal mining practices are not known or are not readily available; or the owners will not give permission for the state, political subdivisions, or their agents, employees, or

contractors to enter upon the property to restore, reclaim, abate, control, or prevent the adverse effects of past coal mining practices; then, upon giving notice by mail to the owners, if known, or, if not known, by posting notice upon the premises and advertising once in a newspaper of general circulation in the municipal corporation or county in which the land lies, the chief or the chief's agents, employees, or contractors may enter upon the property adversely affected by past coal mining practices and any other property to have access to the property to do all things necessary or expedient to restore, reclaim, abate, control, or prevent the adverse effects. The entry shall be construed as an exercise of the police power for the protection of the public health, safety, and general welfare and shall not be construed as an act of condemnation of property nor of trespass on it. The money expended for the work and the benefits accruing to any such premises so entered upon shall be chargeable against the land and shall mitigate or offset any claim in or any action brought by any owner of any interest in the premises for any alleged damages by virtue of the entry, but this provision is not intended to create new rights of action or eliminate existing immunities.

(2) The chief or the chief's authorized representatives may enter upon any property for the purpose of conducting studies or exploratory work to determine the existence of adverse effects of past coal mining practices and to determine the feasibility of restoration, reclamation, abatement, control, or prevention of such adverse effects. The entry shall be construed as an exercise of the police power for the protection of the public health, safety, and general welfare and shall not be construed as an act of condemnation of property nor trespass

on it.

(3) The chief may acquire any land by purchase, donation, or condemnation that is adversely affected by past coal mining practices if the chief determines that acquisition of the land is necessary to successful reclamation and that all of the following apply:

(a) The acquired land, after restoration, reclamation, abatement, control, or prevention of the adverse effects of past coal mining practices, will serve recreation and historic purposes, serve conservation and reclamation purposes, or provide open space benefits.

(b) Permanent facilities such as a treatment plant or a relocated stream channel will be constructed on the land for the restoration, reclamation, abatement, control, or prevention of the adverse effects of past coal mining practices.

(c) Acquisition of coal refuse disposal sites and all coal refuse thereon will serve the purposes of this section or public ownership is desirable to meet emergency situations and prevent recurrences of the adverse effects of past coal mining practices.

(4)(a) Title to all lands acquired pursuant to this section shall be in the name of the state. The price paid for land acquired under this section shall reflect the market value of the land as adversely affected by past coal mining practices.

(b) The chief may receive grants on a matching basis from the secretary of the interior for the purpose of carrying out this section.

(5)(a) Where land acquired pursuant to this section is considered to be suitable for industrial, commercial,

residential, or recreational development, the chief may sell the land by public sale under a system of competitive bidding at not less than fair market value and under other requirements imposed by rule to ensure that the lands are put to proper use consistent with local and state land use plans, if any, as determined by the chief.

(b) The chief, when requested, and after appropriate public notice, shall hold a public meeting in the county, counties, or other appropriate political subdivisions of the state in which lands acquired pursuant to this section are located. The meetings shall be held at a time that shall afford local citizens and governments the maximum opportunity to participate in the decision concerning the use or disposition of the lands after restoration, reclamation, abatement, control, or prevention of the adverse effects of past coal mining practices.

(6) In addition to the authority to acquire land under division (F)(3) of this section, the chief may use money in the fund to acquire land by purchase, donation, or condemnation, and to reclaim and transfer acquired land to a political subdivision, or to any person, if the chief determines that it is an integral and necessary element of an economically feasible plan for the construction or rehabilitation of housing for persons disabled as the result of employment in the mines or work incidental to that employment, persons displaced by acquisition of land pursuant to this section, persons dislocated as the result of adverse effects of coal mining practices that constitute an emergency as provided in the "Surface Mining Control and Reclamation Act of 1977," 91 Stat. 466, 30 U.S.C.A. 1240, or amendments to it, or persons dislocated as the result of natural disasters or catastrophic failures from any cause. Such activities shall be accomplished under such terms and

conditions as the chief requires, which may include transfers of land with or without monetary consideration, except that to the extent that the consideration is below the fair market value of the land transferred, no portion of the difference between the fair market value and the consideration shall accrue as a profit to those persons. No part of the funds provided under this section may be used to pay the actual construction costs of housing. The chief may carry out the purposes of division (F)(6) of this section directly or by making grants and commitments for grants and may advance money under such terms and conditions as the chief may require to any agency or instrumentality of the state or any public body or nonprofit organization designated by the chief.

(G)(1) Within six months after the completion of projects to restore, reclaim, abate, control, or prevent adverse effects of past coal mining practices on privately owned land, the chief shall itemize the money so expended and may file a statement of the expenditures in the office of the county recorder of the county in which the land lies, together with a notarized appraisal by an independent appraiser of the value of the land before the restoration, reclamation, abatement, control, or prevention of adverse effects of past coal mining practices if the money so expended result in a significant increase in property value. The statement shall constitute a lien upon the land as of the date of the expenditures of the money and shall have priority as a lien second only to the lien of real property taxes imposed upon the land. The lien shall not exceed the amount determined by the appraisal to be the increase in the fair market value of the land as a result of the restoration, reclamation, abatement, control, or prevention of the adverse effects of past coal mining practices. No lien shall be filed

under division (G) of this section against the property of any person who owned the surface prior to May 2, 1977, and did not consent to, participate in, or exercise control over the mining operation that necessitated the reclamation performed.

(2) The landowner may petition, within sixty days after the filing of the lien, to determine the increase in the fair market value of the land as a result of the restoration, reclamation, abatement, control, or prevention of the adverse effects of past coal mining practices. The amount reported to be the increase in value of the premises shall constitute the amount of the lien and shall be recorded with the statement provided in this section. Any party aggrieved by the decision may appeal as provided by state law.

(3) The lien provided in division (G) of this section shall be recorded and indexed, under the name of the state and the landowner, in the official records in the office of the county recorder of the county in which the land lies. The county recorder shall impose no charge for the recording or indexing of the lien. If the land is registered, the county recorder shall make a notation and enter a memorial of the lien upon the page of the register in which the last certificate of title to the land is registered, stating the name of the claimant, amount claimed, volume and page of the record where recorded, and exact time the memorial was entered.

(4) The lien shall continue in force so long as any portion of the amount of the lien remains unpaid. If the lien remains unpaid at the time of conveyance of the land on which the lien was placed, the conveyance may be set aside. Upon repayment in full of the money expended under this section, the chief promptly shall issue a certificate of release of the lien.

Upon presentation of the certificate of release, the county recorder of the county in which the lien is recorded shall record the lien as having been discharged.

(5) A lien imposed under this section shall be foreclosed upon the substantial failure of a landowner to pay any portion of the amount of the lien. Before foreclosing any lien under this section, the chief shall make a written demand upon the landowner for payment. If the landowner does not pay the amount due within sixty days, the chief shall refer the matter to the attorney general, who shall institute a civil action to foreclose the lien.

(H)(1) The chief may fill voids, seal abandoned tunnels, shafts, and entryways, and reclaim surface impacts of underground or strip mines that the chief determines could endanger life and property, constitute a hazard to the public health and safety, or degrade the environment.

(2) In those instances where mine waste piles are being reworked for conservation purposes, the incremental costs of disposing of the wastes from those operations by filling voids and sealing tunnels may be eligible for funding, provided that the disposal of these wastes meets the purposes of this section.

(3) The chief may acquire by purchase, donation, easement, or otherwise such interest in land as the chief determines necessary to carry out division (H) of this section.

(I) The chief shall report annually to the secretary of the interior on operations under the fund and include recommendations as to its future uses.

(J)(1) The chief may engage in any work and do all things necessary or expedient, ~~including~~ except the adoption of rules,

to implement and administer this section.

(2) The chief may engage in cooperative projects under this section with any agency of the United States, any other state, or their governmental agencies or with any state university or college as defined in section 3345.27 of the Revised Code. The cooperative projects are not subject to division (B) of section 127.16 of the Revised Code.

(3) The chief may request the attorney general to initiate in any court of competent jurisdiction an action in equity for an injunction to restrain any interference with the exercise of the right to enter or to conduct any work provided in this section, which remedy is in addition to any other remedy available under this section.

(4) The chief may construct or operate a plant or plants for the control and treatment of water pollution resulting from mine drainage. The extent of this control and treatment may be dependent upon the ultimate use of the water. Division (J)(4) of this section does not repeal or supersede any portion of the "Federal Water Pollution Control Act," 70 Stat. 498 (1965), 33 U.S.C.A. 1151, as amended, and no control or treatment under division (J)(4) of this section, in any way, shall be less than that required by that act. The construction of a plant or plants may include major interceptors and other facilities appurtenant to the plant.

(5) The chief may transfer money from the abandoned mine reclamation fund and the acid mine drainage abatement and treatment fund to other appropriate state agencies or to state universities or colleges in order to carry out the reclamation activities authorized by this section.

(K) The chief may contract for any part of work to be performed under this section, with or without advertising for bids, if the chief determines that a condition exists that could reasonably be expected to cause substantial physical harm to persons, property, or the environment and to which persons or improvements on real property are currently exposed.

The chief shall require every contractor performing reclamation work under this section to pay its workers at the greater of their regular rate of pay, as established by contract, agreement, or prior custom or practice, or the average wage rate paid in this state for the same or similar work as determined by the chief under section 1513.02 of the Revised Code.

(L)(1) The chief may contract for the emergency restoration, reclamation, abatement, control, or prevention of adverse effects of mining practices on eligible lands if the chief determines that an emergency exists constituting a danger to the public health, safety, or welfare and that no other person or agency will act expeditiously to restore, reclaim, abate, control, or prevent those adverse effects. The chief may enter into a contract for emergency work under division (L) of this section without advertising for bids. Any such contract or any purchase of materials for emergency work under division (L) of this section is not subject to division (B) of section 127.16 of the Revised Code.

(2) The chief or the chief's agents, employees, or contractors may enter on any land where such an emergency exists, and on other land in order to have access to that land, in order to restore, reclaim, abate, control, or prevent the adverse effects of mining practices and to do all things

necessary or expedient to protect the public health, safety, or welfare. Such an entry shall be construed as an exercise of the police power and shall not be construed as an act of condemnation of property or of trespass. The money expended for the work and the benefits accruing to any premises so entered upon shall be chargeable against the land and shall mitigate or offset any claim in or any action brought by any owner of any interest in the premises for any alleged damages by virtue of the entry. This provision is not intended to create new rights of action or eliminate existing immunities.

Sec. 1513.372. (A) As used in this section:

(1) "Abandoned mine land" means land or water resources adversely affected by coal mining practices to which one of the following applies:

(a) The coal mining practices occurred prior to August 3, 1977, and there is no continuing reclamation responsibility under state or federal law.

(b) The coal mining practices occurred prior to April 10, 1972.

(c) The coal mining practices were conducted pursuant to a license that was issued prior to April 10, 1972.

(2) "Eligible landowner" means a landowner who provides access without charge or other consideration to abandoned mine land that is located on the landowner's property for the purpose of allowing the implementation of a reclamation project on the abandoned mine land. "Eligible landowner" does not include a person that is responsible under state or federal law to reclaim the land or address acid mine drainage existing or emanating from the abandoned mine land.

(3) "Landowner" means a person who holds a fee interest in real property.

(4) "Nonprofit organization" means a corporation, association, group, institution, society, or other organization that is exempt from federal income taxation under section 501(c)(3) of the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C. 501(c)(3), as amended, that provides funding or services at no cost or at cost for a reclamation project.

(5) "Reclamation project" means an acid mine drainage abatement project that is conducted in compliance with this chapter and rules adopted under it on abandoned mine land that is located on property owned by an eligible landowner.

(6) "Reclamation project work area" means the portion of a parcel of real property on which a reclamation project is conducted and the roads providing ingress to and egress from the reclamation project.

(B) Except as provided in divisions (C) and (D) of this section, an eligible landowner or nonprofit organization is immune from liability as follows:

(1) For any injury to or damage suffered by a person working under the direct supervision of the division of mineral resources management while the person is within the reclamation project work area;

(2) For any injury to or damage suffered by a third party that arises out of or occurs as a result of an act or omission of the division during the construction, operation, and maintenance of the reclamation project;

(3) For any failure of an acid mine drainage abatement facility constructed or installed during a reclamation project

that is supervised by the division;

(4) For the operation, maintenance, or repair of any acid mine drainage abatement facility constructed or installed during a reclamation project unless the eligible landowner negligently damages or destroys the acid mine drainage abatement facility or denies access to the division of mineral resources management that is responsible for the operation, maintenance, or repair of the acid mine drainage abatement facility.

(C) The eligible landowner shall notify the division of a known, latent, dangerous condition located at a reclamation project work area that is not the subject of the reclamation project. The immunity established in division (B) of this section does not apply to any injury, damage, or pollution resulting from the eligible landowner's failure to notify the division of such a known, latent, dangerous condition.

(D) The immunity established in division (B) of this section does not apply in both of the following circumstances:

(1) An injury to a person within the reclamation project work area that results from an eligible landowner's or nonprofit organization's acts or omissions that are reckless or constitute gross negligence or willful or wanton misconduct;

(2) An eligible landowner or nonprofit organization who engages in any unlawful activities with respect to a reclamation project.

~~(E) The chief of the division of mineral resources management shall adopt rules in accordance with Chapter 119. of the Revised Code that are necessary to implement this section.~~

Sec. 1517.23. The chief of the division of natural areas and preserves shall do both of the following:

(A) Formulate policies and plans and establish a program incorporating them for the identification and protection of the state's cave resources ~~and adopt, amend, or rescind rules in accordance with Chapter 119. of the Revised Code to implement that program~~;

(B) Provide technical assistance and management advice to owners upon request concerning the protection of caves on their land.

Sec. 1520.03. (A) The director of natural resources may appropriate real property in accordance with Chapter 163. of the Revised Code for the purpose of administering this chapter.

(B)(1) The director shall operate and maintain all canals and canal reservoirs owned by the state except those canals that are operated by the Ohio history connection on July 1, 1989.

(2) On behalf of the director, the division of parks and watercraft shall have the care and control of all canals and canal reservoirs owned by the state, the water in them, and canal lands and shall protect, operate, and maintain them and keep them in repair. The chief of the division may remove obstructions from or on them and shall make any alterations or changes in or to them and construct any feeders, dikes, reservoirs, dams, locks, or other works, devices, or improvements in or on them that are necessary in the discharge of the chief's duties.

~~In accordance with Chapter 119. of the Revised Code, the chief may adopt, amend, and rescind rules that are necessary for the administration of this division.~~

(C) The director may sell or lease water from any canal or canal reservoir that the director operates and maintains only to

the extent that the water is in excess of the quantity that is required for navigation, recreation, and wildlife purposes. ~~With the approval of the director, the chief may adopt, amend, and rescind rules in accordance with Chapter 119. of the Revised Code necessary to administer this division.~~

The withdrawal of water from any canal or canal reservoir for domestic use is exempt from this division. However, the director may require water conservation measures for water that is withdrawn from any canal or canal reservoir for domestic use during drought conditions or other emergencies declared by the governor.

(D) No person shall take or divert water from any canal or canal reservoir operated and maintained by the director except in accordance with division (C) of this section.

(E) At the request of the director, the attorney general may commence a civil action for civil penalties and injunctions, in a court of common pleas, against any person who has violated or is violating division (D) of this section. The court of common pleas in which an action for injunctive relief is filed has jurisdiction to and shall grant preliminary and permanent injunctive relief upon a showing that the person against whom the action is brought has violated or is violating that division.

Upon a finding of a violation, the court shall assess a civil penalty of not more than one thousand dollars for each day of each violation if the violator is an individual who took or diverted the water in question for residential or agricultural use. The court shall assess a civil penalty of not more than five thousand dollars for each day of each violation if the violator is any other person who took or diverted the water in

question for industrial or commercial use excluding agricultural use. Moneys from civil penalties assessed under this division shall be paid into the state treasury to the credit of the canal lands fund created in section 1520.05 of the Revised Code.

Any action under this division is a civil action, governed by the rules of civil procedure and other rules of practice and procedure applicable to civil actions.

(F) As used in this section, "person" means any agency of this state, any political subdivision of this state or of the United States, or any legal entity defined as a person under section 1.59 of the Revised Code.

Sec. 1521.062. (A) All dams and levees constructed in this state and not exempted by this section or by the chief of the division of water resources under section 1521.06 of the Revised Code shall be inspected periodically by the chief, except for classes of dams that, in accordance with rules adopted under this section, are required to be inspected by registered professional engineers who have been approved for that purpose by the chief. The inspection shall ensure that continued operation and use of the dam or levee does not constitute a hazard to life, health, or property. Periodic inspections shall not be required of the following structures:

(1) A dam that is less than ten feet in height and has a storage capacity of not more than fifty acre-feet at the elevation of the top of the dam, as determined by the chief. For the purposes of this section, the height of a dam shall be measured from the natural stream bed or lowest ground elevation at the downstream or outside limit of the dam to the elevation of the top of the dam.

(2) A dam, regardless of height, that has a storage capacity of not more than fifteen acre-feet at the elevation of the top of the dam, as determined by the chief;

(3) A dam, regardless of storage capacity, that is six feet or less in height, as determined by the chief;

(4) A dam or levee belonging to a class exempted by the chief;

(5) A dam or levee that has been exempted in accordance with rules adopted under section 1521.064 of the Revised Code.

(B) In accordance with rules adopted under this section, the owner of a dam that is in a class of dams that is designated in the rules for inspection by registered professional engineers shall obtain the services of a registered professional engineer who has been approved by the chief to conduct the periodic inspection of dams pursuant to schedules and other standards and procedures established in the rules. The registered professional engineer shall prepare a report of the inspection in accordance with the rules and provide the inspection report to the dam owner who shall submit it to the chief. A dam that is designated under the rules for inspection by a registered professional engineer, but that is not inspected within a five-year period may be inspected by the chief at the owner's expense.

(C) Intervals between periodic inspections shall be determined by the chief, but shall not exceed five years.

(D) In the case of a dam or levee that the chief inspects, the chief shall furnish a report of the inspection to the owner of the dam or levee. With regard to a dam or levee that has been inspected, either by the chief or by a registered professional engineer, and that is the subject of an inspection report

prepared or received by the chief, the chief shall inform the owner of any required repairs, maintenance, investigations, and other remedial and operational measures. The chief shall order the owner to perform such repairs, maintenance, investigations, or other remedial or operational measures as the chief considers necessary to safeguard life, health, or property. The order shall permit the owner a reasonable time in which to perform the needed repairs, maintenance, investigations, or other remedial measures, and the cost thereof shall be borne by the owner. All orders of the chief are subject to appeal as provided in Chapter 119. of the Revised Code.

(E) The owner of a dam or levee shall monitor, maintain, and operate the structure and its appurtenances safely in accordance with state rules, terms and conditions of permits, orders, and other requirements issued pursuant to this section or section 1521.06 of the Revised Code. The owner shall fully and promptly notify the division of water resources and other responsible authorities of any condition that threatens the safety of the structure and shall take all necessary actions to safeguard life, health, and property.

(F) Before commencing the repair, improvement, alteration, or removal of a dam or levee, the owner shall file an application including plans, specifications, and other required information with the division and shall secure written approval of the application by the chief. Emergency actions by the owner required to safeguard life, health, or property are exempt from this requirement. The chief may, by rule, define maintenance, repairs, or other remedial measures of a routine nature that are exempt from this requirement.

(G) The chief may remove or correct, at the expense of the

owner, any unsafe structures found to be constructed or maintained in violation of this section or section 1521.06 of the Revised Code. In the case of an owner other than a governmental agency, the cost of removal or correction of any unsafe structure, together with a description of the property on which the unsafe structure is located, shall be certified by the chief to the county auditor and placed by the county auditor upon the tax duplicate. This cost is a lien upon the lands from the date of entry and shall be collected as other taxes and returned to the division. In the case of an owner that is a governmental agency, the cost of removal or correction of any unsafe structure shall be recoverable from the owner by appropriate action in a court of competent jurisdiction.

(H) If the condition of any dam or levee is found, in the judgment of the chief, to be so dangerous to the safety of life, health, or property as not to permit time for the issuance and enforcement of an order relative to repair, maintenance, or operation, the chief shall employ any of the following remedial means necessary to protect life, health, and property:

(1) Lower the water level of the lake or reservoir by releasing water;

(2) Completely drain the lake or reservoir;

(3) Take such other measures or actions as the chief considers necessary to safeguard life, health, and property.

The chief shall continue in full charge and control of the dam or levee until the structure is rendered safe. The cost of the remedy shall be recoverable from the owner of the structure by appropriate action in a court of competent jurisdiction.

(I) The chief may accept and expend gifts, bequests, and

grants from the United States government or from any other public or private source and may contract with the United States government or any other agency or entity for the purpose of carrying out the dam safety functions set forth in this section and section 1521.06 of the Revised Code.

(J) In accordance with Chapter 119. of the Revised Code, the chief may adopt, and may amend or rescind, rules that do all of the following:

(1) Designate classes of dams for which dam owners must obtain the services of a registered professional engineer to periodically inspect the dams and to prepare reports of the inspections for submittal to the chief;

(2) Establish standards in accordance with which the chief must approve or disapprove registered professional engineers to inspect dams together with procedures governing the approval process;

(3) Establish schedules, standards, and procedures governing periodic inspections and standards and procedures governing the preparation and submittal of inspection reports~~;~~

~~(4) Establish provisions regarding the enforcement of this section and rules adopted under it~~.

(K) The owner of a dam or levee shall notify the chief in writing of a change in ownership of the dam or levee prior to the exchange of the property.

Sec. 1521.063. (A) Except for the federal government, the owner of a dam, that is classified as a class I, class II, or class III dam under rules adopted under section 1521.06 of the Revised Code and subject to section 1521.062 of the Revised Code shall pay an annual fee in accordance with the annual fee

schedule established in rules adopted under division (B) of this section. The fee shall be paid to the division of water resources on or before the thirtieth day of June of each year.

All fees collected under this section shall be deposited in the dam safety fund created in section 1521.06 of the Revised Code. Any owner who fails to pay any annual fee required by this section within sixty days after the due date shall be assessed a penalty of ten per cent of the annual fee plus interest at the rate of one-half per cent per month from the due date until the date of payment.

There is hereby created the compliant dam discount program to be administered by the chief of the division of water resources. Under the program, the chief may reduce the amount of the annual fee that an owner of a dam is required to pay in accordance with rules adopted by the chief under division (B) of this section if the owner is in compliance with section 1521.062 of the Revised Code and has developed an emergency action plan~~ pursuant to standards established in rules adopted under this section~~. The chief shall not discount an annual fee by more than twenty-five per cent of the total annual fee that is due. In addition, the chief shall not discount the annual fee that is due from the owner of a dam who has been assessed a penalty under this section.

(B)(1) ~~The chief shall, in accordance with Chapter 119. of the Revised Code and subject to the prior approval of the director of natural resources, adopt, and may amend or rescind, rules for the collection of fees and the administration, implementation, and enforcement of this section.~~

~~(2)~~ The chief shall, in accordance with Chapter 119. of the Revised Code, adopt rules for the establishment of an annual

fee schedule for purposes of this section.

~~(3)~~(2) The annual fee schedule must be based on the height of the dam, the linear foot length of the dam, and the per-acre foot of volume of water impounded by the dam. For purposes of this section, the height of a dam is the vertical height, to the nearest foot, as determined by the division under section 1521.062 of the Revised Code.

(C) No person, political subdivision, or state governmental agency shall violate or fail to comply with this section or any rule or order adopted or issued under it.

(D) As used in this section, "political subdivision" includes townships, municipal corporations, counties, school districts, municipal universities, park districts, sanitary districts, and conservancy districts and subdivisions thereof.

Sec. 1521.13. (A) Development in one-hundred-year floodplain areas shall be protected to at least the one-hundred-year flood level, and flood water conveyance shall be maintained, at a minimum, in accordance with standards established under the national flood insurance program. This division does not preclude a state agency or political subdivision from establishing flood protection standards that are more restrictive than this division.

(B) Prior to the expenditure of money for or the construction of buildings, structures, roads, bridges, or other facilities in locations that may be subject to flooding or flood damage, all state agencies and political subdivisions shall notify and consult with the division of water resources and shall furnish information that the division reasonably requires in order to avoid the uneconomic, hazardous, or unnecessary use

of floodplains in connection with such facilities.

(C) The chief of the division of water resources shall do all of the following:

(1) Coordinate the floodplain management activities of state agencies and political subdivisions with the floodplain management activities of the United States, including the national flood insurance program;

(2) Collect, prepare, and maintain technical data and information on floods and floodplain management and make the data and information available to the public, state agencies, political subdivisions, and agencies of the United States;

(3) Cooperate and enter into agreements with persons for the preparation of studies and reports on floods and floodplain management;

(4) Assist any county, municipal corporation, or state agency in developing comprehensive floodplain management programs;

(5) Provide technical assistance to any county, municipal corporation, or state agency through engineering assistance, data collection, preparation of model laws, training, and other activities relating to floodplain management;

(6) For the purpose of reducing damages and the threat to life, health, and property in the event of a flood, cooperate with state agencies, political subdivisions, and the United States in the development of flood warning systems, evacuation plans, and flood emergency preparedness plans;

(7) Upon request, assist the emergency management agency established by section 5502.22 of the Revised Code in the

preparation of flood hazard mitigation reports required as a condition for receiving federal disaster aid under the "Disaster Relief Act of 1974," 88 Stat. 143, 42 U.S.C.A. 5121, as amended, and regulations adopted under it;

~~(8) Adopt, and may amend or rescind, rules in accordance with Chapter 119. of the Revised Code for the administration, implementation, and enforcement of this section and sections 1521.14 and 1521.18 of the Revised Code;~~

~~(9)~~ Establish, by rule, technical standards for the delineation and mapping of floodplains and for the conduct of engineering studies to determine the vertical and horizontal limits of floodplains and for the assessment of development impacts on flood heights and flood conveyance. The standards established in rules adopted under this division shall be consistent with and no more stringent than the analogous standards established under the national flood insurance program.

~~(10)~~(9) On behalf of the director of natural resources, administer section 1506.04 of the Revised Code.

In addition to the duties imposed in divisions (C)(1) to ~~(10)~~(9) of this section, and with respect to existing publicly owned facilities that have suffered flood damage or that may be subject to flood damage, the chief may conspicuously mark past and probable flood heights in order to assist in creating public awareness of and knowledge about flood hazards.

(D)(1) Development that is funded, financed, undertaken, or preempted by state agencies shall comply with division (A) of this section and with rules adopted under division ~~(C)(9)~~(C)(8) of this section.

(2) State agencies shall apply floodproofing measures in order to reduce potential additional flood damage of existing publicly owned facilities that have suffered flood damage.

(3) Before awarding funding or financing or granting a license, permit, or other authorization for a development that is or is to be located within a one-hundred-year floodplain, a state agency shall require the applicant to demonstrate to the satisfaction of the agency that the development will comply with division (A) of this section, rules adopted under division ~~(C)(9)~~ (C)(8) of this section, and any applicable local floodplain management resolution or ordinance.

(4) Prior to the disbursement of any state disaster assistance money in connection with any incident of flooding to or within a county or municipal corporation that is not listed by the chief as being in compliance under division (D)(1) of section 1521.18 of the Revised Code, a state agency that has authority to disburse such money shall require the county or municipal corporation to establish or reestablish compliance as provided in that division.

(E)(1) Subject to section 1521.18 of the Revised Code, a county or a municipal corporation may do all of the following:

(a) Adopt floodplain maps that reflect the best available data and that indicate the areas to be regulated under a floodplain management resolution or ordinance, as applicable;

(b) Develop and adopt a floodplain management resolution or ordinance, as applicable;

(c) Adopt floodplain management standards that exceed the standards that are established under the national flood insurance program.

(2) A county or municipal corporation shall examine and apply, where economically feasible, floodproofing measures in order to reduce potential additional flood damage of existing publicly owned facilities that have suffered flood damage.

(3) A county that adopts a floodplain management resolution shall do so in accordance with the procedures established in section 307.37 of the Revised Code. The county may enforce the resolution by issuing stop work orders, seeking injunctive relief, or pursuing other civil actions that the county considers necessary to ensure compliance with the resolution. In addition, failure to comply with the floodplain management resolution constitutes a violation of division (D) of section 307.37 of the Revised Code.

(4) No action challenging the validity of a floodplain management resolution adopted by a county or a floodplain management ordinance adopted by a municipal corporation, or an amendment to such a resolution or ordinance, because of a procedural error in the adoption of the resolution, ordinance, or amendment shall be brought more than two years after the adoption of the resolution, ordinance, or amendment.

Sec. 1521.21. ~~(A) The chief of the division of water resources shall adopt, and may amend or rescind, rules in accordance with Chapter 119. of the Revised Code for the implementation, administration, and enforcement of sections 1521.21 to 1521.36 of the Revised Code.~~

~~(B)~~ Sections 1521.21 to 1521.36 of the Revised Code do not affect common law riparian rights.

Sec. 1531.01. As used in this chapter and Chapter 1533. of the Revised Code:

(A) "Person" means a person as defined in section 1.59 of the Revised Code or a company; an employee, agent, or officer of such a person or company; a combination of individuals; the state; a political subdivision of the state; an interstate body created by a compact; or the federal government or a department, agency, or instrumentality of it.

(B) "Resident" means either of the following:

(1) An individual who has resided in this state for not less than six months preceding the date of making application for a license or permit;

(2) An individual who is a full-time student enrolled in an accredited Ohio public or private college or university and who resides in this state at the time the individual makes application for a license or permit and who attests to the individual's full-time student status in a manner determined by the chief of the division of wildlife.

(C) "Nonresident" means any individual who does not qualify as a resident.

(D) "Division rule" or "rule" means any rule adopted by the chief of the division of wildlife ~~under section 1531.10 of the Revised Code~~ unless the context indicates otherwise.

(E) "Closed season" means that period of time during which the taking of wild animals protected by this chapter and Chapter 1533. of the Revised Code is prohibited.

(F) "Open season" means that period of time during which the taking of wild animals protected by this chapter and Chapter 1533. of the Revised Code is permitted.

(G) "Take or taking" includes pursuing, shooting, hunting,

killing, trapping, angling, fishing with a trotline, or netting any clam, mussel, crayfish, aquatic insect, fish, frog, turtle, wild bird, or wild quadruped, and any lesser act, such as wounding, or placing, setting, drawing, or using any other device for killing or capturing any wild animal, whether it results in killing or capturing the animal or not. "Take or taking" includes every attempt to kill or capture and every act of assistance to any other person in killing or capturing or attempting to kill or capture a wild animal.

(H) "Possession" means both actual and constructive possession and any control of things referred to.

(I) "Bag limit" means the number, measurement, or weight of any kind of crayfish, aquatic insects, fish, frogs, turtles, wild birds, and wild quadrupeds permitted to be taken.

(J) "Transport and transportation" means carrying or moving or causing to be carried or moved.

(K) "Sell and sale" means barter, exchange, or offer or expose for sale.

(L) "Whole to include part" means that every provision relating to any wild animal protected by this chapter and Chapter 1533. of the Revised Code applies to any part of the wild animal with the same effect as it applies to the whole.

(M) "Angling" means fishing with not more than two hand lines, not more than two units of rod and line, or a combination of not more than one hand line and one rod and line, either in hand or under control at any time while fishing. The hand line or rod and line shall have attached to it not more than three baited hooks, not more than three artificial fly rod lures, or one artificial bait casting lure equipped with not more than

three sets of three hooks each.

(N) "Trotline" means a device for catching fish that consists of a line having suspended from it, at frequent intervals, vertical lines with hooks attached.

(O) "Fish" means a cold-blooded vertebrate having fins.

(P) "Measurement of fish" means length from the end of the nose to the longest tip or end of the tail.

(Q) "Wild birds" includes game birds and nongame birds.

(R) "Game" includes game birds, game quadrupeds, and fur-bearing animals.

(S) "Game birds" includes mourning doves, ringneck pheasants, bobwhite quail, ruffed grouse, sharp-tailed grouse, pinnated grouse, wild turkey, Hungarian partridge, Chukar partridge, woodcocks, black-breasted plover, golden plover, Wilson's snipe or jacksnipe, greater and lesser yellowlegs, rail, coots, gallinules, duck, geese, brant, and crows.

(T) "Nongame birds" includes all other wild birds not included and defined as game birds or migratory game birds.

(U) "Wild quadrupeds" includes game quadrupeds, fur-bearing animals, and wild boar or feral swine.

(V) "Game quadrupeds" includes cottontail rabbits, gray squirrels, black squirrels, fox squirrels, red squirrels, flying squirrels, chipmunks, groundhogs or woodchucks, white-tailed deer, elk, and black bears.

(W) "Fur-bearing animals" includes minks, weasels, raccoons, skunks, opossums, muskrats, fox, beavers, badgers, otters, coyotes, and bobcats.

(X) "Wild animals" includes mollusks, crustaceans, aquatic insects, fish, reptiles, amphibians, wild birds, wild quadrupeds, and all other wild mammals, but does not include domestic deer.

(Y) "Hunting" means pursuing, shooting, killing, following after or on the trail of, lying in wait for, shooting at, or wounding wild birds or wild quadrupeds while employing any device commonly used to kill or wound wild birds or wild quadrupeds whether or not the acts result in killing or wounding. "Hunting" includes every attempt to kill or wound and every act of assistance to any other person in killing or wounding or attempting to kill or wound wild birds or wild quadrupeds.

(Z) "Trapping" means securing or attempting to secure possession of a wild bird or wild quadruped by means of setting, placing, drawing, or using any device that is designed to close upon, hold fast, confine, or otherwise capture a wild bird or wild quadruped whether or not the means results in capture. "Trapping" includes every act of assistance to any other person in capturing wild birds or wild quadrupeds by means of the device whether or not the means results in capture.

(AA) "Muskrat spear" means any device used in spearing muskrats.

(BB) "Channels and passages" means those narrow bodies of water lying between islands or between an island and the mainland in Lake Erie.

(CC) "Island" means a rock or land elevation above the waters of Lake Erie having an area of five or more acres above water.

(DD) "Reef" means an elevation of rock, either broken or in place, or gravel shown by the latest United States chart to be above the common level of the surrounding bottom of the lake, other than the rock bottom, or in place forming the base or foundation rock of an island or mainland and sloping from the shore of it. "Reef" also means all elevations shown by that chart to be above the common level of the sloping base or foundation rock of an island or mainland, whether running from the shore of an island or parallel with the contour of the shore of an island or in any other way and whether formed by rock, broken or in place, or from gravel.

(EE) "Fur farm" means any area used exclusively for raising fur-bearing animals or in addition thereto used for hunting game, the boundaries of which are plainly marked as such.

(FF) "Waters" includes any lake, pond, reservoir, stream, channel, lagoon, or other body of water, or any part thereof, whether natural or artificial.

(GG) "Crib" or "car" refers to that particular compartment of the net from which the fish are taken when the net is lifted.

(HH) "Commercial fish" means those species of fish permitted to be taken, possessed, bought, or sold unless otherwise restricted by the Revised Code or division rule and are alewife (Alosa pseudoharengus), American eel (Anguilla rostrata), bowfin (Amia calva), burbot (Lota lota), carp (Cyprinus carpio), smallmouth buffalo (Ictiobus bubalus), bigmouth buffalo (Ictiobus cyprinellus), black bullhead (Ictalurus melas), yellow bullhead (Ictalurus natalis), brown bullhead (Ictalurus nebulosus), channel catfish (Ictalurus punctatus), flathead catfish (Pylodictis olivaris), whitefish

(Coregonus sp.), cisco (Coregonus sp.), freshwater drum or sheepshead (Aplodinotus grunniens), gar (Lepisosteus sp.), gizzard shad (Dorosoma cepedianum), goldfish (Carassius auratus), lake trout (Salvelinus namaycush), mooneye (Hiodon tergisus), quillback (Carpiodes cyprinus), smelt (Allosmerus elongatus, Hypomesus sp., Osmerus sp., Spirinchus sp.), sturgeon (Acipenser sp., Scaphirhynchus sp.), sucker other than buffalo and quillback (Carpiodes sp., Catostomus sp., Hypentelium sp., Minytrema sp., Moxostoma sp.), white bass (Morone chrysops), white perch (Roccus americanus), and yellow perch (Perca flavescens). When the common name of a fish is used in this chapter or Chapter 1533. of the Revised Code, it refers to the fish designated by the scientific name in this definition.

(II) "Fishing" means taking or attempting to take fish by any method, and all other acts such as placing, setting, drawing, or using any device commonly used to take fish whether resulting in a taking or not.

(JJ) "Fillet" means the pieces of flesh taken or cut from both sides of a fish, joined to form one piece of flesh.

(KK) "Part fillet" means a piece of flesh taken or cut from one side of a fish.

(LL) "Round" when used in describing fish means with head and tail intact.

(MM) "Migrate" means the transit or movement of fish to or from one place to another as a result of natural forces or instinct and includes, but is not limited to, movement of fish induced or caused by changes in the water flow.

(NN) "Spreader bar" means a brail or rigid bar placed across the entire width of the back, at the top and bottom of

the cars in all trap, crib, and fyke nets for the purpose of keeping the meshes hanging squarely while the nets are fishing.

(OO) "Fishing guide" means any person who, for consideration or hire, operates a boat, rents, leases, or otherwise furnishes angling devices, ice fishing shanties or shelters of any kind, or other fishing equipment, and accompanies, guides, directs, or assists any other person in order for the other person to engage in fishing.

(PP) "Net" means fishing devices with meshes composed of twine or synthetic material and includes, but is not limited to, trap nets, fyke nets, crib nets, carp aprons, dip nets, and seines, except minnow seines and minnow dip nets.

(QQ) "Commercial fishing gear" means seines, trap nets, fyke nets, dip nets, carp aprons, trotlines, other similar gear, and any boat used in conjunction with that gear, but does not include gill nets.

(RR) "Native wildlife" means any species of the animal kingdom indigenous to this state.

(SS) "Gill net" means a single section of fabric or netting seamed to a float line at the top and a lead line at the bottom, which is designed to entangle fish in the net openings as they swim into it.

(TT) "Tag fishing tournament" means a contest in which a participant pays a fee, or gives other valuable consideration, for a chance to win a prize by virtue of catching a tagged or otherwise specifically marked fish within a limited period of time.

(UU) "Tenant" means an individual who resides on land for which the individual pays rent and whose annual income is

primarily derived from agricultural production conducted on that land, as "agricultural production" is defined in section 929.01 of the Revised Code.

(VV) "Nonnative wildlife" means any wild animal not indigenous to this state, but does not include domestic deer.

(WW) "Reptiles" includes common musk turtle (sternotherus odoratus), common snapping turtle (Chelydra serpentina serpentina), spotted turtle (Clemmys guttata), eastern box turtle (Terrapene carolina carolina), Blanding's turtle (Emydoidea blandingii), common map turtle (Graptemys geographica), ouachita map turtle (Graptemys pseudogeographica ouachitensis), midland painted turtle (Chrysemys picta marginata), red-eared slider (Trachemys scripta elegans), eastern spiny softshell turtle (Apalone spinifera spinifera), midland smooth softshell turtle (Apalone mutica mutica), northern fence lizard (Sceloporus undulatus hyacinthinus), ground skink (Scincella lateralis), five-lined skink (Eumeces fasciatus), broadhead skink (Eumeces laticeps), northern coal skink (Eumeces anthracinus anthracinus), European wall lizard (Podarcis muralis), queen snake (Regina septemvittata), Kirtland's snake (Clonophis kirtlandii), northern water snake (Nerodia sipedon sipedon), Lake Erie watersnake (Nerodia sipedon insularum), copperbelly water snake (Nerodia erythrogaster neglecta), northern brown snake (Storeria dekayi dekayi), midland brown snake (Storeria dekayi wrightorum), northern redbelly snake (Storeria occipitomaculata occipitomaculata), eastern garter snake (Thamnophis sirtalis sirtalis), eastern plains garter snake (Thamnophis radix radix), Butler's garter snake (Thamnophis butleri), shorthead garter snake (Thamnophis brachystoma), eastern ribbon snake (Thamnophis sauritus sauritus), northern ribbon snake (Thamnophis sauritus

septentrionalis), eastern hognose snake (Heterodon platirhinos), eastern smooth earth snake (Virginia valeriae valeriae), northern ringneck snake (Diadophis punctatus edwardsii), midwest worm snake (Carphophis amoenus helenae), eastern worm snake (Carphophis amoenus amoenus), black racer (Coluber constrictor constrictor), blue racer (Coluber constrictor foxii), rough green snake (opheodrys aestivus), smooth green snake (opheodrys vernalis vernalis), black rat snake (Elaphe obsoleta obsoleta), eastern fox snake (Elaphe vulpina gloydi), black kingsnake (Lampropeltis getula nigra), eastern milk snake (Lampropeltis triangulum triangulum), northern copperhead (Agkistrodon contortrix mokasen), eastern massasauga (Sistrurus catenatus catenatus), and timber rattlesnake (Crotalus horridus horridus).

(XX) "Amphibians" includes eastern hellbender (Crytpobranchus alleganiensis alleganiensis), mudpuppy (Necturus maculosus maculosus), red-spotted newt (Notophthalmus viridescens viridescens), Jefferson salamander (Ambystoma jeffersonianum), spotted salamander (Ambystoma maculatum), blue-spotted salamander (Ambystoma laterale), smallmouth salamander (Ambystoma texanum), streamside salamander (Ambystoma barbouri), marbled salamander (Ambystoma opacum), eastern tiger salamander (Ambystoma tigrinum tigrinum), northern dusky salamander (Desmognathus fuscus fuscus), mountain dusky salamander (Desmognathus ochrophaeus), redback salamander (Plethodon cinereus), ravine salamander (Plethodon richmondi), northern slimy salamander (Plethodon glutinosus), Wehrle's salamander (Plethodon wehrlei), four-toed salamander (Hemidactylium scutatum), Kentucky spring salamander (Gyrinophilus porphyriticus duryi), northern spring salamander (Gyrinophilus porphyriticus porphyriticus), mud salamander (Pseudotriton montanus), northern red salamander (Pseudotriton ruber ruber),

green salamander (Aneides aeneus), northern two-lined salamander (Eurycea bislineata), longtail salamander (Eurycea longicauda longicauda), cave salamander (Eurycea lucifuga), southern two-lined salamander (Eurycea cirrigera), Fowler's toad (Bufo woodhousii fowleri), American toad (Bufo americanus), eastern spadefoot (Scaphiopus holbrookii), Blanchard's cricket frog (Acris crepitans blanchardi), northern spring peeper (Pseudacris crucifer crucifer), gray treefrog (Hyla versicolor), Cope's gray treefrog (Hyla chrysoscelis), western chorus frog (Pseudacris triseriata triseriata), mountain chorus frog (Pseudacris brachyphona), bullfrog (Rana catesbeiana), green frog (Rana clamitans melanota), northern leopard frog (Rana pipiens), pickerel frog (Rana palustris), southern leopard frog (Rana utricularia), and wood frog (Rana sylvatica).

(YY) "Deer" means white-tailed deer (Oddocoileus virginianus).

(ZZ) "Domestic deer" means nonnative deer that have been legally acquired or their offspring and that are held in private ownership for primarily agricultural purposes.

(AAA) "Migratory game bird" includes waterfowl (Anatidae); doves (Columbidae); cranes (Gruidae); cormorants (Phalacrocoracidea); rails, coots, and gallinules (Rallidae); and woodcock and snipe (Scolopacidae).

(BBB) "Accompany" means to go along with another person while staying within a distance from the person that enables uninterrupted, unaided visual and auditory communication.

(CCC) "All-purpose vehicle" means any vehicle that is designed primarily for cross-country travel on land, water, or land and water and that is steered by wheels, caterpillar

treads, or a combination of wheels and caterpillar treads and includes vehicles that operate on a cushion of air, vehicles commonly known as all-terrain vehicles, all-season vehicles, mini-bikes, and trail bikes.

(DDD) "Wholly enclosed preserve" means an area of land that is surrounded by a fence that is at least six feet in height, unless otherwise specified in division rule, and is constructed of a woven wire mesh, or another enclosure that the division of wildlife may approve, where game birds, game quadrupeds, reptiles, amphibians, or fur-bearing animals are raised and may be sold under the authority of a commercial propagating license or captive white-tailed deer propagation license obtained under section 1533.71 of the Revised Code.

(EEE) "Commercial bird shooting preserve" means an area of land where game birds are released and hunted by shooting as authorized by a commercial bird shooting preserve license obtained under section 1533.72 of the Revised Code.

(FFF) "Wild animal hunting preserve" means an area of land where game, captive white-tailed deer, and nonnative wildlife, other than game birds, are released and hunted as authorized by a wild animal hunting preserve license obtained under section 1533.721 of the Revised Code.

(GGG) "Captive white-tailed deer" means legally acquired deer that are held in private ownership at a facility licensed under section 943.03 or 943.031 of the Revised Code and under section 1533.71 or 1533.721 of the Revised Code.

(HHH) "Wild boar" or "feral swine" means a hog, boar, or pig that appears to be untamed, undomesticated, or in a wild state. "Wild boar" or "feral swine" includes both of the

following:

(1) Except for Sus scrofa domesticus that is legally confined or held in captivity, members of the family suidae, including all of the following:

(a) Wild pig, wild hog, feral hog, and feral pig;

(b) Old world swine, razorbacks, European wild boar, and Russian wild boar, and any hybrids or crossbreeds thereof;

(c) Wild pig, wild hog, feral hog, or feral pig that appear contained in a wild animal hunting preserve licensed under section 1533.721 of the Revised Code or a wholly enclosed preserve for hunting or trapping.

(2) Members of the family tayassuidae, including collared peccary and javelina, and any hybrids or crossbreeds of members of the family tayassuidae.

Sec. 1531.06. (A) The chief of the division of wildlife, with the approval of the director of natural resources, may acquire by gift, lease, purchase, or otherwise lands or surface rights upon lands and waters or surface rights upon waters for wild animals, fish or game management, preservation, propagation, and protection, outdoor and nature activities, public fishing and hunting grounds, and flora and fauna preservation. The chief, with the approval of the director, may receive by grant, devise, bequest, donation, or assignment evidences of indebtedness, the proceeds of which are to be used for the purchase of such lands or surface rights upon lands and waters or surface rights upon waters.

(B)(1) The chief shall adopt rules for the protection of state-owned or leased lands and waters and property under the control of the division of wildlife against wrongful use or

occupancy that will ensure the carrying out of the intent of this section, protect those lands, waters, and property from depredations, and preserve them from molestation, spoilation, destruction, or any improper use or occupancy thereof, including rules with respect to recreational activities and for the government and use of such lands, waters, and property.

(2) The chief may adopt rules benefiting wild animals, fish or game management, preservation, propagation, and protection, outdoor and nature activities, public fishing and hunting grounds, and flora and fauna preservation, and regulating the taking and possession of wild animals on any lands or waters owned or leased or under the division's supervision and control and, for a specified period of years, may prohibit or recall the taking and possession of any wild animal on any portion of such lands or waters. The division clearly shall define and mark the boundaries of the lands and waters owned or leased or under its supervision and control upon which the taking of any wild animal is prohibited.

(C) The chief, with the approval of the director, may acquire by gift, lease, or purchase land for the purpose of establishing state fish hatcheries and game farms and may erect on it buildings or structures that are necessary.

The title to or lease of such lands and waters shall be taken by the chief in the name of the state. The lease or purchase price of all such lands and waters may be paid from hunting and trapping and fishing licenses and any other funds.

(D) To provide more public recreation, stream and lake agreements for public fishing only may be obtained under rules adopted by the chief.

(E) The chief, with the approval of the director, may establish user fees for the use of special public facilities or participation in special activities on lands and waters administered by the division. The special facilities and activities may include hunting or fishing on special designated public lands and waters intensively managed or stocked with artificially propagated game birds or fish, field trial facilities, wildlife nature centers, firearm ranges, boat mooring facilities, camping sites, and other similar special facilities and activities. The chief shall determine whether the user fees are refundable and shall ensure that that information is provided at the time the user fees are paid.

(F) The chief, with the approval of the director, may enter into lease agreements for rental of concessions or other special projects situated on state-owned or leased lands or waters or other property under the division's control. The chief shall set and collect the fees for concession rentals or other special projects; regulate through contracts between the division and concessionaires the sale of tangible objects at concessions or other special projects; and keep a record of all such fee payments showing the amount received, from whom received, and for what purpose the fee was collected.

(G) The chief may sell or donate conservation-related items or items that promote wildlife conservation, including, but not limited to, stamps, pins, badges, books, bulletins, maps, publications, calendars, and any other educational article or artifact pertaining to wild animals; sell confiscated or forfeited items; and sell surplus structures and equipment, and timber or crops from lands owned, administered, leased, or controlled by the division. The chief, with the approval of the director, also may engage in campaigns and special events that

promote wildlife conservation by selling or donating wildlife-related materials, memberships, and other items of promotional value.

(H) The chief may sell, lease, or transfer minerals or mineral rights, with the approval of the director, when the chief and the director determine it to be in the best interest of the state. Upon approval of the director, the chief may make, execute, and deliver contracts, including leases, to mine, drill, or excavate iron ore, stone, coal, salt, and other minerals, other than oil or gas, upon and under lands owned by the state and administered by the division to any person who complies with the terms of such a contract. No such contract shall be valid for more than fifty years from its effective date. Consideration for minerals and mineral rights shall be by rental or royalty basis as prescribed by the chief and payable as prescribed by contract. Moneys collected under this division shall be paid into the state treasury to the credit of the wildlife habitat fund created in section 1531.33 of the Revised Code. Contracts entered into under this division also may provide for consideration for minerals or mineral rights in the form of acquisition of lands as provided under divisions (A) and (C) of this section.

(I) All moneys received under divisions (E), (F), and (G) of this section shall be paid into the state treasury to the credit of a fund that shall be used for the purposes outlined in section 1533.15 of the Revised Code and for the management of other wild animals for their ecological and nonconsumptive recreational value or benefit.

(J) The chief, with the approval of the director, may barter or sell wild animals to other states, state or federal

agencies, and conservation or zoological organizations. Moneys received from the sale of wild animals shall be deposited into the wildlife fund created in section 1531.17 of the Revised Code.

(K) The chief shall adopt rules establishing standards and guidelines for the administration of contraceptive chemicals to noncaptive wild animals. The rules may specify chemical delivery methods and devices and monitoring requirements.

The chief shall establish criteria for the issuance of and shall issue permits for the administration of contraceptive chemicals to noncaptive wild animals. No person shall administer contraceptive chemicals to noncaptive wild animals without a permit issued by the chief.

(L) All fees set by the chief under this section shall be approved by the wildlife council.

(M) Information contained in the wildlife diversity database that is established pursuant to division (B)(2) of this section and section 1531.25 of the Revised Code may be made available to any individual or public or private agency for research, educational, environmental, land management, or other similar purposes that are not detrimental to the conservation of a species or feature. Information regarding sensitive site locations of species that are listed pursuant to section 1531.25 of the Revised Code and of features that are included in the wildlife diversity database is not subject to section 149.43 of the Revised Code if the chief determines that the release of the information could be detrimental to the conservation of a species or feature.

(N) Not later than ~~one year after the effective date of~~

~~this amendment~~ September 29, 2018, the chief shall establish and adopt rules in accordance with Chapter 119. of the Revised Code related to both of the following:

(1) A risk assessment policy for aquatic species that provides for both of the following:

(a) An evaluation of the overall risk of a species based on the best available biological information derived from professionally accepted science and practices in fisheries or aquatic invasive species management;

(b) A determination of whether a species shall be listed as an injurious aquatic invasive species.

(2) A definition of injurious invasive aquatic species.

~~The chief shall adopt rules in accordance with section 1531.10 of the Revised Code necessary to administer division (N) of this section.~~

Sec. 1531.08. In conformity with Section 36 of Article II, Ohio Constitution, providing for the passage of laws for the conservation of the natural resources of the state, including streams, lakes, submerged lands, and swamplands, and in conformity with this chapter and Chapter 1533. of the Revised Code, the chief of the division of wildlife has authority and control in all matters pertaining to the protection, preservation, propagation, possession, and management of wild animals ~~and may adopt rules under section 1531.10 of the Revised Code for the management of wild animals. Notwithstanding division (B) of section 119.03 of the Revised Code, such rules in proposed form shall be filed under this section. Each year there shall be a public fish hearing and public game hearing. The results of the investigation and public hearing shall be~~

~~filed in the office of the chief and shall be kept open for public inspection during all regular office hours. Modifying or rescinding such rules does not require a public hearing.~~

~~The chief may adopt, amend, rescind, and enforce rules throughout the state or in any part or waters thereof as provided by sections 1531.08 to 1531.12 and other sections of the Revised Code. The rules shall be filed in proposed form and available at the central wildlife office and at each of the wildlife district offices, including the Lake Erie unit located at Sandusky, at least thirty days prior to the date of the hearing required by division (D) of section 119.03 of the Revised Code. The rules shall be based upon a public hearing and investigation of the best available biological information derived from professionally accepted practices in wildlife and fisheries management.~~

~~Each rule adopted under this section shall clearly and distinctly describe and set forth the waters or area or part thereof affected by the rule and whether the rule is applicable to all wild animals or only to certain kinds of species designated therein~~.

The chief may ~~regulate~~ adopt rules in accordance with Chapter 119. of the Revised Code related to any of the following:

(A) Taking and possessing wild animals, at any time and place or in any number, quantity, or length, and in any manner, and with such devices as the chief prescribes;

(B) Transportation of such animals or any part thereof;

(C) Buying, selling, offering for sale, or exposing for sale any such animal or part thereof;

(D) Taking, possessing, transporting, buying, selling, offering for sale, and exposing for sale commercial fish or any part thereof, including species taken, length, weight, method of taking, mesh sizes, specifications of nets and other fishing devices, seasons, and time and place of taking.

When the chief increases the size of a fish named in section 1533.63 of the Revised Code, any fish that were legally taken, caught, or possessed prior to the increase may be possessed after the increase if the possession of the fish has been reported to the chief prior to the increase, but on or after the date of the increase the fish may not be sold to a buyer in this state.

Sec. 1531.101. ~~In addition to any other authority conferred on the chief of the division of wildlife, the~~ The chief of the division of wildlife may adopt rules under section 111.15 of the Revised Code that are necessary to establish acceptable methods of taking migratory game birds together with bag limits and designated seasons, areas, and hours for hunting them.

Sec. 1531.40. (A) As used in this section:

(1) "Nuisance wild animal" means a wild animal that interferes with the use or enjoyment of property, is causing a threat to public safety, or may cause damage or harm to a structure, property, or person.

(2) "Commercial nuisance wild animal control operator" means an individual or business that provides nuisance wild animal removal or control services for hire to the owner, the operator, or the owner's or operator's authorized agent of property or a structure.

(B)(1) No person shall provide nuisance wild animal removal or control services for hire without obtaining a license under this section from the chief of the division of wildlife.

(2) An applicant shall pay a license fee of forty dollars for the license. The license shall be renewed annually prior to the first day of March and shall expire on the last day of February. All money collected under this division shall be deposited in the state treasury to the credit of the wildlife fund created in section 1531.17 of the Revised Code.

(3) An individual who is providing nuisance wild animal removal or control services for hire under a license issued under this section is exempt from obtaining a hunting license under section 1533.10 of the Revised Code, a fur taker permit under section 1533.111 of the Revised Code, or a fishing license under section 1533.32 of the Revised Code for the purposes of performing those services.

(4) An individual who is employed by the state, a county, or a municipal corporation and who performs nuisance wild animal removal or control services on land that is owned by the state, county, or municipal corporation, as applicable, as part of the individual's employment is exempt from obtaining a license under this section.

(C)(1) Unless otherwise specified by division rule, a commercial nuisance wild animal control operator and any individual who is employed by an operator that is engaged in activities that are part of or related to the removal or control of nuisance wild animals, including setting or maintaining traps, shall obtain a certification of completion of a course of instruction that complies with rules adopted under division (F) of this section. A certification shall be renewed every three

years.

(2) Except as provided in division (H) of this section, an individual who provides nuisance wild animal removal or control services under a license issued under this section shall comply with division (C)(1) of this section.

(D) An operator that holds a license issued under this section is responsible for the acts of each of the operator's employees in the removal or control of a nuisance wild animal.

(E) If an individual who is licensed under this section uses a pesticide in the removal or control of a nuisance wild animal, the individual shall obtain the appropriate license under Chapter 921. of the Revised Code.

(F) Except as provided in division (H) of this section, the chief shall adopt rules ~~under section 1531.10~~ in accordance with Chapter 119. of the Revised Code establishing all of the following:

(1) Appropriate methods for trapping, capturing, removing, relocating, and controlling nuisance wild animals by operators licensed under this section;

(2) Procedures for issuing, denying, suspending, and revoking a license under this section;

(3) Requirements governing the certification course required by division (C)(1) of this section. The rules shall specify the minimum contents of such a course, including public safety and health, animal life history, the use of nuisance wild animal removal and control devices, and the laws and rules governing those activities. The rules also shall specify who may conduct such a course. The rules shall require that, in order for an operator to receive a certification of completion, the

operator shall pass an examination.

~~(4) Any other requirements and procedures necessary to administer and enforce this section.~~

Rules shall be adopted under division (F) of this section only with the approval of the director of natural resources.

(G) In accordance with Chapter 119. of the Revised Code and with rules adopted under this section, the chief may suspend or revoke a license issued under this section if the chief finds that the holder of the license is violating or has violated this chapter, Chapter 1533. of the Revised Code, or rules adopted under those chapters.

(H) The chief shall issue a license to provide nuisance wild animal removal or control services in accordance with Chapter 4796. of the Revised Code to an applicant if either of the following applies:

(1) The applicant holds a license in another state.

(2) The applicant has satisfactory work experience, a government certification, or a private certification as described in that chapter as an individual who provides nuisance wild animal removal or control services in a state that does not issue that license.

Sec. 1533.081. (A) As used in this section:

(1) "Energy" has the same meaning as in section 1551.01 of the Revised Code.

(2) "Energy facility" means a facility at which energy is produced.

(B) A person operating an energy facility whose operation

may result in the incidental taking of a wild animal shall obtain a permit to do so from the chief of the division of wildlife under this section. ~~The chief shall adopt rules under section 1531.10 of the Revised Code that are necessary to administer this section.~~

Sec. 1533.102. The chief of the division of wildlife may adopt rules ~~under section 1531.10~~ in accordance with Chapter 119. of the Revised Code that the chief considers to be necessary to administer the issuance of apprentice hunting licenses and apprentice fur taker permits under sections 1533.10 and 1533.111 of the Revised Code, respectively, and their use, except that the rules shall not establish fee amounts for those licenses and permits that differ from the fee amounts established in those sections, as applicable.

Unless otherwise provided by division rule, an apprentice license or permit is valid beginning on the first day of March and ending at midnight on the last day of February of the following year.

Any type of apprentice hunting license authorizes the holder of such a license to hunt only while accompanied by another person who is twenty-one years of age or older and who possesses a valid hunting license. Any type of apprentice fur taker permit authorizes the holder of such a permit to hunt or trap fur-bearing animals only while accompanied by another person who is twenty-one years of age or older and who possesses a valid fur taker permit. No holder of a valid hunting license or fur taker permit shall accompany more than two holders of any type of apprentice hunting license or apprentice fur taker permit at one time.

Sec. 1533.103. The chief of the division of wildlife shall

adopt rules ~~under section 1531.10~~ in accordance with Chapter 119. of the Revised Code that are necessary to administer the issuance of permits for the use of all-purpose vehicles or motor vehicles by persons with mobility impairments to hunt wild quadrupeds or game birds in public and private areas. The rules shall establish eligibility requirements, an application procedure, the duration of a permit, and identification and designation of public and private areas in which all-purpose vehicles or motor vehicles may be used by permit holders~~, and any other procedures and requirements governing the permits that the chief determines are necessary~~. The chief shall not charge a fee for the issuance of a permit under this section.

Sec. 1533.11. (A)(1) Except as provided in this section or section 1533.731 of the Revised Code, no person shall hunt deer on lands of another without first obtaining an annual deer permit. Except as provided in this section, no person shall hunt wild turkeys on lands of another without first obtaining an annual wild turkey permit. A deer or wild turkey permit is valid during the hunting license year in which the permit is purchased. Except as provided in rules adopted under division (B) of section 1533.12 of the Revised Code, each applicant for a deer or wild turkey permit shall pay an annual fee for each permit in accordance with the following schedule:

	1	2
A	Deer permit – resident	$30.00
B	Deer permit – nonresident	$210.00
C	Youth deer permit – resident and nonresident	$15.00

D	Senior deer permit – resident	$11.00
E	Wild turkey permit – resident	$30.00
F	Wild turkey permit – nonresident	$37.00
G	Youth wild turkey permit – resident and nonresident	$15.00
H	Senior wild turkey permit – resident	$11.00

(2) As used in division (A)(1) of this section:

(a) "Youth" means an applicant who is under the age of eighteen years at the time of application for a permit.

(b) "Senior" means an applicant who is sixty-five years of age or older at the time of application for a permit.

(3) The money received shall be paid into the state treasury to the credit of the wildlife fund, created in section 1531.17 of the Revised Code, exclusively for the use of the division of wildlife in the acquisition and development of land for deer or wild turkey management, for investigating deer or wild turkey problems, and for the stocking, management, and protection of deer or wild turkey.

(4) Every person, while hunting deer or wild turkey on lands of another, shall carry the person's deer or wild turkey permit and exhibit it to any enforcement officer so requesting. Failure to so carry and exhibit such a permit constitutes an offense under this section.

(5) ~~The chief of the division of wildlife shall adopt any additional rules the chief considers necessary to carry out this section and section 1533.10 of the Revised Code.~~

~~(6)~~ An owner who is a resident of this state or an owner who is exempt from obtaining a hunting license under section 1533.10 of the Revised Code and the spouse, parents, children of any age, and grandchildren under eighteen years of age of the owner of lands in this state may hunt deer or wild turkey thereon without a deer or wild turkey permit. If the owner of land in this state is a limited liability company or a limited liability partnership that consists of three or fewer individual members or partners, as applicable, an individual member or partner who is a resident of this state and the member's or partner's parents, children of any age, and grandchildren under eighteen years of age may hunt deer or wild turkey on the land owned by the limited liability company or limited liability partnership without a deer or wild turkey permit. In addition, if the owner of land in this state is a trust that has a total of three or fewer trustees and beneficiaries, an individual who is a trustee or beneficiary and who is a resident of this state and the individual's parents, children of any age, and grandchildren under eighteen years of age may hunt deer or wild turkey on the land owned by the trust without a deer or wild turkey permit. The tenant and children of the tenant may hunt deer or wild turkey on lands where they reside without a deer or wild turkey permit.

(B) A deer or wild turkey permit is not transferable. No person shall carry a deer or wild turkey permit issued in the name of another person.

(C) The wildlife refunds fund is hereby created in the state treasury. The fund shall consist of money received from application fees for deer permits that are not issued. Money in the fund shall be used to make refunds of such application fees.

(D) If the division establishes a system for the electronic submission of information regarding deer or wild turkey that are taken, the division shall allow the owner and the children of the owner of lands in this state to use the owner's name or address for purposes of submitting that information electronically via that system.

Sec. 1533.111. (A) Except as provided in this section or division (A)(2) of section 1533.12 of the Revised Code, no person shall hunt or trap fur-bearing animals on land of another without first obtaining some type of an annual fur taker permit.

(B)(1) Except as otherwise provided in rules adopted under division (B) of section 1533.12 of the Revised Code, each applicant for a fur taker permit or an apprentice fur taker permit shall pay an annual fee for each annual permit in accordance with the following schedule:

	1	2
A	Fur taker permit	$14.00
B	Apprentice fur taker permit	$14.00
C	Senior fur taker permit – resident only	$7.00
D	Apprentice senior fur taker permit – resident only	$7.00
E	Special youth fur taker permit	$7.00
F	Apprentice youth fur taker permit	$7.00

(2) As used in division (B)(1) of this section:

(a) "Youth" means an applicant who is under the age of

eighteen years at the time of application for a permit.

(b) "Senior" means an applicant who is sixty-five years of age or older at the time of application for a permit.

(C) Each type of fur taker permit is valid during the hunting license year in which the permit is purchased. The money received shall be paid into the state treasury to the credit of the fund established in section 1533.15 of the Revised Code. Apprentice fur taker permits and apprentice youth fur taker permits are subject to the requirements established under section 1533.102 of the Revised Code and rules adopted pursuant to it.

(D)(1) No person shall issue a fur taker permit to an applicant unless it is accompanied by a written explanation of the law in section 1533.17 of the Revised Code and the penalty for its violation, including a description of terms of imprisonment and fines that may be imposed.

(2) No person shall issue a fur taker permit, other than an apprentice fur taker permit or an apprentice youth fur taker permit, to an applicant unless the applicant presents to the agent authorized to issue a fur taker permit a previously held hunting license or trapping or fur taker permit or evidence of having held such a license or permit in content and manner approved by the chief of the division of wildlife, a certificate of completion issued upon completion of a trapper education course approved by the chief, or evidence of equivalent training in content and manner approved by the chief. A previously held apprentice hunting license, apprentice fur taker permit, or apprentice youth fur taker permit does not satisfy the requirement concerning the presentation of a previously held hunting license or fur taker permit or evidence of such a

license or permit.

(3) No person shall issue a fur taker permit, other than an apprentice fur taker permit or an apprentice youth fur taker permit, to any person who fails to present the evidence required by this section. No person shall purchase or obtain a fur taker permit, other than an apprentice fur taker permit or an apprentice youth fur taker permit, without presenting to the issuing agent the evidence required by this section. Issuance of a fur taker permit in violation of the requirements of this section is an offense by both the purchaser of the illegally obtained permit and the clerk or agent who issued the permit. Any fur taker permit issued in violation of this section is void.

(E) The chief, with approval of the wildlife council, shall adopt rules prescribing a trapper education course for first-time fur taker permit buyers, other than buyers of apprentice fur taker permits or apprentice youth fur taker permits, and for volunteer instructors. The course shall consist of subjects that include, but are not limited to, trapping techniques, animal habits and identification, trapping tradition and ethics, the trapper and conservation, the law in section 1533.17 of the Revised Code along with the penalty for its violation, including a description of terms of imprisonment and fines that may be imposed, and other law relating to trapping. Authorized personnel of the division of wildlife or volunteer instructors approved by the chief shall conduct the courses with such frequency and at such locations throughout the state as to reasonably meet the needs of permit applicants. The chief shall issue a certificate of completion to each person who successfully completes the course and passes an examination prescribed by the chief.

(F) Every person, while hunting or trapping fur-bearing animals on lands of another, shall carry the person's fur taker permit with the person's signature written on the permit. Failure to carry such a signed permit constitutes an offense under this section. ~~The chief shall adopt any additional rules the chief considers necessary to carry out this section.~~

(G) An owner who is a resident of this state or an owner who is exempt from obtaining a hunting license under section 1533.10 of the Revised Code and the spouse, parents, children of any age, and grandchildren under eighteen years of age of the owner of lands in this state may hunt or trap fur-bearing animals thereon without a fur taker permit. If the owner of land in this state is a limited liability company or a limited liability partnership that consists of three or fewer individual members or partners, as applicable, an individual member or partner who is a resident of this state and the member's or partner's parents, children of any age, and grandchildren under eighteen years of age may hunt or trap fur-bearing animals on the land owned by the limited liability company or limited liability partnership without a fur taker permit. In addition, if the owner of land in this state is a trust that has a total of three or fewer trustees and beneficiaries, an individual who is a trustee or beneficiary and who is a resident of this state and the individual's parents, children of any age, and grandchildren under eighteen years of age may hunt or trap fur-bearing animals on the land owned by the trust without a fur taker permit. The tenant and children of the tenant may hunt or trap fur-bearing animals on lands where they reside without a fur taker permit.

(H) A fur taker permit is not transferable. No person shall carry a fur taker permit issued in the name of another

person.

(I) A fur taker permit entitles a nonresident to take from this state fur-bearing animals taken and possessed by the nonresident as provided by law or division rule.

Sec. 1533.112. Except as provided in this section or unless otherwise provided by division rule, no person shall hunt ducks, geese, or brant on the lands of another without first obtaining an annual wetlands habitat stamp. The annual fee for the wetlands habitat stamp is fourteen dollars for each stamp unless otherwise provided in rules adopted under division (B) of section 1533.12 of the Revised Code.

Moneys received from the stamp fee shall be paid into the state treasury to the credit of the wetlands habitat fund, which is hereby established. Moneys shall be paid from the fund on the order of the director of natural resources for the following purposes:

(A) Sixty per cent for projects that the division approves for the acquisition, development, management, or preservation of waterfowl areas within the state;

(B) Forty per cent for contribution by the division to an appropriate nonprofit organization for the acquisition, development, management, or preservation of lands and waters within the United States or Canada that provide or will provide habitat for waterfowl with migration routes that cross this state.

No moneys derived from the issuance of wetlands habitat stamps shall be spent for purposes other than those specified by this section. All investment earnings of the fund shall be credited to the fund.

Wetlands habitat stamps shall be furnished by and in a form prescribed by the chief of the division of wildlife and issued by clerks and other agents authorized to issue licenses and permits under section 1533.13 of the Revised Code. The record of stamps kept by the clerks and other agents shall be uniform throughout the state, in such form or manner as the director prescribes, and open at all reasonable hours to the inspection of any person. Unless otherwise provided by rule, each stamp shall remain in force until midnight of the thirty-first day of August next ensuing. Wetlands habitat stamps may be issued in any manner to any person on any date, whether or not that date is within the period in which they are effective.

Every person to whom this section applies, while hunting ducks, geese, or brant, shall carry an unexpired wetlands habitat stamp that is validated by the person's signature written on the stamp in ink and shall exhibit the stamp to any enforcement officer so requesting. No person shall fail to carry and exhibit the person's stamp.

A wetlands habitat stamp is not transferable.

The chief shall establish a procedure to obtain subject matter to be printed on the wetlands habitat stamp and shall use, dispose of, or distribute the subject matter as the chief considers necessary. ~~The chief also shall adopt rules necessary to administer this section.~~

This section does not apply to persons under sixteen years of age nor to persons exempted from procuring a hunting license under section 1533.10 or division (A)(2) of section 1533.12 of the Revised Code.

Sec. 1533.113. If the chief of the division of wildlife

determines that the licenses, permits, and stamps issued under this chapter and Chapter 1531. of the Revised Code are insufficient for proper wildlife management in specific geographic areas or for specific species of wild animals, the chief may adopt rules in accordance with ~~section 1531.10~~ Chapter 119. of the Revised Code doing all of the following:

(A) Providing for the issuance of management permits;

(B) Establishing requirements governing those permits that modify the requirements established under this chapter and Chapter 1531. of the Revised Code governing licenses, permits, and stamps;

(C) Establishing fees for management permits that shall not exceed the fees established under this chapter and Chapter 1531. of the Revised Code for licenses, permits, and stamps.

Rules adopted under division (C) of this section shall be adopted only upon approval of the controlling board and the wildlife council created in section 1531.03 of the Revised Code.

Sec. 1533.12. (A)(1) Except as otherwise provided in division (A)(2) of this section, every person on active duty in the armed forces of the United States who is stationed in this state and who wishes to engage in an activity for which a license, permit, or stamp is required under this chapter first shall obtain the requisite license, permit, or stamp. Such a person is eligible to obtain a resident hunting or fishing license regardless of whether the person qualifies as a resident of this state. To obtain a resident hunting or fishing license, the person shall present a card or other evidence identifying the person as being on active duty in the armed forces of the United States and as being stationed in this state.

(2) Every person on active duty in the armed forces of the United States, while on leave or furlough, may take or catch fish of the kind lawfully permitted to be taken or caught within the state, may hunt any wild bird or wild quadruped lawfully permitted to be hunted within the state, and may trap fur-bearing animals lawfully permitted to be trapped within the state, without procuring a fishing license, a hunting license, a fur taker permit, or a wetlands habitat stamp required by this chapter, provided that the person shall carry on the person when fishing, hunting, or trapping, a card or other evidence identifying the person as being on active duty in the armed forces of the United States, and provided that the person is not otherwise violating any of the hunting, fishing, and trapping laws of this state.

In order to hunt deer or wild turkey, any such person shall obtain a deer or wild turkey permit, as applicable, under section 1533.11 of the Revised Code. Such a person is eligible to obtain a deer or wild turkey permit at the resident rate, regardless of whether the person is a resident of this state. However, the person need not obtain a hunting license in order to obtain such a permit.

(B) The chief of the division of wildlife shall provide by rule adopted ~~under section 1531.10~~ in accordance with Chapter 119. of the Revised Code all of the following:

(1) Every resident of this state with a disability that has been determined by the veterans administration to be permanently and totally disabling, who receives a pension or compensation from the veterans administration, and who received an honorable discharge from the armed forces of the United States, and every veteran to whom the registrar of motor

vehicles has issued a set of license plates under section 4503.41 of the Revised Code, shall be issued a fishing license, hunting license, fur taker permit, deer or wild turkey permit, or wetlands habitat stamp, or any combination of those licenses, permits, and stamp, free of charge on an annual, multi-year, or lifetime basis as determined appropriate by the chief when application is made to the chief in the manner prescribed by and on forms provided by the chief.

(2) Every resident of the state who was born on or before December 31, 1937, shall be issued an annual fishing license, hunting license, fur taker permit, deer or wild turkey permit, or wetlands habitat stamp, or any combination of those licenses, permits, and stamp, free of charge when application is made to the chief in the manner prescribed by and on forms provided by the chief.

(3) Every resident of state or county institutions, charitable institutions, and military homes in this state shall be issued an annual fishing license free of charge when application is made to the chief in the manner prescribed by and on forms provided by the chief.

(4) As used in division (B)(4) of this section, "blind" and "person with a mobility impairment" have the same meanings as in section 955.011 of the Revised Code.

Any person with a mobility impairment or blind person who is a resident of this state and who is unable to engage in fishing without the assistance of another person shall be issued an annual fishing license free of charge when application is made to the chief in the manner prescribed by and on forms provided by the chief. The person who is assisting the person with a mobility impairment or blind person may assist in taking

or catching fish of the kind permitted to be taken or caught without procuring the license required under section 1533.32 of the Revised Code, provided that only one line is used by both persons.

(5) As used in division (B)(5) of this section, "prisoner of war" means any regularly appointed, enrolled, enlisted, or inducted member of the military forces of the United States who was captured, separated, and incarcerated by an enemy of the United States.

Any person who has been a prisoner of war, was honorably discharged from the military forces, and is a resident of this state shall be issued a fishing license, hunting license, fur taker permit, or wetlands habitat stamp, or any combination of those licenses, permits, and stamp, free of charge on an annual, multi-year, or lifetime basis as determined appropriate by the chief when application is made to the chief in the manner prescribed by and on forms provided by the chief.

(C) The chief shall adopt rules pursuant to section 1531.08 of the Revised Code designating not more than two days, which need not be consecutive, in each year as "free sport fishing days" on which any resident may exercise the privileges accorded the holder of a fishing license issued under section 1533.32 of the Revised Code without procuring such a license, provided that the person is not otherwise violating any of the fishing laws of this state.

Sec. 1533.131. The chief of the division of wildlife may sell gift certificates that may be used to obtain, pay for, or purchase licenses, permits, stamps, user fees, and conservation-related items provided for under this chapter or Chapter 1531. of the Revised Code. The chief may adopt rules in accordance

with ~~section 1531.10~~ Chapter 119. of the Revised Code ~~necessary to administer this section, including~~ providing all of the following:

(A) Designating which licenses, permits, stamps, user fees, and conservation-related items may be obtained, paid for, or purchased with a gift certificate;

(B) Prescribing the form for the gift certificates;

(C) Authorizing persons who are designated and authorized under section 1533.13 of the Revised Code to sell licenses and permits under this chapter also to sell gift certificates under this section.

Nothing in this section or rules adopted under it relieves an individual who receives a gift certificate for a hunting license from complying with the requirement established under section 1533.10 of the Revised Code to present, when applying for the license, a previously held hunting license or evidence of having held such a license in content and manner approved by the chief, a certificate of completion issued upon completion of a hunter education and conservation course approved by the chief, or evidence of equivalent training in content and manner approved by the chief.

Nothing in this section or rules adopted under it relieves an individual who receives a gift certificate for a fur taker permit from complying with the requirements established under section 1533.111 of the Revised Code to present, when applying for the permit, a previously held hunting license or trapping or fur taker permit or evidence of having held such a license or permit in content and manner approved by the chief, a certificate of completion issued upon completion of a trapper

education course approved by the chief, or evidence of equivalent training in content and manner approved by the chief.

Sec. 1533.191. Organized field trial clubs or individuals may purchase domestically raised quails, chukar partridges, pheasants, black and mallard ducks, and other game birds from licensed breeders, and may shoot quails, chukar partridges, pheasants, ducks or other game birds and common pigeons that are approved by the division of wildlife at any time during the daylight hours, only on grounds designated by the division of wildlife as "dog training grounds," and only as provided in this section ~~and under such additional regulations as the chief of the division of wildlife may prescribe subject to sections 119.01 to 119.13, inclusive, of the Revised Code, for the purpose of the establishment, operation, and control of such areas as he deems necessary~~. Failure to comply with ~~all rules and regulations established by the chief of the division of wildlife pursuant to~~ this section shall be sufficient cause for refusal to issue a permit or for revocation of an existing permit.

Bands furnished by the division of wildlife shall be used to designate each quail, chukar partridge, pheasant, duck, or other game bird used on such designated grounds and shall be attached to quails, chukar partridges, pheasants, ducks, or other game birds, as prescribed by the chief of the division of wildlife, prior to being released. The division of wildlife shall provide such bands and collect a nominal fee for each band.

If unbanded wild quails, chukar partridges, pheasants, ducks, or other game birds are accidentally shot on such grounds they shall be immediately banded with a band furnished by the

division of wildlife and be replaced by releasing an equal number of live quails, chukar partridges, pheasants, ducks, or other game birds under the supervision of the division of wildlife.

"Designated grounds" are areas of land not exceeding fifty acres where permission from the owner or lessee has first been obtained and the exact location and description of the area together with the name of the club or individual operator has been furnished in writing to the division of wildlife. The division shall formulate and provide suitable signs to be placed around the boundaries of such grounds and a nominal fee shall be collected for such signs. The division may then issue a permit, which shall expire at midnight on the thirtieth day of April following the date of issuance, when it is satisfied that the use thereof is a bona fide use in accordance with the provisions of this section.

Any permit issued to a club or individual under the provisions of this section may be revoked at any time for cause, by the chief of the division of wildlife, and no other permit shall be issued to such club or individual during the period for which such revoked permit was issued.

Each quail, chukar partridge, pheasant, duck, or other game bird or common pigeon taken in violation of this section constitutes a separate offense.

Dog training grounds shall not be used to conduct shooting trials except as provided in section 1533.19 of the Revised Code.

Sec. 1533.32. (A) Except as provided in this section or division (A)(2) or (C) of section 1533.12 of the Revised Code or

as exempted at the discretion of the chief of the division of wildlife, no person, including nonresidents, shall take or catch any fish by angling in any of the waters in the state or engage in fishing in those waters without a license. No person shall take or catch frogs or turtles without a valid fishing license, except as provided in this section. Persons fishing in privately owned ponds, lakes, or reservoirs to or from which fish are not accustomed to migrate are exempt from the license requirements set forth in this section. Persons fishing in privately owned ponds, lakes, or reservoirs that are open to public fishing through an agreement or lease with the division of wildlife shall comply with the license requirements set forth in this section.

(B)(1) Except as otherwise provided in rules adopted under division (B) of section 1533.12 of the Revised Code, each applicant for a fishing license shall pay a fee for each license in accordance with the following schedule:

	1	2
A	Annual fishing license – resident	$24.00
B	Annual fishing license – nonresident that is not a resident of a reciprocal state	$74.00
C	Annual fishing license – nonresident that is a resident of a reciprocal state	$24.00
D	Annual senior fishing license – resident	$9.00
E	Three-day tourist fishing license – nonresident that is not a resident of a	$50.00

	reciprocal state	
F	One-day fishing license - resident	$13.00
G	One-day fishing license - nonresident that is not a resident of a reciprocal state	$26.00
H	One-day fishing license - nonresident that is a resident of a reciprocal state	$13.00

(2) As used in division (B)(1) of this section:

(a) "Reciprocal state" means a state that is a party to an agreement under section 1533.91 of the Revised Code.

(b) "Senior" means an applicant who is sixty-five years of age or older at the time of application for a license.

(3) Any person under the age of sixteen years may take or catch frogs and turtles and take or catch fish by angling without a license.

(C)(1) The chief of the division of wildlife may issue a tourist's license expiring three days from the effective date of the license to a resident of a state that is not a party to an agreement under section 1533.91 of the Revised Code.

(2) The chief shall adopt rules ~~under section 1531.10~~ in accordance with Chapter 119. of the Revised Code providing for the issuance of a one-day fishing license to a resident of this state or of any other state. A one-day fishing license shall allow the holder to take or catch fish by angling in the waters in the state, engage in fishing in those waters, or take or catch frogs or turtles in those waters for one day without obtaining an annual license or a tourist's license under this

section. At the request of a holder of a one-day fishing license who wishes to obtain an annual license, a clerk or agent authorized to issue licenses under section 1533.13 of the Revised Code, not later than the last day on which the one-day license would be valid if it were an annual license, shall credit the amount of the fee paid for the one-day license toward the fee charged for the annual license if so authorized by the chief. The clerk or agent shall issue the annual license upon presentation of the one-day license and payment of a fee in an amount equal to the difference between the fee for the annual license and the fee for the one-day license.

(3) Unless otherwise provided by division rule, each annual license shall begin on the date of issuance and expire a year from the date of issuance.

(4) Unless otherwise provided by division rule, each multi-year license issued in accordance with section 1533.321 of the Revised Code shall begin on the date of issuance and expire three years, five years, or ten years from the date of issuance, as applicable.

(5) No person shall alter a fishing license or possess a fishing license that has been altered.

(6) No person shall procure or attempt to procure a fishing license by fraud, deceit, misrepresentation, or any false statement.

(7) A resident of this state who owns land over, through, upon, or along which any water flows or stands, except where the land is in or borders on state parks or state-owned lakes, together with the members of the immediate families of such owners, may take frogs and turtles and may take or catch fish of

the kind permitted to be taken or caught therefrom without procuring a license provided for in this section. This exemption extends to tenants actually residing upon such lands and to the members of the immediate families of the tenants. A resident of any other state who owns land in this state over, through, upon, or along which any water flows or stands, except where the land is in or borders on state parks or state-owned lakes, and the spouse and children living with the owner, may take frogs and turtles and may take or catch fish of the kind permitted to be taken or caught from that water without obtaining a license under this section, provided that the state of residence of the owner allows residents of this state owning real property in that state, and the spouse and children living with such a property owner, to take frogs and turtles and take or catch fish without a license. If the owner of such land in this state is a limited liability company or a limited liability partnership that consists of three or fewer individual members or partners, as applicable, an individual member or partner who is a resident of this state and the member's or partner's children of any age may take frogs and turtles and may take or catch fish of the kind permitted to be taken or caught therefrom without procuring a license provided for in this section. In addition, if the owner of such land in this state is a trust that has a total of three or fewer trustees and beneficiaries, an individual who is a trustee or beneficiary and who is a resident of this state and the individual's children of any age may take frogs and turtles and may take or catch fish of the kind permitted to be taken or caught therefrom without procuring a license provided for in this section. Residents of state or county institutions, charitable institutions, and military homes in this state may take frogs and turtles without procuring the required license, provided that a member of the institution or home has an

identification card, which shall be carried on that person when fishing.

(8) Every fisher required to be licensed, while fishing or taking or attempting to take frogs or turtles, shall carry the license and exhibit it to any person. Failure to so carry and exhibit the license constitutes an offense under this section.

Sec. 1533.321. (A) The chief of the division of wildlife may issue any of the following:

(1) Multi-year hunting or fishing licenses for three-, five-, or ten-year terms to a resident of this state;

(2) Lifetime hunting or fishing licenses to a resident of this state;

(3) A package consisting of any combination of license, stamp, or permit that the chief is authorized to issue under this chapter.

(B) The chief may adopt rules in accordance with ~~section 1531.10~~ Chapter 119. of the Revised Code governing multi-year hunting and fishing licenses, lifetime hunting and fishing licenses, and combination packages, including rules establishing fees for the combination packages. The chief shall ensure that the price for a combination package is not discounted by more than five per cent of the total fees for the licenses, permits, or stamps that a person would otherwise pay for those licenses, permits, or stamps if the person purchased them individually.

(C)(1) The multi-year and lifetime license fund is hereby created in the state treasury. The fund shall consist of money received from application fees for multi-year and lifetime hunting and fishing licenses.

(2) Each fiscal year, a prorated amount of the money from each multi-year and lifetime license fee shall be transferred from the multi-year and lifetime license fund to the fund into which the applicable single year license fee would otherwise be deposited. The prorated amount shall equal the total amount of the fee charged for the license divided by the number of years the license is valid. The chief shall adopt rules in accordance with ~~section 1531.10~~ Chapter 119. of the Revised Code ~~for the administration of this division, including establishing~~ to establish a system that prorates lifetime license fees for deposit each year into the wildlife fund created in section 1531.17 of the Revised Code.

(3) Each fiscal year, all previous year's investment earnings from the multi-year and lifetime license fund shall be transferred into the wildlife fund created in section 1531.17 of the Revised Code.

(D)(1) Each applicant for a multi-year or lifetime fishing license who is a resident of this state shall pay a fee for each license in accordance with the following schedule:

1	2	
A	Senior 3-year fishing license	$26.00
B	Senior 5-year fishing license	$43.34
C	Senior lifetime fishing license	$81.00
D	3-year fishing license	$69.34
E	5-year fishing license	$115.56

F	10-year fishing license	$231.12
G	Lifetime fishing license	$576.00
H	Youth lifetime fishing license	$414.00

(2) As used in division (D)(1) of this section:

(a) "Youth" means an applicant who is under the age of sixteen years at the time of application for a license.

(b) "Senior" means an applicant who is sixty-five years of age or older at the time of application for a license.

(E)(1) Each applicant for a multi-year or lifetime hunting license who is a resident of this state shall pay a fee for each license in accordance with the following schedule:

1		2
A	Senior 3-year hunting license	$26.00
B	Senior 5-year hunting license	$43.34
C	Senior lifetime hunting license	$81.00
D	Youth 3-year hunting license	$26.00
E	Youth 5-year hunting license	$43.34
F	Youth 10-year hunting license	$86.67
G	Youth lifetime hunting license	$414.00
H	3-year hunting license	$52.00

I	5-year hunting license	$86.67
J	10-year hunting license	$173.34
K	Lifetime hunting license	$432.00

(2) As used in division (E)(1) of this section:

(a) "Youth" means an applicant who is under the age of eighteen years at the time of application for a license.

(b) "Senior" means an applicant who is sixty-five years of age or older at the time of application for a license.

(F) If a person who is issued a multi-year hunting or fishing license or lifetime hunting or fishing license in accordance with division (A) of this section subsequently becomes a nonresident after issuance of the license, the person's license remains valid in this state during its term, regardless of residency status.

Sec. 1533.45. No person shall lay out, pull, lift, draw, set, place, locate, or maintain any net or seine, except a minnow seine, on any of the reefs of the Lake Erie fishing district, except by permission of the chief of the division of wildlife, or lay out, pull, lift, draw, set, place, locate, or maintain any net or seine in any channel or passage lying between any islands or between any island and the mainland in Lake Erie at a greater distance from the shore of the islands or mainland than one-fourth the distance across the channel or passage. No person shall lay out, pull, lift, draw, set, place, locate, or maintain any net or seine, except a minnow seine, in any other area of Lake Erie where that activity is prohibited by the chief in rules adopted for the purposes of this section. The

chief shall adopt rules ~~under section 1531.10~~ in accordance with Chapter 119. of the Revised Code establishing no-fishing zones throughout the Ohio waters of the Lake Erie fishing district.

No net shall be set in less than three feet of water in either of the fishing districts of the state except seines and minnow seines. The division may establish in Sandusky bay, with the consent of the coast guard, any buoys or markers that are necessary for information to the public or as aids to navigation, but nothing in this section shall be construed as permitting the division to place any buoys or markers that will in any way interfere with the use, laying out, or pulling of seines in any part of Sandusky bay as permitted pursuant to this section.

Sec. 1533.55. Except as otherwise provided by division rule, no person shall draw, set, place, locate, or maintain any net, except a seine, within one-fourth of a mile of any reef in Lake Erie between the first day of May and the tenth day of May, both dates inclusive, and within one-fourth mile of any island or the mainland bordering Lake Erie between the fifteenth day of June and the fifteenth day of September, both dates inclusive. No seine or net of any kind except a minnow net shall be placed, located, pulled, or maintained in Sandusky bay from one hour after sunset on Saturday until one hour before sunrise on the following Monday, or from one hour before sunset on the day before Memorial Day, Independence Day, and Labor Day until one hour before sunrise on the day following Memorial Day, Independence Day, and Labor Day. No seine shall be set, placed, located, or maintained in Sandusky bay and the inland fishing district during the nighttime from one hour after sunset until one hour before sunrise. No person shall place, set, locate, pull, or maintain a seine, except a minnow seine, in the Lake

Erie fishing district during the time from one-half hour after sunset until one-half hour before sunrise, except that a licensee may place, set, locate, pull, or maintain a seine other than a minnow seine in any waters of the Lake Erie fishing district other than Sandusky bay at those times, upon prior notification to the chief of the division of wildlife, or the chief's designated agent, during not more than one week per notification. The notification shall be in writing and shall state the licensee's name and address, date and time of fishing, and location of fishing grounds.

No trap net, crib net, fyke net, or other fishing devices, except a seine which has been authorized to be hauled during the nighttime, shall be lifted, pulled, hauled, or set, nor shall fish be removed therefrom, except during the time from one-half hour before sunrise to one-half hour after sunset. Each net or other device set, maintained, placed, pulled, lifted, or hauled in violation of this section constitutes a separate offense.

All fish taken from a net or other fishing device, except a seine that has been authorized to be hauled during the nighttime, shall be brought ashore during the time from one-half hour before sunrise to one-half hour after sunset.

The chief may adopt rules ~~under section 1531.10~~ in accordance with Chapter 119. of the Revised Code providing that no person shall lay out, pull, lift, draw, set, place, locate, or maintain any net or seine at any other place or places in the Lake Erie fishing district and in other waters wherein fishing with nets or seines is licensed by law wherein such a prohibition is needed for the protection, preservation, or propagation of fish.

No person shall leave a commercial fishing device in a

slack manner, or torn parts thereof, in the waters of the Lake Erie fishing district for more than five consecutive days. For the purposes of this section, a fishing device is slack when the anchors to various parts of the device are not holding it in the normal extended manner.

No person shall set or use a net, trotline, or other fishing device, except a trap net or fyke net, in the Lake Erie fishing district without removing all of the fish therefrom at least once during a period of five consecutive days. A trap or fyke net shall have all of the fish removed from the crib or car at least once during such time.

Any net, gill net, or other fishing device set, lifted, pulled, hauled, or used in violation of this chapter or Chapter 1531. of the Revised Code or division rule is a public nuisance and each wildlife officer, or other officer with like authority, may seize and safely keep such a fishing device or part thereof, and the illegal results therefrom, for evidence or forfeiture proceedings unless otherwise ordered by the chief.

No person shall fail to comply with any provision of this section or division rule adopted pursuant to it.

In addition to other penalties provided in the Revised Code, the license of any person who is convicted of two violations of this section that occurred within a twelve-month period is suspended upon the second such conviction by operation of law for a period of five fishing season days immediately following that conviction.

In addition to other penalties provided in the Revised Code, the license of any person who is convicted of three or more violations of this section that occurred within a twelve-

month period is suspended upon the third or subsequent such conviction by operation of law for a period of twenty fishing season days immediately following that conviction.

During any period of suspension, no person shall use or engage in fishing within commercial gear owned, used, or controlled at the time of conviction by the licensee whose license has been suspended.

Sec. 1533.731. (A) No wild animal hunting preserve shall be less than eighty acres in area. Each such preserve shall be in one continuous block of land, except that the block of land may be intersected by highways or roads. No wild animal hunting preserve shall be located within one thousand five hundred feet of another such preserve.

The boundaries of each wild animal hunting preserve shall be clearly defined by posting, at intervals of not more than four hundred feet, with signs prescribed by the division of wildlife. Each wild animal hunting preserve shall be surrounded by a fence at least eight feet in height, with a minimal deviation not to exceed four per cent, that is constructed of a woven wire mesh, or such other enclosure approved by the chief of the division of wildlife.

(B)(1) Except as provided in divisions (B)(2), (3), and (4) of this section, game and nonnative wildlife that have been approved by the chief for such use and that have been legally acquired or propagated under the authority of a propagating license issued under section 1533.71 of the Revised Code or propagated within the confines of a licensed wild animal hunting preserve may be released and hunted within the confines of the licensed wild animal hunting preserve between one-half hour before sunrise and one-half hour after sunset, without regard to

sex, bag limit, or open season, by hunters authorized by the holder of the wild animal hunting preserve license to hunt on those lands. The chief shall establish, by rule, the allowable methods of taking game and nonnative wildlife in a wild animal hunting preserve.

(2) No game or nonnative wildlife on the federal endangered species list established in accordance with the "Endangered Species Act of 1973," 87 Stat. 884, 16 U.S.C.A. 1531, as amended, or the state endangered species list established in rules adopted under section 1531.25 of the Revised Code, no bears native to North America, and no large carnivores of the family Felidae shall be released for hunting or hunted in any wild animal hunting preserve in this state.

(3) No person shall release for hunting or hunt within a wild animal hunting preserve any game or nonnative wildlife not listed in the application for a license for that preserve.

(4) No person shall knowingly release for hunting or hunt wild boar or feral swine in any wild animal hunting preserve in this state.

(C) Unless otherwise specified by division rule, all game and nonnative wildlife released on a wild animal hunting preserve shall be identified with a tag that shall bear upon it a symbol identifying the preserve.

(D) No person shall remove living game or nonnative wildlife from a wild animal hunting preserve unless the game or nonnative wildlife are being transferred to another wild animal hunting preserve in accordance with rules adopted by the director of agriculture under section 943.24 of the Revised Code.

(E) The holder of a wild animal hunting preserve license shall keep a record of all animals that have been released into the preserve. The record shall include all of the following:

(1) The date on which each animal was released into the preserve;

(2) The number of each species of animals;

(3) The number of males and females of each species of animals;

(4) The name and address of each person from whom each animal was obtained.

The licensee shall record in a manner specified by the division the name and address of each person that takes any game or nonnative wildlife from the preserve. The licensee shall maintain those records for a period of two years and make them available for inspection by the division at all reasonable times in conjunction with an active criminal investigation.

(F) In addition to complying with the requirements established by division (E) of this section, the holder of a wild animal hunting preserve license who has captive white-tailed deer in the preserve shall keep a record of all known escapes of those deer, deaths of those deer that were not a result of hunting, and laboratory results for testing for chronic wasting disease of those deer that is required by section 943.21 of the Revised Code and rules adopted under section 943.24 of the Revised Code.

(G) For the purposes of division (B) of section 1533.02 of the Revised Code, the owner or operator of a wild animal hunting preserve shall furnish each person who takes any game or nonnative wildlife from the preserve a certificate bearing a

description of the animal, the date the animal was taken, and the name of the preserve.

(H) The holder of a wild animal hunting preserve license prominently shall display the license at the place of business that is specified in the license.

(I) The chief shall adopt rules ~~under section 1531.10~~ in accordance with Chapter 119. of the Revised Code that provide for the safety of the public and for the protection of the game and nonnative wildlife to be hunted in a wild animal hunting preserve prior to their release in the preserve.

(J) No holder of a wild animal hunting preserve license shall violate this chapter or Chapter 1531. of the Revised Code or any division rule.

(K) This section does not authorize the hunting of game birds in a licensed wild animal hunting preserve unless the licensee also possesses a valid commercial bird shooting preserve license issued under section 1533.72 of the Revised Code for the same land for which the wild animal hunting preserve license was issued.

(L) A person may hunt game and nonnative wildlife in a licensed wild animal hunting preserve without obtaining a hunting license otherwise required by section 1533.10 of the Revised Code or a deer permit otherwise required by section 1533.11 of the Revised Code.

Sec. 1533.74. No game birds, game quadrupeds, or fur-bearing animals held under the authority of a license issued under section 1533.71, 1533.72, or 1533.721 of the Revised Code shall be sold for food unless the carcass of each game bird, game quadruped, or fur-bearing animal is tagged with a suitable

tag or seal approved by the division of wildlife. Game birds, game quadrupeds, and fur-bearing animals so killed and tagged may be possessed, bought, or sold at any time. Common carriers shall receive and transport game birds, game quadrupeds, and fur-bearing animals so tagged, but to every package containing them shall be affixed a tag or label upon which shall be plainly printed or written the name of the person to whom the license was issued, the name of the person to whom they are to be transported, the number of game birds, game quadrupeds, or fur-bearing animals contained in the package, and a statement to the effect that they were killed and tagged in accordance with sections 1533.71 to 1533.79 of the Revised Code.

~~The chief of the division of wildlife may adopt rules under section 1531.10 of the Revised Code necessary to administer this section.~~

This section ~~and rules adopted pursuant to it do~~ does not apply to meat that has been inspected by the department of agriculture under Chapter 918. of the Revised Code and rules adopted under it and that has been marked with an official inspection mark, stamp, or brand pursuant to that inspection.

Sec. 1533.77. (A) Each holder of a noncommercial or commercial propagating license issued under section 1533.71 of the Revised Code shall keep the license prominently displayed at the place of business specified in the license, and shall keep accurate written records that shall include the total number of game birds, game quadrupeds, or fur-bearing animals possessed on the date of application for the license, the number subsequently propagated or acquired by purchase or gift, the number that escaped, the number that were released, the number that died, and the name and address of each person or corporation from whom

or to whom game birds, game quadrupeds, or fur-bearing animals were received as a gift or given as a gift or purchased or sold alive or sold for food, and the date of each transaction. These records shall be kept permanently on the premises stated in the license, and shall be open for inspection by any authorized representative of the division of wildlife at all reasonable times.

(B) Each holder of a captive white-tailed deer propagation license issued under section 1533.71 of the Revised Code shall maintain all records that are required in rules adopted under section 943.24 of the Revised Code. The records shall be kept permanently on the premises stated in the license and shall be open for inspection by any authorized representative of the department of agriculture at all reasonable times and of the division of wildlife at all reasonable times in conjunction with an active criminal investigation.

(C) The holder of a captive white-tailed deer propagation license shall not knowingly falsify any record or tag that is required in rules adopted under section 943.24 of the Revised Code or in rules adopted ~~under section 1531.10~~ in accordance with Chapter 119. of the Revised Code.

Sec. 1533.84. The chief of the division of wildlife, in accordance with ~~section 1531.10~~ Chapter 119. of the Revised Code, shall adopt rules establishing generally accepted standards for shooting ranges. These rules shall be no more stringent than national rifle association standards, and include standards for the limitation and suppression of noise, standards for the hours of operation of shooting ranges of the various types and at the various locations of ranges, and standards for public safety. The rules may include standards for the

reconstruction, enlargement, remodeling, or repair of any structure or facility that is part of a shooting range provided that any local laws creating standards for the reconstruction, enlargement, remodeling, or repair of structures or facilities that apply generally to all structures or facilities and not exclusively or primarily to shooting ranges also shall apply to shooting ranges. Nothing in this section limits the authority of a county or township board of zoning appeals to issue or deny conditional zoning certificates for the reconstruction, enlargement, remodeling, or repair of an existing shooting range pursuant to division (C) of section 303.14 or division (C) of section 519.14 of the Revised Code or the authority of a board of county commissioners or board of township trustees relating to the completion, restoration, reconstruction, extension, or substitution of nonconforming uses pursuant to section 303.19 or 519.19 of the Revised Code. At the time of its establishment, a shooting range shall comply with all existing local ordinances, regulations, or laws.

The chief of the division of wildlife shall consult with a representative sample of persons and organizations that own, operate, or use shooting ranges and persons and organizations that represent counties, townships, municipal corporations, and holders of real property adjoining shooting ranges prior to filing or amending the rules required or authorized under this section in accordance with ~~section 1531.10~~ Chapter 119. of the Revised Code. A draft copy of the chief's proposed rules or any subsequent amendments to the rules shall be submitted to representatives of the above-listed organizations, who shall be given thirty days to review and submit written comments on the draft rules to the chief. The chief shall consider but not be bound by the written comments and, after giving due regard to

the public interests, shall file the initial rules in accordance with ~~section 1531.10~~ Chapter 119. of the Revised Code within one hundred eighty days after ~~the effective date of this section~~ November 21, 1997.

Sec. 1533.88. The chief of the division of wildlife shall adopt the following rules ~~under section 1531.10~~ in accordance with Chapter 119. of the Revised Code~~ as necessary to carry out the purposes of sections 1533.86 to 1533.90 of the Revised Code, including, but not limited to~~:

(A) Establishing a harvest season for wild ginseng;

(B) Establishing a certification program for all legally harvested ginseng, including setting a certification fee;

(C) Establishing a buying season for ginseng that has not yet been certified in accordance with rules adopted under division (B) of this section;

(D) Establishing a registration permit system to authorize ginseng dealers to buy or otherwise acquire or convey ginseng for resale and export;

(E) Establishing a record system to be kept by collectors, dealers, and growers of ginseng;

(F) Developing educational materials about ginseng, ginseng regulation, and the Ohio ginseng management program.

Sec. 1546.04. (A) Except as provided in this section, the chief of the division of parks and watercraft, with the approval of the director of natural resources, shall adopt rules in accordance with Chapter 119. of the Revised Code ~~that are necessary for the proper management of state parks, bodies of water, and the lands adjacent to them under its jurisdiction and~~

~~control, including rules~~that do all of the following:

(1) ~~Governing~~ Govern the opening and closing times and dates of state parks;

(2) ~~Establishing~~ Establish fees and charges for use of facilities in state parks;

(3) ~~Governing~~ Govern camps, camping, and fees for camps and camping;

(4) ~~Governing~~ Govern the application for and rental of, rental fees for, and the use of cottages;

(5) ~~Relating~~ Relate to public use of state park lands~~,~~ and ~~governing~~ govern the operation of motor vehicles, including speeds and parking on those lands;

(6) ~~Governing~~ Govern all advertising within state parks and requirements for the operation of places selling tangible personal property and food service sales on lands and waters under the control of the division. The rules shall establish uniform requirements for those operations and sales.

(7) ~~Providing~~ Provide uniform standards relating to the size, type, location, construction, and maintenance of structures and devices used for fishing or moorage of watercraft, rowboats, sailboats, and powercraft over waters under the control of the division and establishing reasonable fees for the construction of, and annual use permits for, those structures and devices;

(8) ~~Governing~~ Govern state beaches, swimming, inflatable devices, and fees for them;

(9) ~~Governing~~ Govern the removal and disposition of any watercraft, rowboat, sailboat, or powercraft left unattended for

more than seven days on any lands or waters under the control of the division;

(10) ~~Governing~~ Govern the establishment and collection of check collection charges for checks that are returned to the division or dishonored for any reason;

(11) ~~Governing~~ Govern natural resources officers in all parks and bodies of water and lands adjacent to those bodies under the supervision and control of the division as are necessary to the proper management of such parks and bodies of water.

(B) The chief shall adopt rules in accordance with Chapter 119. of the Revised Code establishing a discount program for all persons who are issued a golden buckeye card under section 173.06 of the Revised Code. The discount program shall provide a discount for all park services and rentals, but shall not provide a discount for the purchase of merchandise.

(C) The chief, with the approval of the director of natural resources, may adopt rules in accordance with Chapter 119. of the Revised Code that establish all of the following:

(1) Requirements governing the administration of state parks;

(2) Requirements considered necessary by the chief to supplement the identification, operation, titling, use, registration, and numbering of watercraft or vessels as provided in Chapters 1547. and 1548. of the Revised Code;

(3) Requirements governing the navigation of vessels on waters in this state, including rules regarding steering and sailing, the conduct of vessels in sight of one another or in restricted visibility, lights and shapes of lights used on

vessels, and sound and light signals. As the chief considers necessary, the chief shall ensure that those rules are consistent with and equivalent to the regulations and interpretive rulings governing inland waters adopted or issued under the "Inland Navigational Rules Act of 1980," 94 Stat. 3415, 33 U.S.C. 151, 1604, 1605, 1608, 2001 to 2008, and 2071 to 2073.

(4) Requirements and procedures governing vessel safety inspection checkpoints, including procedures that comply with statutory and constitutional provisions governing searches and seizures by law enforcement officers;

(5) Fees and charges for all of the following:

(a) Boating skill development classes and other educational classes;

(b) Law enforcement services provided at special events when the services are in addition to normal enforcement duties;

(c) Inspections of vessels or motors conducted under Chapter 1547. or Chapter 1548. of the Revised Code.

(D) The chief shall not adopt rules under this section establishing fees or charges for parking a motor vehicle in a state park or for admission to a state park.

(E) If the chief adopts rules under this section for the issuance of a permit for preventing or limiting ice formation on the surface of water that is located in a state park on property owned or managed by the division, the chief shall not levy a fee for the issuance of the permit.

Sec. 1546.10. (A) The chief of the division of parks and watercraft, with the approval of the director of natural

resources, may dispose of any of the following by sale, donation, trade, trade-in, recycling, or any other lawful means, in a manner that will benefit the division:

(1) Standing timber that as a result of wind, storm, pestilence, or any other natural occurrence may present a hazard to life or property, timber that has weakened or fallen on lands under the control and management of the division, or any timber or other forest products that require management to improve wildlife habitat, protect against wildfires, provide access to recreational facilities, implement sustainable forestry practices, or improve the safety, quality, or appearance of any state park area;

(2) Spoils of a dredging operation conducted by the division in waters under the control and management of the division. Prior to the disposition of any spoils under this division, the chief shall notify the director of environmental protection of the chief's intent so that the director may determine if the spoils constitute solid wastes or hazardous waste, as those terms are defined in section 3734.01 of the Revised Code, that must be disposed of in accordance with Chapter 3734. of the Revised Code. If the director does not notify the chief within thirty days after receiving notice of the disposition that the spoils must be disposed of in accordance with Chapter 3734. of the Revised Code, the chief may proceed with the disposition.

(3) Notwithstanding sections 125.12 to 125.14 of the Revised Code, excess supplies and surplus supplies, as those terms are defined in section 125.12 of the Revised Code;

(4) Agricultural products that are grown or raised by the division. As used in this division, "agricultural products"

includes products of apiculture, animal husbandry, or poultry husbandry, field crops, fruits, and vegetables.

(5) Abandoned personal property, including golf balls that are found on property under the control and management of the division.

(B) ~~In accordance with Chapter 119. of the Revised Code, the chief shall adopt, and may amend and rescind, such rules as are necessary to administer this section.~~

~~(C)~~ Except as provided in division ~~(D)~~ (C) of this section, proceeds from the disposition of items under this section shall be deposited in the state treasury to the credit of the state park fund created in section 1546.21 of the Revised Code.

~~(D)~~ (C) The chief of the division of parks and watercraft may enter into a memorandum of understanding with the chief of the division of forestry to allow the division of forestry to administer the sale of timber and forest products on lands that are owned or controlled by the division of parks and watercraft. Proceeds from the sale of timber or forest products pursuant to the memorandum of understanding shall be apportioned as follows:

(1) Seventy-five per cent of the proceeds shall be deposited in the state treasury to the credit of the state park fund.

(2) Twenty-five per cent of the proceeds shall be deposited in the state treasury to the credit of the state forest fund created in section 1503.05 of the Revised Code.

Sec. 1546.18. A natural resources officer appointed under section 1501.24 of the Revised Code may take possession of and hold a boat or other property if such action appears necessary in the course of making an arrest of a person violating sections

~~1546.15 to~~ 1546.16 and 1546.17 of the Revised Code. A natural resources officer shall not be held liable for the loss of or any damage done to such boat or other property taken and held by reason of the failure to comply with such sections, provided ordinary care is exercised in the handling of such property. No person shall take possession of a boat or other property which has been taken in charge by a natural resources officer as provided in this section, until the officer has released same.

Sec. 1546.99. Whoever violates sections ~~1546.15~~ 1546.16 to 1546.20 of the Revised Code or any rules of the division of parks and watercraft shall be fined not less than ten nor more than one hundred dollars.

Sec. 1547.38. No person who lets vessels for hire, or the agent or employee thereof, shall rent, lease, charter, or otherwise permit the use of a vessel, unless the person provides the vessel with the equipment required under sections 1547.25, 1547.251, 1547.26, 1547.27, 1547.28, 1547.29, and 1547.31 of the Revised Code and rules regarding the equipment of vessels, and complies with the requirements of sections 1547.24, 1547.40, 1547.53, 1547.57, and either 1547.54 or 1547.542 of the Revised Code and rules ~~to implement and enforce~~ adopted under those sections.

Sec. 1548.02. The chief of the division of parks and watercraft ~~shall adopt such rules as the chief considers necessary to ensure uniform and orderly operation of this chapter, and the clerks of the courts of common pleas shall conform to those rules. The chief~~ shall receive and file in the chief's office all information forwarded to the chief by the clerks under this chapter and shall maintain indexes covering the state at large for that information. These indexes shall be

for the state at large and not for individual counties.

The chief shall check with the chief's record all duplicate certificates of title received in the chief's office from the clerks.

If it appears that any certificate of title has been improperly issued or is no longer required, the chief shall cancel the certificate. Upon the cancellation of any certificate of title, the chief shall notify the clerk who issued it, and the clerk shall enter the cancellation in the clerk's records. The chief also shall notify the person to whom the certificate of title was issued, as well as any lienholders appearing on it, of the cancellation and, if it is a physical certificate of title, shall demand the surrender of the certificate of title, but the cancellation shall not affect the validity of any lien noted on it. The holder of a physical certificate of title shall return it to the chief immediately.

The clerks shall keep on hand a sufficient supply of blank forms that, except certificate of title and memorandum certificate forms, shall be furnished and distributed without charge to registered manufacturers or dealers or to other persons residing within the county. The clerks shall provide the certificates of title and ribbons, cartridges, or other devices necessary for the operation of the certificate of title processing equipment as determined by the automated title processing board pursuant to division (C) of section 4505.09 of the Revised Code from moneys provided to the clerks from the automated title processing fund in accordance with division (B) of section 4505.09 of the Revised Code. The clerks shall furnish all other supplies from other moneys available to the clerks.

Sec. 1561.03. The chief of the division of mineral

resources management shall enforce and supervise the execution of all laws enacted for the health and safety of persons and the protection and conservation of property within, about, or in connection with mines, mining, and quarries~~, and for such purpose shall adopt, publish, and enforce necessary rules not inconsistent with the mining laws of this state~~.

Sec. 1561.05. The laws relating to mines and mining and duties and functions of the division of mineral resources management shall be administered by the chief of the division of mineral resources management, and through and by deputy mine inspectors. If a vacancy occurs in the office of a deputy mine inspector, it may be filled by the chief, who shall select a person from the eligible list for deputy mine inspectors that is prepared under section 124.24 of the Revised Code.

~~The chief shall adopt, in accordance with Chapter 119. of the Revised Code, all necessary rules for conducting examinations and for governing all other matters requisite to the exercise of the chief's powers and the performance of the chief's duties under this chapter and Chapters 1509., 1563., 1565., and 1567. of the Revised Code relating to mines and mining.~~

Sec. 1561.07. The mining laws of this state shall extend to and govern the operation of clay mines and clay stripping pits in so far as such laws are applicable thereto. The chief of the division of mineral resources management shall adopt, publish, and enforce ~~specific rules particularly applicable to clay mining operations to safeguard life and property in the clay mining industry and to secure safe and sanitary working conditions in such clay mines and clay stripping pits.~~

~~Such~~ the following rules~~ adopted by the chief shall~~

~~provide that~~:

(A) Distances between break-throughs in clay mines shall not exceed one hundred feet, unless permission in special cases is granted by the chief, after maps have been filed with the chief showing the method of working and ventilating the same, if such distances would add to increased safety.

(B) When, in the opinion of the mine foreperson or deputy mine inspector, line brattices or other approved methods of circulation are necessary to deliver sufficient air to the working face, they shall be provided by the owner, operator, or lessee.

(C) Not more than a two days' supply of explosives shall be stored in a clay mine at any one time, and not more than one hundred pounds of explosives shall be stored in any one place at any one time.

(D) Charges of explosives shall be made up at least one hundred feet away from any storage place for explosives.

(E) There shall be no less than two persons in each working place when shots are being lighted.

(F) Misfired shots in clay mines shall be posted on the bulletin board or other conspicuous place available for examination by the workers when shots are fired by other than the loaders.

(G) The use of electric blasting caps shall be encouraged as a safety measure.

The chief, in assigning deputy mine inspectors, shall designate inspectors who have had experience and are especially qualified in clay mining operations, to examine and inspect clay

mining operations and enforce the law relating to such operations.

A person does not need to be certified by the chief as a clay mine foreperson to perform the duties of a foreperson at a clay mine or clay stripping pits. The chief shall not conduct examinations or issue certificates for clay mine forepersons.

Sec. 1567.35. No gasoline, naphtha, kerosene, fuel oil, or gas engine shall be used in a mine, except for operating pumping machinery where electric, compressed air, or steam power is not available or cannot be transmitted to the pump, in which case the owner, lessee, or agent shall observe the following:

(A) Notice shall be given to the chief of the division of mineral resources management before installing, and the installation and operation shall be subject to the chief's approval.

(B) No wood or inflammable material shall be permitted within twenty-five feet of the engine.

(C) The supply tank from which the gasoline, naphtha, kerosene, or fuel oil is fed to the engine shall be of metal, with a suitable screw cap opening, fitted with a gasket, so as to make the tank airtight and prevent the escape of gas into the atmosphere, and the tank kept free from leaks.

(D) The gasoline, naphtha, kerosene, or fuel oil shall be fed from a tank to the carburetor or mixer by metal tubes securely connected so as to reduce the possibility of leaks to a minimum.

(E) The exhaust from the engine shall be conducted by means of metal pipes into the return air current, so that the combustion fumes will not enter the workings of the mine where

the workers are required to work, or be conducted in an upcast shaft or slope not used as a means of ingress or egress or through metal pipes to the surface.

(F) At no time shall more than five gallons of such gasoline, naphtha, kerosene, or fuel oil be taken into the mine, including that in the supply tank.

(G) No gasoline, naphtha, kerosene, or fuel oil shall be taken into the mine except in metallic cans, with a screw cap opening at the top, fitted with a suitable gasket.

(H) No package, can, or supply tank of an engine, containing gasoline, naphtha, kerosene, or fuel oil, shall be opened until ready to make the transfer from the package or can to the supply tank, and in transferring, a funnel shall be used so as to avoid spilling the gasoline, naphtha, kerosene, or fuel oil, and the cap on the supply tank shall be immediately closed.

(I) In no case shall the package, can, or supply tank be opened when an open light or other thing containing fire is within twenty-five feet of the same, provided that subject to the approval of the chief, the restrictions in the use of fuel oil in a mine shall not apply to mobile or portable machinery, if the mobile or portable machinery is used in a clay, limestone, shale, or any other mine not a coal mine.

Nothing in this section shall be construed to prohibit or impede the use of diesel equipment in an underground coal mine, provided that the chief approves the use of the equipment in underground mines and the equipment satisfies requirements established in rules adopted by the chief ~~under section 1513.02 of the Revised Code~~ governing the use of diesel equipment in underground mines.

No owner, lessee, agent, or operator of a mine shall violate this section.

Sec. 1571.18. After June 30, 2010, and not later than the thirty-first day of March each year, the owner of a well that is used for gas storage or of a well that is used to monitor a gas storage reservoir and that is located in a reservoir protective area shall pay to the chief of the division of oil and gas resources management a gas storage well regulatory fee of one hundred twenty-five dollars for each well that the owner owned as of the thirty-first day of December of the previous year for the purposes of administering this chapter and Chapter 1509. of the Revised Code. The chief may prescribe and provide a form for the collection of the fee imposed by this section ~~and may adopt rules in accordance with Chapter 119. of the Revised Code that are necessary for the administration of this section~~.

All money collected under this section shall be deposited in the state treasury to the credit of the oil and gas well fund created in section 1509.02 of the Revised Code.

Sec. 1707.20. (A)(1) The division of securities may adopt, amend, and rescind such ~~rules,~~ forms~~,~~ and orders as are necessary to carry out sections 1707.01 to 1707.50 of the Revised Code, including ~~rules and~~ forms governing registration statements, applications, and reports~~, and defining any terms, whether or not used in sections 1707.01 to 1707.50 of the Revised Code, insofar as the definitions are not inconsistent with these sections~~. For the purpose of ~~rules and~~ forms, the division may classify securities, persons, and matters within its jurisdiction, and prescribe different requirements for different classes.

(2) Notwithstanding sections 121.71 to 121.75 of the

Revised Code, the division may incorporate by reference into its rules any statute enacted by the United States congress or any rule, regulation, or form promulgated by the securities and exchange commission, or by another federal agency, in a manner that also incorporates all future amendments to the statute, rule, regulation, or form.

(B) No rule, form, or order may be made, amended, or rescinded unless the division finds that the action is necessary or appropriate in the public interest or for the protection of investors, clients, prospective clients, state retirement systems, or the workers' compensation system and consistent with the purposes fairly intended by the policy and provisions of sections 1707.01 to 1707.50 of the Revised Code. In prescribing rules and forms and in otherwise administering sections 1707.01 to 1707.50 of the Revised Code, the division may cooperate with the securities administrators of the other states and the securities and exchange commission with a view of effectuating the policy of this section to achieve maximum uniformity in the form and content of registration statements, applications, reports, and overall securities regulation wherever practicable.

(C) The division may by rule or order prescribe:

(1) The form and content of financial statements required under sections 1707.01 to 1707.50 of the Revised Code;

(2) The circumstances under which consolidated financial statements will be filed;

(3) Whether any required financial statements shall be certified by independent or certified public accountants. All financial statements shall be prepared in accordance with generally accepted accounting practices.

(D) All rules and forms of the division shall be published; and in addition to fulfilling the requirements of Chapter 119. of the Revised Code, the division shall prescribe, and shall publish and make available its rules regarding the sale of securities, the administration of sections 1707.01 to 1707.50 of the Revised Code, and the procedure and practice before the division.

(E)(1) No provision of sections 1707.01 to 1707.50 of the Revised Code imposing any liability applies to any act done or omitted in good faith in conformity with any rule, form, or order of the division of securities, notwithstanding that the rule, form, or order may later be amended or rescinded or be determined by judicial or other authority to be invalid for any reason, except that the issuance of an order granting effectiveness to a registration under section 1707.09 or 1707.091 of the Revised Code for the purposes of this division shall not be deemed an order other than as the establishment of the fact of registration.

(2) No provision of sections 1707.01 to 1707.50 of the Revised Code imposing any liability, penalty, sanction, or disqualification applies to any act done or omitted in good faith in conformity with either of the following:

(a) Any provision of sections 1707.01 to 1707.50 of the Revised Code that incorporates by reference a federal statute, rule, regulation, or form;

(b) Any rule, form, or order of the division that incorporates by reference a federal statute, rule, regulation, or form.

Division (E)(2) of this section applies notwithstanding

that the incorporation by reference, or any application of the incorporated provision, is later determined by judicial or other authority to be unconstitutional or invalid for any reason.

Sec. 1707.471. (A) A person that is eligible for a restitution assistance award under section 1707.47 of the Revised Code may submit an application for restitution assistance to the division in a manner and form prescribed by the division of securities.

(B) To receive a restitution assistance award, the claimant shall submit an application to the division within one hundred eighty days after the date of the final order. The division may grant an extension for good cause shown by the claimant. In no case shall the division accept an application that is received more than two years after the date of the final order.

(C) The maximum award from the Ohio investor recovery fund created in section 1707.47 of the Revised Code for each claimant shall be the lesser of twenty-five thousand dollars or twenty-five per cent of the amount of monetary injury suffered by the victim as specified in the final order.

(D) The state is subrogated to the rights of the person awarded restitution assistance under section 1707.47 of the Revised Code to the extent of the award. The subrogation rights are against the person that committed the securities violation or a person liable for the pecuniary loss.

(E) The state may obtain a lien on the restitution assistance award in a separation action brought by the state or through state intervention in an action brought by or on behalf of the victim.

(F)(1) No claimant shall knowingly file or cause to be filed an application for restitution assistance or documents supporting the application that contain false, incomplete, or misleading information in any material respect.

(2) A claimant that violates division (F)(1) of this section shall forfeit all restitution assistance provided from the fund and shall be fined not more than ten thousand dollars by the division.

(3) Notwithstanding section 1707.28 of the Revised Code, a proceeding to determine whether a violation of division (F)(1) of this section occurred shall be commenced not later than two years after the date on which the division discovered the violation or through reasonable diligence should have discovered the violation, whichever is earlier.

(G) The division shall adopt rules ~~as necessary to implement sections 1707.47 and 1707.471 of the Revised Code, including rules~~ governing the processes for both of the following:

(1) Reviewing applications for restitution assistance awards;

(2) Suspending awards or making a prorated payment of awards when the fund balance approaches or reaches a balance below two hundred fifty thousand dollars.

Sec. 1711.06. (A) Prior to the first day of December of each year, the director of agriculture shall set a date in January of the following year, on which the director shall meet with the presidents or other authorized delegates of agricultural societies which conduct fairs in compliance with this chapter and regulations of the department of agriculture.

At such meeting the director shall consult with such presidents and delegates about the wants, prospects, and conditions of agricultural societies throughout the state.

(B) Each society shall prepare and deliver an annual report to the director at or before each meeting required by division (A) of this section.

(C) The director shall do both of the following:

(1) Notify the president and the secretary of each society of the date of the annual meeting at least thirty days prior to the meeting;

(2) Adopt rules in accordance with Chapter 119. of the Revised Code that provide for ~~both of the following:~~

~~(a) A~~ a uniform method for the election of the directors and officers of all agricultural societies that receive any support out of the state or county treasuries, except the date for holding the election~~;~~

~~(b) Any other rules that the director determines are necessary to carry out this chapter.~~

~~(D) Except for section 1711.11 of the Revised Code, references made in this chapter to rules adopted by the director mean rules adopted under division (C) of this section~~.

Sec. 1711.11. (A) No person shall operate any concession at any fair or exposition conducted by a county or independent agricultural society or by the Ohio expositions commission without first obtaining from the director of agriculture a license to do so under division (B) of this section, nor shall any officer, agent, or employee of a county or independent agricultural society or of the Ohio expositions commission grant

a privilege or concession to any person to do so, unless the person holds a license.

For the purposes of this section, "concession" means any show, amusement other than an amusement ride as defined in section 993.01 of the Revised Code, game, or novelty stand operation at a fair or exposition, but does not include food or drink operations.

(B) The director shall issue a license only upon a written application containing a detailed description of the concession. The director shall prepare and furnish blank applications for licenses.

(C) The director shall not issue a license until the applicant has paid a fee of seventy dollars to the director. However, the director shall not collect a fee from a nonprofit organization that is recorded as such by the secretary of state or with the internal revenue service. The director shall pay the fee into the state treasury to the credit of the amusement ride inspection fund established by section 993.04 of the Revised Code.

(D) The director shall include on a license issued under this section a detailed description of the concession licensed. A license expires on the thirty-first day of December following the date of issue. A licensee shall keep the license in a conspicuous place where the licensee's concession is in operation.

(E)(1) The director shall employ and provide training for a chief inspector and additional inspectors and employees as necessary to administer and enforce this section. The director may appoint or contract with other persons to perform

inspections of concessions, provided that the persons meet the qualifications for inspectors established by rules adopted under division (G) of this section and are not owners or employees of owners of any concession subject to inspection under this section. No person shall inspect a concession who, within six months prior to the date of inspection, was an employee of the owner of the concession.

(2) Before the director contracts with other persons to inspect concessions, the director shall seek the advice of the advisory council on amusement ride safety on whether to contract with those persons. The advice is not binding upon the director. After receiving the advice of the council, the director may proceed to contract for amusement ride inspectors and award the contract to the lowest responsive and responsible bidder in accordance with section 9.312 of the Revised Code. In order to determine the lowest responsive and responsible bid, the director, with the advice of the council, shall adopt rules governing the terms of the contract between the department of agriculture and the inspector. The rules shall prescribe the training and work experience required of an inspector, any insurance or bonds required of an inspector, and all the services the inspector will be required to perform on behalf of the department in an efficient professional manner.

(F) This section does not require the officers of any county or independent agricultural society or of the Ohio expositions commission to grant any privilege or concession to any licensee.

(G) The director shall enforce this section and, in accordance with Chapter 119. of the Revised Code, adopt ~~all~~ rules ~~that are necessary for its enforcement~~for the

qualifications of inspectors employed and trained under division (E) of this section. If the director finds that this section has been violated or that the licensee has been dishonest or has been fraudulent in dealings with the public, the director, in accordance with Chapter 119. of the Revised Code, shall revoke the licensee's license or fine the licensee not more than one thousand dollars, or both. The director, for a period not exceeding two years from the date of revocation, may refuse to issue another license to a person for a concession for which the person's license has been revoked. Notwithstanding section 119.12 of the Revised Code, all appeals from any fine by, or order of, the director shall be to the court of common pleas of the county where the place of business of the person is located or to the common pleas court of the county in which the person is a resident or in which the concession is located.

(H) Any person holding a license issued under this section who permits or tolerates at any place on the fairground where the person's concession is in operation, any immoral show, lottery device, game of chance, or gambling of any kind, including pool selling and paddle wheels, or who violates the terms of the license issued to the person, shall forfeit the license, and the director shall not issue any other license to the person until after a period of two years from the forfeiture. For the purposes of this division, "lottery device," "game of chance," and "gambling of any kind" do not include the sale of lottery tickets by the state lottery commission pursuant to Chapter 3770. of the Revised Code at the state fairground during the state fair. For the purposes of this section and section 1711.09 of the Revised Code, contests, games, tournaments, and other activities, the outcome of which is predominantly determined by the skill of the contestants,

participants, or players, whether or not the contestants, participants, or players pay a price for the opportunity to win a prize, do not constitute a game of chance or gambling within the meaning, purpose, and intent of this section and section 1711.09 of the Revised Code or sections 2915.01 to 2915.04 of the Revised Code. The foregoing definition does not apply where the contest, game, tournament, or other activity contains or includes any mechanical or physical device which directly or indirectly impedes, impairs, or thwarts the skill of the contestant, participant, or player.

Sec. 1733.22. (A) A credit union may provide, at its expense, a director or committee member reasonable health, accident, and related types of personal insurance protection. A director or committee member is entitled, subject to rules adopted under section 1733.411 of the Revised Code and when so authorized by the board of directors, to reimbursement for the director's or committee member's expenses incurred in connection with the business of the credit union.

(B) A credit union may provide any of the following to its directors and supervisory audit committee members:

(1) Reasonable compensation for their service as directors or supervisory audit committee members;

(2) Gifts of minimal value;

(3) Insurance coverage or other benefits that are available to employees generally;

(4) Reimbursement for reasonable expenses incurred on behalf of themselves and their spouses in the performance of their duties as directors or supervisory audit committee members.

~~(C) The superintendent of financial institutions may, in accordance with Chapter 119. of the Revised Code, adopt any rule necessary for the implementation of this section.~~

Sec. 1733.41. In addition to the specific authority given the superintendent of credit unions by other sections of this chapter, the superintendent may from time to time make, issue, amend, and rescind ~~such rules and orders as he may consider necessary or appropriate to further the purposes of this chapter or to protect the public interest, including~~ rules defining accounting, technical, trade, and other terms, ~~whether or not used in this chapter,~~ insofar as such rules do not contradict this chapter. Without limiting ~~his~~the superintendent's power under this chapter, the superintendent may specify terms to be included in the articles or code of regulations of credit unions, requirements for notice of meetings of members, required and prohibited practices related to solicitation of proxies, limitations on credit unions' borrowing and lending practices, including loans to credit union employees, the form of and practices used in accounting for credit unions, including the form of financial statements and other records kept, the character of investments credit unions may make, and the operation of a credit union in dissolving or liquidating or petitioning for reorganization. ~~The superintendent shall not prescribe uniform rules or provisions in regulations without due regard for the differences among credit unions. For the purpose of his rules, the superintendent may classify credit unions, persons, and matters within his jurisdiction and prescribed different requirements for different classes of credit unions, persons, or matters.~~ Rules promulgated pursuant to this section shall be made subject to sections 119.01 to 119.13 of the Revised Code.

Sec. 1739.05. (A) A multiple employer welfare arrangement that is created pursuant to sections 1739.01 to 1739.22 of the Revised Code and that operates a group self-insurance program may be established only if any of the following applies:

(1) The arrangement has and maintains a minimum enrollment of three hundred employees of two or more employers.

(2) The arrangement has and maintains a minimum enrollment of three hundred self-employed individuals.

(3) The arrangement has and maintains a minimum enrollment of three hundred employees or self-employed individuals in any combination of divisions (A)(1) and (2) of this section.

(B) A multiple employer welfare arrangement that is created pursuant to sections 1739.01 to 1739.22 of the Revised Code and that operates a group self-insurance program shall comply with all laws applicable to self-funded programs in this state, including sections 3901.04, 3901.041, 3901.19 to 3901.26, 3901.38, 3901.381 to 3901.3814, 3901.40, 3901.45, 3901.46, 3901.491, 3902.01 to 3902.14, 3923.041, 3923.24, 3923.282, 3923.30, 3923.301, 3923.38, 3923.602, 3923.63, 3923.80, 3923.84, 3923.85, 3923.851, 3923.86, 3923.87, 3923.89, 3923.90, 3924.031, 3924.032, and 3924.27 of the Revised Code.

(C) A multiple employer welfare arrangement created pursuant to sections 1739.01 to 1739.22 of the Revised Code shall solicit enrollments only through agents or solicitors licensed pursuant to Chapter 3905. of the Revised Code to sell or solicit sickness and accident insurance.

(D) A multiple employer welfare arrangement created pursuant to sections 1739.01 to 1739.22 of the Revised Code shall provide benefits only to individuals who are members,

employees of members, or the dependents of members or employees, or are eligible for continuation of coverage under section 1751.53 or 3923.38 of the Revised Code or under Title X of the "Consolidated Omnibus Budget Reconciliation Act of 1985," 100 Stat. 227, 29 U.S.C.A. 1161, as amended.

(E) A multiple employer welfare arrangement created pursuant to sections 1739.01 to 1739.22 of the Revised Code is subject to, and shall comply with, sections 3903.81 to ~~3903.93~~ 3903.92 of the Revised Code in the same manner as other life or health insurers, as defined in section 3903.81 of the Revised Code.

Sec. 1739.18. (A) A multiple employer welfare arrangement operating a group self-insurance program shall contract only with a third-party administrator that meets all of the following conditions:

~~(A)~~ (1) The third-party administrator has and maintains a fidelity bond as required by the "Employee Retirement Income Security Act of 1974," 88 Stat. 829, 29 U.S.C.A. 1001, as amended.

~~(B)~~ (2) The third-party administrator has and maintains errors and omissions coverage or other appropriate liability insurance in an amount set forth in rules adopted by the superintendent. The arrangement shall file with the superintendent a certificate of the insurer or other appropriate evidence of such coverage or insurance.

~~(C)~~ (3) The third-party administrator maintains an office in this state for the payment, processing, adjustment, and settlement of the claims of the arrangement.

(B) The superintendent of insurance shall adopt rules

setting the amount of errors and omissions coverage or other appropriate liability insurance required under division (A)(2) of this section.

Sec. 1751.72. (A) As used in this section:

(1) "Chronic condition" means a medical condition that has persisted after reasonable efforts have been made to relieve or cure its cause and has continued, either continuously or episodically, for longer than six continuous months.

(2) "Clinical peer" means a health care practitioner in the same, or in a similar, specialty that typically manages the medical condition, procedure, or treatment under review.

(3) "Covered person" means a person receiving coverage for health services under a policy, contract, or agreement issued by a health insuring corporation.

(4) "Emergency services" has the same meaning as in section 1753.28 of the Revised Code.

(5) "Fraudulent or materially incorrect information" means any type of intentional deception or misrepresentation made by a person with the knowledge that the deception could result in some unauthorized benefit to the covered person in question.

(6) "Health care practitioner" has the same meaning as in section 3701.74 of the Revised Code.

(7) "NCPDP SCRIPT standard" means the national council for prescription drug programs SCRIPT standard version 201310 or the most recent standard adopted by the the United States department of health and human services.

(8) "Prior authorization requirement" means any practice implemented by a health insuring corporation in which coverage

of a health care service, device, or drug is dependent upon a covered person or a health care practitioner obtaining approval from the health insuring corporation prior to the service, device, or drug being performed, received, or prescribed, as applicable. "Prior authorization" includes prospective or utilization review procedures conducted prior to providing a health care service, device, or drug.

(9) "Urgent care services" means a medical care or other service for a condition where application of the timeframe for making routine or non-life threatening care determinations is either of the following:

(a) Could seriously jeopardize the life, health, or safety of the patient or others due to the patient's psychological state;

(b) In the opinion of a practitioner with knowledge of the patient's medical or behavioral condition, would subject the patient to adverse health consequences without the care or treatment that is the subject of the request.

(10) "Utilization review" and "utilization review organization" have the same meanings as in section 1751.77 of the Revised Code.

(B) If a policy, contract, or agreement issued by a health insuring corporation contains a prior authorization requirement, then all of the following apply:

(1) On or before January 1, 2018, the health insuring corporation shall permit health care practitioners to access the prior authorization form through the applicable electronic software system.

(2)(a) For policies issued on or after January 1, 2018,

the health insuring corporation or other payer acting on behalf of the health insuring corporation, shall accept prior authorization requests through a secure electronic transmission.

(b) For policies issued on or after January 1, 2018, the health insuring corporation, a pharmacy benefit manager responsible for handling prior authorization requests, or other payer acting on behalf of the health insuring corporation shall accept and respond to prior prescription benefit authorization requests through a secure electronic transmission using NCPDP SCRIPT standard ePA transactions, and for prior medical benefit authorization requests through a secure electronic transmission using standards established by the council for affordable quality health care on operating rules for information exchange or its successor.

(c) For purposes of division (B)(2) of this section, neither of the following shall be considered a secure electronic transmission:

(i) A facsimile;

(ii) A proprietary payer portal for prescription drug requests that does not use NCPDP SCRIPT standard.

(3) For policies issued on or after January 1, 2018, a health care practitioner and health insuring corporation may enter into a contractual arrangement under which the health insuring corporation agrees to process prior authorization requests that are not submitted electronically because of the financial hardship that electronic submission of prior authorization requests would create for the health care practitioner or if internet connectivity is limited or unavailable where the health care practitioner is located.

(4)(a) For policies issued on or after January 1, 2018, if the health care practitioner submits the request for prior authorization as described in divisions (B)(1) and (2) of this section, the health insuring corporation shall respond to all prior authorization requests within forty-eight hours for urgent care services, or ten calendar days for any prior authorization request that is not for an urgent care service, of the time the request is received by the health insuring corporation. Division (B)(4) of this section does not apply to emergency services.

(b) The response required under division (B)(4)(a) of this section shall indicate whether the request is approved or denied. If the prior authorization is denied, the health insuring corporation shall provide the specific reason for the denial.

(c) If the prior authorization request is incomplete, the health insuring corporation shall indicate the specific additional information that is required to process the request.

(5)(a) For policies issued on or after January 1, 2018, if a health care practitioner submits a prior authorization request as described in divisions (B)(1) and (2) of this section, the health insuring corporation shall provide an electronic receipt to the health care practitioner acknowledging that the prior authorization request was received.

(b) For policies issued on or after January 1, 2018, if a health insuring corporation requests additional information that is required to process a prior authorization request as described in division (B)(4)(c) of this section, the health care practitioner shall provide an electronic receipt to the health insuring corporation acknowledging that the request for additional information was received.

(6)(a) For policies issued on or after January 1, 2017, for a prior approval related to a chronic condition, the health insuring corporation shall honor a prior authorization approval for an approved drug for the lesser of the following from the date of the approval:

(i) Twelve months;

(ii) The last day of the covered person's eligibility under the policy, contract, or agreement.

(b) The duration of all other prior authorization approvals shall be dictated by the policy, contract, or agreement issued by the health insuring corporation.

(c) A health insuring corporation may, in relation to a prior approval under division (B)(6)(a) of this section, require a health care practitioner to submit information to the health insuring corporation indicating that the patient's chronic condition has not changed.

(i) The request for information by the health insuring corporation and the response by the health care practitioner shall be in an electronic format, which may be by electronic mail or other electronic communication.

(ii) The frequency of the submission of requested information shall be consistent with medical or scientific evidence as defined in section 3922.01 of the Revised Code, but shall not be required more frequently than quarterly.

(iii) If the health care practitioner does not respond within five calendar days from the date the request was received, the health insuring corporation may terminate the twelve-month approval.

(d) A twelve-month approval provided under division (B)(6)(a) of this section is no longer valid and automatically terminates if there are changes to federal or state laws or federal regulatory guidance or compliance information prescribing that the drug in question is no longer approved or safe for the intended purpose.

(e) A twelve-month approval provided under division (B)(6)(a) of this section does not apply to and is not required for any of the following:

(i) Medications that are prescribed for a non-maintenance condition;

(ii) Medications that have a typical treatment of less than one year;

(iii) Medications that require an initial trial period to determine effectiveness and tolerability, beyond which a one-year, or greater, prior authorization period will be given;

(iv) Medications where there is medical or scientific evidence as defined in section 3922.01 of the Revised Code that do not support a twelve-month prior approval;

(v) Medications that are a schedule I or II controlled substance or any opioid analgesic or benzodiazepine, as defined in section 3719.01 of the Revised Code;

(vi) Medications that are not prescribed by an in-network provider as part of a care management program.

(7) For policies issued on or after January 1, 2017, a health insuring corporation may, but is not required to, provide the twelve-month approval prescribed in division (B)(6)(a) of this section for a prescription drug that meets either of the

following:

(a) The drug is prescribed or administered to treat a rare medical condition and pursuant to medical or scientific evidence as defined in section 3922.01 of the Revised Code.

(b) Medications that are controlled substances not included in division (B)(6)(e)(v) of this section.

For purposes of division (B)(7) of this section, "rare medical condition" means any disease or condition that affects fewer than two hundred thousand individuals in the United States.

(8) Nothing in division (B)(6) or (7) of this section prohibits the substitution, in accordance with section 4729.38 of the Revised Code, of any drug that has received a twelve-month approval under division (B)(6)(a) of this section when there is a release of either of the following:

(a) A United States food and drug administration approved comparable brand product or a generic counterpart of a brand product that is listed as therapeutically equivalent in the United States food and drug administration's publication titled approved drug products with therapeutic equivalence evaluations;

(b) An interchangeable biological product, as defined in section 3715.01 of the Revised Code.

(9)(a) For policies issued on or after January 1, 2017, upon written request, a health insuring corporation shall permit a retrospective review for a claim that is submitted for a service where prior authorization was required but not obtained if the service in question meets all of the following:

(i) The service is directly related to another service for

which prior approval has already been obtained and that has already been performed.

(ii) The new service was not known to be needed at the time the original prior authorized service was performed.

(iii) The need for the new service was revealed at the time the original authorized service was performed.

(b) Once the written request and all necessary information is received, the health insuring corporation shall review the claim for coverage and medical necessity. The health insuring corporation shall not deny a claim for such a new service based solely on the fact that a prior authorization approval was not received for the new service in question.

(10)(a) For policies issued on or after January 1, 2017, the health insuring corporation shall disclose to all participating health care practitioners any new prior authorization requirement at least thirty days prior to the effective date of the new requirement.

(b) The notice may be sent via electronic mail or standard mail and shall be conspicuously entitled "Notice of Changes to Prior Authorization Requirements." The notice is not required to contain a complete listing of all changes made to the prior authorization requirements, but shall include specific information on where the health care practitioner may locate the information on the health insuring corporation's web site or, if applicable, the health insuring corporation's portal.

(c) All participating health care practitioners shall promptly notify the health insuring corporation of any changes to the health care practitioner's electronic mail or standard mail address.

(11)(a) For policies issued on or after January 1, 2017, the health insuring corporation shall make available to all participating health care practitioners on its web site or provider portal a listing of its prior authorization requirements, including specific information or documentation that a practitioner must submit in order for the prior authorization request to be considered complete.

(b) The health insuring corporation shall make available on its web site information about the policies, contracts, or agreements offered by the health insuring corporation that clearly identifies specific services, drugs, or devices to which a prior authorization requirement exists.

(12) For policies issued on or after January 1, 2018, the health insuring corporation shall establish a streamlined appeal process relating to adverse prior authorization determinations that shall include all of the following:

(a) For urgent care services, the appeal shall be considered within forty-eight hours after the health insuring corporation receives the appeal.

(b) For all other matters, the appeal shall be considered within ten calendar days after the health insuring corporation receives the appeal.

(c) The appeal shall be between the health care practitioner requesting the service in question and a clinical peer.

(d) If the appeal does not resolve the disagreement, either the covered person or an authorized representative as defined in section 3922.01 of the Revised Code may request an external review under Chapter 3922. of the Revised Code to the

extent Chapter 3922. of the Revised Code is applicable.

(C) For policies issued on or after January 1, 2017, except in cases of fraudulent or materially incorrect information, a health insuring corporation shall not retroactively deny a prior authorization for a health care service, drug, or device when all of the following are met:

(1) The health care practitioner submits a prior authorization request to the health insuring corporation for a health care service, drug, or device.

(2) The health insuring corporation approves the prior authorization request after determining that all of the following are true:

(a) The patient is eligible under the health benefit plan.

(b) The health care service, drug, or device is covered under the patient's health benefit plan.

(c) The health care service, drug, or device meets the health insuring corporation's standards for medical necessity and prior authorization.

(3) The health care practitioner renders the health care service, drug, or device pursuant to the approved prior authorization request and all of the terms and conditions of the health care practitioner's contract with the health insuring corporation.

(4) On the date the health care practitioner renders the prior approved health care service, drug, or device, all of the following are true:

(a) The patient is eligible under the health benefit plan.

(b) The patient's condition or circumstances related to the patient's care has not changed.

(c) The health care practitioner submits an accurate claim that matches the information submitted by the health care practitioner in the approved prior authorization request.

(5) If the health care practitioner submits a claim that includes an unintentional error and the error results in a claim that does not match the information originally submitted by the health care practitioner in the approved prior authorization request, upon receiving a denial of services from the health insuring corporation, the health care practitioner may resubmit the claim pursuant to division (C) of this section with the information that matches the information included in the approved prior authorization.

(D) Any provision of a contractual arrangement entered into between a health insuring corporation and a health care practitioner or beneficiary that is contrary to divisions (A) to (C) of this section is unenforceable.

(E) For policies issued on or after January 1, 2017, committing a series of violations of this section that, taken together, constitute a practice or pattern shall be considered an unfair and deceptive practice under sections 3901.19 to 3901.26 of the Revised Code.

(F) The superintendent of insurance may adopt rules in accordance with Chapter 119. of the Revised Code ~~as necessary to implement the provisions of this section~~defining a medicare supplement policy of insurance.

(G) This section does not apply to any of the following types of coverage: a policy, contract, certificate, or agreement

that covers only a specified accident, accident only, credit, dental, disability income, long-term care, hospital indemnity, supplemental coverage as described in section 3923.37 of the Revised Code, specified disease, or vision care; a dental benefit that is offered as a part of a policy, contract, certificate, or agreement offered by a health insuring corporation; coverage issued as a supplement to liability insurance; insurance arising out of workers' compensation or similar law; automobile medical payment insurance; insurance under which benefits are payable with or without regard to fault and which is statutorily required to be contained in any liability insurance policy or equivalent self-insurance; a medicare supplement policy of insurance as defined by the superintendent of insurance by rule; coverage under a plan through medicare or the federal employees benefit program; or any coverage issued under Chapter 55 of Title 10 of the United States Code and any coverage issued as a supplement to that coverage.

Sec. 1753.09. (A) Except as provided in division (D) of this section, prior to terminating the participation of a provider on the basis of the participating provider's failure to meet the health insuring corporation's standards for quality or utilization in the delivery of health care services, a health insuring corporation shall give the participating provider notice of the reason or reasons for its decision to terminate the provider's participation and an opportunity to take corrective action. The health insuring corporation shall develop a performance improvement plan in conjunction with the participating provider. If after being afforded the opportunity to comply with the performance improvement plan, the participating provider fails to do so, the health insuring

corporation may terminate the participation of the provider.

(B)(1) A participating provider whose participation has been terminated under division (A) of this section may appeal the termination to the appropriate medical director of the health insuring corporation. The medical director shall give the participating provider an opportunity to discuss with the medical director the reason or reasons for the termination.

(2) If a satisfactory resolution of a participating provider's appeal cannot be reached under division (B)(1) of this section, the participating provider may appeal the termination to a panel composed of participating providers who have comparable or higher levels of education and training than the participating provider making the appeal. A representative of the participating provider's specialty shall be a member of the panel, if possible. This panel shall hold a hearing, and shall render its recommendation in the appeal within thirty days after holding the hearing. The recommendation shall be presented to the medical director and to the participating provider.

(3) The medical director shall review and consider the panel's recommendation before making a decision. The decision rendered by the medical director shall be final.

(C) A provider's status as a participating provider shall remain in effect during the appeal process set forth in division (B) of this section unless the termination was based on any of the reasons listed in division (D) of this section.

(D) Notwithstanding division (A) of this section, a provider's participation may be immediately terminated if the participating provider's conduct presents an imminent risk of harm to an enrollee or enrollees; or if there has occurred

unacceptable quality of care, fraud, patient abuse, loss of clinical privileges, loss of professional liability coverage, incompetence, or loss of authority to practice in the participating provider's field; or if a governmental action has impaired the participating provider's ability to practice.

(E) Divisions (A) to (D) of this section apply only to providers who are natural persons.

(F)(1) Nothing in this section prohibits a health insuring corporation from rejecting a provider's application for participation, or from terminating a participating provider's contract, if the health insuring corporation determines that the health care needs of its enrollees are being met and no need exists for the provider's or participating provider's services.

(2) Nothing in this section shall be construed as prohibiting a health insuring corporation from terminating a participating provider who does not meet the terms and conditions of the participating provider's contract.

(3) Nothing in this section shall be construed as prohibiting a health insuring corporation from terminating a participating provider's contract pursuant to any provision of the contract described in division (G)(2) of section 3963.02 of the Revised Code, except that, notwithstanding any provision of a contract described in that division, this section applies to the termination of a participating provider's contract for any of the causes described in divisions (A), (D), and (F)(1) and (2) of this section.

~~(G) The superintendent of insurance may adopt rules as necessary to implement and enforce sections 1753.06, 1753.07, and 1753.09 of the Revised Code. Such rules shall be adopted in~~

~~accordance with Chapter 119. of the Revised Code.~~

Sec. 1753.31. As used in sections 1753.31 to ~~1753.43~~ 1753.42 of the Revised Code:

(A) "Adjusted RBC report" means an RBC report that has been adjusted by the superintendent of insurance in accordance with division (C) of section 1753.32 of the Revised Code.

(B) "Authorized control level RBC" means the number determined under the risk-based capital formula in accordance with the RBC instructions.

(C) "Company action level RBC" means the product of 2.0 and a health insuring corporation's authorized control level RBC.

(D) "Corrective order" means an order issued by the superintendent of insurance specifying corrective actions that the superintendent determines are required.

(E) "Domestic health insuring corporation" means a health insuring corporation domiciled in this state.

(F) "Foreign health insuring corporation" means a health insuring corporation holding a certificate of authority under chapter 1751. of the Revised Code that is domiciled outside of this state.

(G) "Mandatory control level RBC" means the product of.70 and a health insuring corporation's authorized control level RBC.

(H) "NAIC" means the national association of insurance commissioners.

(I) "Net worth" means statutory capital and surplus.

(J) "RBC" means risk-based capital.

(K) "RBC instructions" means the RBC report, including risk-based capital instructions, as adopted by the NAIC and as amended by the NAIC from time to time in accordance with the procedures adopted by the NAIC. "RBC instructions" also includes any modifications adopted by the superintendent of insurance, as the superintendent considers to be necessary.

(L) "RBC level" means a health insuring corporation's action level RBC, regulatory action level RBC, authorized control level RBC, or mandatory control level RBC.

(M) "RBC plan" means a comprehensive financial plan containing the elements specified in division (B) of section 1753.33 of the Revised Code.

(N) "RBC report" means the report required by section 1753.32 of the Revised Code.

(O) "Regulatory action level RBC" means the product of 1.5 and a health insuring corporation's authorized control level RBC.

(P) "Revised RBC plan" means an RBC plan rejected by the superintendent of insurance and then revised by a health insuring corporation with or without incorporating the superintendent's recommendations.

(Q) "Total adjusted capital" means the sum of both of the following:

(1) A health insuring corporation's net worth as determined in accordance with the statutory accounting applicable to the annual financial statements required to be filed under section 1751.32 of the Revised Code;

(2) Such other items, if any, as the RBC instructions may provide.

Sec. 1753.32. (A) Each domestic health insuring corporation shall, on or prior to the first day of March of every year, prepare and submit to the superintendent of insurance a report on its RBC levels as of the end of the calendar year just ended, in a form and containing such information as is required by the RBC instructions. In addition, a domestic health insuring corporation shall file its RBC report as follows:

(1) With the NAIC, in accordance with the RBC instructions;

(2) With the insurance regulatory authority of any other state in which the health insuring corporation is authorized to do business, if the insurance regulatory authority of that state has sent a written request to the health insuring corporation for the RBC report. The health insuring corporation shall file an RBC report with the requesting state no later than the later of:

(a) Fifteen days after the health insuring corporation's receipt of the insurance regulatory authority's request for the RBC report;

(b) Prior to the first day of March.

(B) A health insuring corporation's RBC levels shall be determined in accordance with the formula set forth in the RBC instructions. The formula shall take the following risks into account, and may adjust for the covariance between these risks, as determined in each case by applying the factors in the manner set forth in the RBC instructions:

(1) Asset risk;

(2) Credit risk;

(3) Underwriting risk;

(4) All other business risks and such other relevant risks as are set forth in the RBC instructions.

(C) If a domestic health insuring corporation files an RBC report that in the judgment of the superintendent is inaccurate, the superintendent shall adjust the RBC report to correct the inaccuracy and then shall provide a copy of the adjusted RBC report to the health insuring corporation. The superintendent shall also provide the health insuring corporation with a statement of the reasons for any adjustment.

(D) In enacting sections 1753.31 to ~~1753.43~~ 1753.42 of the Revised Code, the general assembly finds all of the following:

(1) An excess of capital over the amount produced by the risk-based capital requirements of sections 1753.31 to ~~1753.43~~ 1753.42 of the Revised Code, and the formulas, schedules, and instructions referenced in sections 1753.31 to ~~1753.43~~ 1753.42 of the Revised Code, is desirable in the business of insurance.

(2) Health insuring corporations, accordingly, should seek to maintain capital above the RBC levels required by sections 1753.31 to ~~1753.43~~ 1753.42 of the Revised Code.

(3) Additional capital is used and is useful in the business of insurance, helping to secure a health insuring corporation against various risks inherent in, or affecting, the business of insurance, which risks are not accounted for or are only partially measured by the risk-based capital requirements of sections 1753.31 to ~~1753.43~~ 1753.42 of the Revised Code.

Sec. 1753.33. (A) For purposes of sections 1753.31 to ~~1753.43~~ 1753.42 of the Revised Code, a "company action level event" is any of the following events:

(1) A health insuring corporation's filing of an RBC report that indicates that the health insuring corporation's total adjusted capital is greater than or equal to its regulatory action level RBC but less than its company action level RBC;

(2) A health insuring corporation's filing of an RBC report that indicates that the health insuring corporation's total adjusted capital is greater than or equal to its company action level RBC but less than the product of its authorized control level RBC and 3.0, and that triggers the trend test determined in accordance with the trend test calculation included in the RBC instructions;

(3) The notification by the superintendent of insurance to a health insuring corporation of an adjustment to the health insuring corporation's RBC report, which adjusted RBC report shows the health insuring corporation's total adjusted capital within the range described in division (A)(1) of this section, provided that the health insuring corporation does not challenge the adjusted RBC report under section 1753.37 of the Revised Code;

(4) The notification by the superintendent to a health insuring corporation, following the hearing required under section 1753.37 of the Revised Code, that the superintendent has rejected the health insuring corporation's challenge to an adjusted RBC report showing the health insuring corporation's total adjusted capital within the range described in division (A)(1) of this section.

(B) In the case of a company action level event, the health insuring corporation shall prepare and submit to the superintendent an RBC plan that shall do all of the following:

(1) Identify the conditions that contributed to the company action level event;

(2) Contain proposals of corrective actions that the health insuring corporation intends to take to eliminate the conditions contributing to the company action level event;

(3) Provide projections of the health insuring corporation's financial results in the current year and at least the two succeeding years, both in the absence of the proposed corrective actions and giving effect to the proposed corrective actions. The projections shall include projections of statutory balance sheets, operating income, net income, capital, surplus, and RBC levels. Projections for both new and renewal business may include separate projections for each major line of business, and may separately identify each significant income, expense, and benefit component of the projection.

(4) Identify the key assumptions impacting the health insuring corporation's projections made pursuant to division (B)(3) of this section, and describe the sensitivity of the projections to the assumptions;

(5) Identify the quality of, and problems associated with, the health insuring corporation's business, including, but not limited to, its assets, anticipated business growth and associated surplus strain, extraordinary exposure to risk, mix of business, and the use of reinsurance, if any, in each case.

(C) The RBC plan shall be submitted within forty-five days after a company action level event. However, if a health

insuring corporation has challenged an adjusted RBC report pursuant to section 1753.37 of the Revised Code, an RBC plan need not be submitted unless the superintendent rejects the challenge following the hearing required under section 1753.37 of the Revised Code. If the superintendent rejects the health insuring corporation's challenge, the RBC plan shall be submitted within forty-five days after the superintendent's notification to the health insuring corporation of the superintendent's rejection of the challenge.

(D)(1) Within sixty days after a health insuring corporation submits an RBC plan to the superintendent, the superintendent shall either require the health insuring corporation to implement the RBC plan or notify the health insuring corporation that the RBC plan is unsatisfactory in the judgment of the superintendent. If the superintendent has determined that the RBC plan is unsatisfactory, the notification to the health insuring corporation shall set forth the reasons for the determination, and may set forth proposed revisions that will render the RBC plan satisfactory in the judgment of the superintendent. Upon its receipt of such notification from the superintendent, the health insuring corporation shall prepare and submit a revised RBC plan, which may incorporate by reference any revisions proposed by the superintendent.

(2) If a health insuring corporation challenges, under section 1753.37 of the Revised Code, a notification by the superintendent that the health insuring corporation's RBC plan or a revised RBC plan is unsatisfactory, submission of a revised RBC plan need not be made unless the superintendent rejects the health insuring corporation's challenge and notifies the health insuring corporation of this rejection. A health insuring corporation shall submit a revised RBC plan to the

superintendent within forty-five days after receiving notification from the superintendent that its RBC plan is unsatisfactory, or that its challenge to a notification made under division (D)(1) of this section has been rejected, as applicable.

(E) Notwithstanding division (D) of this section, if the superintendent notifies a health insuring corporation that its RBC plan or revised RBC plan is unsatisfactory, the superintendent may, at the superintendent's discretion but subject to the health insuring corporation's right to a hearing under section 1753.37 of the Revised Code, specify in the notification that the notification constitutes a regulatory action level event.

(F) Every domestic health insuring corporation that submits an RBC plan or revised RBC plan to the superintendent shall file a copy of the RBC plan or revised RBC plan with the insurance regulatory authority of every state in which the health insuring corporation is authorized to do business upon receiving the insurance regulatory authority's written request for a copy of the plan, if the state has a confidentiality law substantially similar to section 1753.38 of the Revised Code. The health insuring corporation shall file the copy in that state no later than the later of:

(1) Fifteen days after receiving the request for a copy of the plan;

(2) The date on which the RBC plan or revised RBC plan is filed pursuant to division (C) or (D) of this section.

Sec. 1753.34. (A) For purposes of sections 1753.31 to ~~1753.43~~ 1753.42 of the Revised Code, a "regulatory action level

event" is any of the following events:

(1) The filing of an RBC report by a health insuring corporation that indicates that the health insuring corporation's total adjusted capital is greater than or equal to its authorized control level RBC but less than its regulatory action level RBC;

(2) The notification by the superintendent of insurance to a health insuring corporation of an adjustment to the health insuring corporation's RBC report, which adjusted RBC report shows the health insuring corporation's total adjusted capital within the range described in division (A)(1) of this section, provided that the health insuring corporation does not challenge the adjusted RBC report under section 1753.37 of the Revised Code;

(3) The notification by the superintendent to a health insuring corporation, following the hearing required under section 1753.37 of the Revised Code, that the superintendent has rejected the health insuring corporation's challenge to an adjusted RBC report showing the health insuring corporation's total adjusted capital within the range described in division (A)(1) of this section;

(4) The failure of a health insuring corporation to file an RBC report by the first day of March of every year, unless the health insuring corporation has provided an explanation for such failure that is satisfactory to the superintendent and has cured the failure within ten days after the filing date;

(5) The failure of a health insuring corporation to submit an RBC plan to the superintendent within the time period set forth in division (C) of section 1753.33 of the Revised Code;

(6) The notification by the superintendent to a health insuring corporation of both of the following:

(a) The RBC plan or revised RBC plan submitted by the health insuring corporation is unsatisfactory in the judgment of the superintendent;

(b) The notification by the superintendent constitutes a regulatory action level event with respect to the health insuring corporation, provided that the health insuring corporation does not challenge the determination under section 1753.37 of the Revised Code.

(7) The notification by the superintendent to a health insuring corporation, following the hearing required under section 1753.37 of the Revised Code, that the superintendent has rejected the health insuring corporation's challenge to the superintendent's determination under division (A)(6) of this section;

(8) The notification by the superintendent to a health insuring corporation that the superintendent has determined that the health insuring corporation has failed to adhere to its RBC plan or revised RBC plan, and this failure has had a substantial adverse effect on the ability of the health insuring corporation to eliminate the conditions leading to the company action level event in accordance with its RBC plan or revised RBC plan, provided that the health insuring corporation does not challenge this determination under section 1753.37 of the Revised Code;

(9) The notification by the superintendent to a health insuring corporation, following the hearing required under section 1753.37 of the Revised Code, that the superintendent has rejected the health insuring corporation's challenge to the

superintendent's determination under division (A)(8) of this section.

(B) In the case of a regulatory action level event, the superintendent shall do all of the following:

(1) Require the health insuring corporation to prepare and submit an RBC plan or, if applicable, a revised RBC plan;

(2) Perform such examinations and analyses as the superintendent considers necessary of the assets, liabilities, and operations of the health insuring corporation, including a review of the health insuring corporation's RBC plan or revised RBC plan and the results of any sensitivity tests undertaken pursuant to the RBC instructions;

(3) Issue a corrective order, based upon the examinations and analyses performed under division (B)(2) of this section.

(C)(1) The RBC plan or revised RBC plan required by division (B)(1) of this section shall be submitted to the superintendent within forty-five days after the regulatory action level event, except by a health insuring corporation that files a challenge to an adjusted RBC report or revised RBC plan pursuant to section 1753.37 of the Revised Code. If the superintendent determines the challenge is frivolous, the time limit for the submission of the RBC plan or revised RBC plan shall not be altered by the filing of the challenge.

(2) If a health insuring corporation files a nonfrivolous challenge to an adjusted RBC report or revised RBC plan, the RBC plan or revised RBC plan required by division (B)(1) of this section shall only be submitted to the superintendent if the superintendent rejects the challenge following the hearing required under section 1753.37 of the Revised Code. If the

superintendent rejects the health insuring corporation's challenge, the RBC plan or revised RBC plan shall be submitted within forty-five days after the superintendent's notification to the health insuring corporation of the superintendent's rejection of the challenge.

(D) The superintendent may retain actuaries, investment experts, and such other consultants, as may be necessary in the superintendent's judgment, to review a health insuring corporation's RBC plan or revised RBC plan, to examine or analyze the assets, liabilities, and operation of the health insuring corporation, and to formulate a corrective order for the health insuring corporation. The fees, costs, and expenses relating to these consultants shall be borne by the affected health insuring corporation.

Sec. 1753.35. (A) For purposes of sections 1753.31 to ~~1753.43~~ 1753.42 of the Revised Code, an "authorized control level event" is any of the following events:

(1) The filing of an RBC report by a health insuring corporation that indicates that the health insuring corporation's total adjusted capital is greater than or equal to its mandatory control level RBC but less than its authorized control level RBC;

(2) The notification by the superintendent of insurance to a health insuring corporation of an adjustment to the health insuring corporation's RBC report, which adjusted RBC report shows the health insuring corporation's total adjusted capital within the range described in division (A)(1) of this section, provided that the health insuring corporation does not challenge the adjusted RBC report under section 1753.37 of the Revised Code;

(3) The notification by the superintendent to a health insuring corporation, following the hearing required under section 1753.37 of the Revised Code, that the superintendent has rejected the health insuring corporation's challenge to an adjusted RBC report showing the health insuring corporation's total adjusted capital within the range described in division (A)(1) of this section;

(4) The failure of a health insuring corporation to respond, in a manner satisfactory to the superintendent, to a corrective order issued under division (B)(3) of section 1753.34 of the Revised Code, provided that the health insuring corporation does not challenge the corrective order under section 1753.37 of the Revised Code;

(5) The failure of a health insuring corporation to respond, in a manner satisfactory to the superintendent, to a corrective order issued under division (B)(3) of section 1753.34 of the Revised Code subsequent to the superintendent's modification of an earlier order or the superintendent's rejection of the health insuring corporation's challenge of the order under section 1753.37 of the Revised Code.

(B) In the case of an authorized control level event, the superintendent shall do the following:

(1) Take the actions required under section 1753.34 of the Revised Code for regulatory action level events;

(2) If the superintendent considers it to be in the best interests of the subscribers and creditors of the health insuring corporation and of the public, take such actions as are necessary to place the health insuring corporation under regulatory control under sections 3903.01 to 3903.59 of the

Revised Code. The authorized control level event shall be deemed sufficient grounds for the superintendent to take action under sections 3903.01 to 3903.59 of the Revised Code. Nothing in sections 1753.31 to ~~1753.43~~ 1753.42 of the Revised Code shall impair or restrict the rights, powers, and protections afforded to the superintendent and to health insuring corporations under sections 3903.01 to 3903.59 of the Revised Code.

Sec. 1753.36. (A) For purposes of sections 1753.31 to ~~1753.43~~ 1753.42 of the Revised Code, a "mandatory control level event" is any of the following events:

(1) The filing of an RBC report by a health insuring corporation that indicates that the health insuring corporation's total adjusted capital is less than its mandatory control level RBC;

(2) The notification by the superintendent of insurance to a health insuring corporation of an adjustment to the health insuring corporation's RBC report, which adjusted RBC report shows the health insuring corporation's total adjusted capital at less than its mandatory control level RBC, provided the health insuring corporation does not challenge the adjusted RBC report under section 1753.37 of the Revised Code;

(3) The notification by the superintendent to the health insuring corporation, following the hearing required under section 1753.37 of the Revised Code, that the superintendent has rejected the health insuring corporation's challenge to an adjusted RBC report.

(B) In the case of a mandatory control level event, the superintendent shall take such actions as are necessary to place the health insuring corporation under regulatory control under

sections 3903.01 to 3903.59 of the Revised Code. The mandatory control level event shall be deemed sufficient grounds for the superintendent to take action under sections 3903.01 to 3903.59 of the Revised Code. Nothing in sections 1753.31 to ~~1753.43~~ 1753.42 of the Revised Code shall impair or restrict the rights, powers, and protections afforded to the superintendent and to health insuring corporations under sections 3903.01 to 3903.59 of the Revised Code. However, the superintendent may defer action under this division for up to ninety days after the mandatory control level event if the superintendent finds that there is a reasonable expectation the health insuring corporation may be able to eliminate the conditions leading to the mandatory control level event within the ninety-day period.

Sec. 1753.37. (A) A health insuring corporation has the right to a confidential hearing upon receiving any of the following from the superintendent of insurance:

(1) An adjusted RBC report;

(2) Notification that the health insuring corporation's RBC plan or revised RBC plan is unsatisfactory and a statement that the notification constitutes a regulatory action level event for the health insuring corporation;

(3) Notification that the superintendent has determined that the health insuring corporation has failed to adhere to its RBC plan or revised RBC plan, which failure has a substantial adverse effect on the ability of the health insuring corporation to eliminate the conditions leading to a company action level event in accordance with its RBC plan or revised RBC plan;

(4) A corrective order issued under division (B)(3) of section 1753.34 of the Revised Code.

(B) A health insuring corporation shall notify the superintendent of its request for a hearing within five days after its receipt of any item listed in division (A) of this section. Upon the superintendent's receipt of the health insuring corporation's request for a hearing, the superintendent shall set a date for the hearing, which date shall be no less than ten days and no more than thirty days after the superintendent's receipt of the health insuring corporation's request.

(C) A health insuring corporation may challenge any determination or action taken by the superintendent under sections 1753.31 to ~~1753.43~~ 1753.42 of the Revised Code at the hearing held pursuant to this section.

Sec. 1753.40. There shall be no liability on the part of, and no cause of action shall arise against, the superintendent of insurance, or the department of insurance, its employees, or its agents, for any action taken in their performance of the powers and duties under sections 1753.31 to ~~1753.43~~ 1753.42 of the Revised Code.

Sec. 1753.41. Unless otherwise provided, all notices sent to a health insuring corporation by the superintendent of insurance that may result in regulatory action under sections 1753.31 to ~~1753.43~~ 1753.42 of the Revised Code shall be effective upon dispatch if transmitted by registered or certified mail. Any other notice transmitted shall be effective upon the health insuring corporation's receipt of the notice.

Sec. 1753.42. The superintendent of insurance may exempt any domestic health insuring corporation from the application of sections 1753.31 to ~~1753.43~~ 1753.42 of the Revised Code, if the health insuring corporation meets all of the following

requirements:

(A) The health insuring corporation writes direct business in this state only.

(B) The health insuring corporation assumes no reinsurance in excess of five per cent of direct premium written.

(C) The health insuring corporation either:

(1) Writes direct annual premiums of two million dollars or less for basic health care services;

(2) Covers less than two thousand enrollees under policies, contracts, certificates, or agreements for supplemental health care services.

Sec. 1761.04. (A) The licensing and operation of a credit union share guaranty corporation is subject to the regulation of the superintendent of insurance pursuant to Chapters 3901., 3903., 3905., 3925., 3927., 3929., 3937., 3941., and 3999. of the Revised Code to the extent such laws are otherwise applicable and are not in conflict with this chapter.

(B) A credit union share guaranty corporation shall pay, by the fifteenth day of April of each year, to the superintendent of credit unions, an annual fee of one-half of one per cent of its guarantee fund as shown by the corporation's last annual financial report, but in no event shall such payment exceed twenty-five thousand dollars in any calendar year.

~~(C) In addition to the specific powers and duties given the superintendent of insurance and the superintendent of credit unions under this chapter, the superintendents may independently, pursuant to Chapter 119. of the Revised Code, adopt, amend, and rescind such rules as are necessary to~~

~~implement the requirements of this chapter.~~

Sec. 1761.13. (A) A credit union share guaranty corporation shall invest or deposit its funds in the following manner:

(1) In banks incorporated under the laws of this or any other state, or the United States;

(2) In negotiable certificates of deposit and bankers acceptances;

(3) In share certificates deposited in or any form of evidence of interest or indebtedness of any credit union organized under Chapter 1733. of the Revised Code or comparable state law if insured, or whose member accounts are insured as provided for by Title II of the "Federal Credit Union Act," 84 Stat. 994, (1970), 12 U.S.C.A. 1781, as amended, or by comparable insurance. No investment under division (A)(3) of this section shall be in a participating credit union.

(4) In accounts with, investment certificates or withdrawable shares of, any savings and loan association that is an insured institution as defined by Title IV of the "National Housing Act," 48 Stat. 1255 (1934), 12 U.S.C.A. 1724, as amended.

(5) In United States government securities or United States government agency obligations;

(6) In bonds or other evidence of indebtedness rated in the three highest ratings of Standard and Poor's or Moody's service, not in default as to principal or interest, that are valid obligations issued, assumed, or guaranteed by any state, county, or municipal corporation of the United States;

(7) In bonds or other evidence of indebtedness rated in the three highest ratings by Standard and Poor's or Moody's service, not in default as to principal or interest, that are valid obligations issued, assumed, or guaranteed by any corporation incorporated under the laws of the United States or a state and described in division (D)(1) of section 3925.08 of the Revised Code. However, a credit union share guaranty corporation shall not invest in any such corporate security containing any provision of optionality, including, but not limited to, any derivative security.

(8) In the common stock of any federal home loan bank of which the corporation is a member, for the purpose of maintaining a line of credit or source of liquidity through borrowings from the bank, if the bank requires its members to purchase and hold its common stock referred to as either of the following:

(a) Membership stock, subject to an annual adjustment made by the bank based on the corporation's admitted total assets as reported in its filings with the superintendent of insurance;

(b) Activity stock as may be required by the bank whenever the corporation borrows from the bank and for as long as any of those funds remain outstanding.

(9) In any other investments that are expressly approved by the superintendent of credit unions and the superintendent of insurance ~~or are permitted by rules adopted by the superintendents pursuant to division (C) of section 1761.04 of the Revised Code~~, but such other investments shall not exceed twenty per cent of the sum of the capital contributions, retained and undivided earnings, and any borrowings made in accordance with section 3901.72 of the Revised Code of the

corporation. The superintendents shall not permit the corporation to make any investment in any unrelated corporation or unrelated subsidiary without the prior written approval of the superintendent of credit unions and the superintendent of insurance.

(B) The maximum investment in securities of any one corporation shall not exceed ten per cent of the guarantee fund at the time the investment is made.

(C) The corporation's directors, officers, committee members, and employees, and immediate family members of such individuals, are prohibited from receiving pecuniary or any other type of consideration in connection with the making of an investment or deposit by the corporation.

(D) Within thirty days of appointment, each officer, agent, or employee having control or access to funds or securities owned by or pledged with a credit union share guaranty corporation shall be provided with fidelity bond coverage by the corporation in an amount commensurate with the risk involved.

(E) With the express written approval of the board of directors and the superintendent of credit unions and the superintendent of insurance, the corporation may invest in publicly traded preferred and common stocks, as permitted by section 3925.08 of the Revised Code, in an aggregate amount not to exceed the corporation's statutory unassigned surplus as reduced by its authorized control level risk-based capital.

Sec. 1761.16. (A) A credit union share guaranty corporation shall file with the superintendent of credit unions an annual report containing audited financial statements,

prepared in accordance with generally accepted accounting principles or such other accounting requirements determined by the superintendent of credit unions, covering the fiscal year within one hundred days after the close of such fiscal year in accordance with division (E) of this section ~~and in the form and with such other relevant information as the superintendent of credit unions may require by rules adopted under division (C) of section 1761.04 of the Revised Code~~. The audited financial statements shall include at least a balance sheet and a statement of income for the year ended on the balance sheet date. The report and audited financial statements shall be accompanied by a report, certificate, or opinion of an independent certified public accountant or independent public accountant. Every such report shall be certified by the oath of the president and secretary of the corporation, and such verification shall state that the report is true and correct in all respects to the best of the knowledge and belief of the persons verifying it.

(B) If the report, certificate, or opinion of the certified public accountant or independent accountant referred to in division (A) of this section is qualified pursuant to generally accepted auditing standards, the superintendent of credit unions shall require the corporation to take such action as the superintendent considers appropriate to permit an independent accountant to remove such qualification from the report, certificate, or opinion. The superintendent may reject any financial statement, report, certificate, or opinion filed pursuant to division (A) of this section by notifying the corporation of its rejection and the cause thereof. Within thirty days after receipt of such notice, the corporation shall correct such qualification, and the failure to do so is deemed a

violation of this division. The superintendent shall retain a copy of all filings so rejected.

(C) The superintendent of credit unions shall conduct or cause to be conducted, not more often than annually and not less than every three years, an audit examination of the credit union share guaranty corporation. The audit examination shall include an actuarial study of the capital adequacy of the corporation. The corporation shall be assessed the costs of such audit examination, which assessment shall not exceed one per cent of the capital contributions and surplus of the corporation.

(D) The superintendent of credit unions may require a special examination of the corporation in the event the superintendent determines that there is or will be an impairment of the guarantee fund as defined in division (C)(1) of section 1761.10 of the Revised Code. The corporation shall be assessed the cost of such special examination.

(E) The accounting of the corporation shall be on a calendar year basis or as otherwise prescribed by the corporation with the prior written approval of the superintendent of credit unions. The books of the corporation shall be maintained in accordance with generally accepted accounting principles.

(F) The corporation shall make any other special report to the superintendent of credit unions as the superintendent may from time to time require. Such a report shall be in the form and filed at such date as prescribed by the superintendent, and shall, if required by the superintendent, be verified in such manner as prescribed.

(G) Each credit union share guaranty corporation shall be

subject to examination by the superintendent of insurance in accordance with section 3901.07 of the Revised Code. Section 3901.07 of the Revised Code shall govern every aspect of the examination, including the circumstances under and frequency with which it is conducted, the authority of the superintendent and any examiner or other person appointed by the superintendent, the liability for the assessment of expenses incurred in conducting the examination, and the remittance of the assessment to the department of insurance operating fund.

(H) All of the provisions of this section are in addition to those chapters of Title XXXIX of the Revised Code specified in division (A) of section 1761.04 of the Revised Code.

Sec. 2108.23. (A)(1) The bureau of motor vehicles shall develop and maintain a donor registry that identifies each individual who has agreed to make an anatomical gift at the time of application or renewal of a driver's license, identification card, or motor vehicle registration as provided in division (A)(1) or (2) of section 2108.05 of the Revised Code. The registry shall be fully operational not later than July 1, 2002.

(2) The registrar of motor vehicles or a deputy registrar shall ask whether each of the following wishes to certify the applicant's willingness to become a donor:

(a) A person applying for or renewing a driver's license;

(b) A person applying for or renewing an identification card;

(c) A person applying for or renewing a motor vehicle registration.

(3) The registrar or deputy registrar shall provide to any applicant who wishes to certify the applicant's willingness to

become a donor the form set forth in division (C)(2) of section 2133.07 of the Revised Code.

(4) Any person who provides to the bureau the form set forth in division (C)(2) of section 2133.07 of the Revised Code requesting to be included in the donor registry shall be included.

(5) Neither the registrar nor a deputy registrar shall ask a person, who is already included in the donor registry, to be a donor.

(B) The bureau shall maintain the registry in a manner that provides to organ procurement organizations, tissue banks, and eye banks immediate access to the information in the registry twenty-four hours a day and seven days a week.

(C)(1) The registrar of motor vehicles, in consultation with the director of health and the second chance trust fund advisory committee created under section 2108.35 of the Revised Code, shall formulate proposed rules that specify all of the following:

(a) The information to be included in the registry;

(b) A process, in accordance with division (B) of section 2108.06 of the Revised Code, for an individual to revoke the individual's intent to make an anatomical gift and for updating information in the registry;

(c) How the registry will be made available to organ procurement organizations, tissue banks, and eye banks;

(d) Limitations on the use of and access to the registry;

(e) How information on organ, tissue, and eye donation will be developed and disseminated to the public by the bureau

and the department of health;

(f) The manner in which a person may request to be included in the registry on a written application for a driver's license, identification card, motor vehicle registration, or the renewal thereof. The manner of the request may include either allowing the requestor to provide the necessary information on the bureau application or redirecting the requestor to another form specific to the registry.

~~(g) Anything else the registrar considers appropriate.~~

(2) In adopting the proposed rules under this division, the registrar may consult with any person or entity that expresses an interest in the matters to be dealt with in the rules.

(3) Following formulation of the proposed rules, the registrar shall adopt rules in accordance with Chapter 119. of the Revised Code.

(D) The costs of developing and initially implementing the registry shall be paid from the second chance trust fund created in section 2108.34 of the Revised Code.

Sec. 2133.25. (A) The department of health, by rule adopted pursuant to Chapter 119. of the Revised Code, shall adopt a standardized method of procedure for the withholding of CPR by physicians, certified nurse-midwives, clinical nurse specialists, certified nurse practitioners, emergency medical services personnel, and health care facilities in accordance with sections 2133.21 to 2133.26 of the Revised Code. The standardized method shall specify criteria for determining when a do-not-resuscitate order is current. The standardized method so adopted shall be the "do-not-resuscitate protocol" for

purposes of sections 2133.21 to 2133.26 of the Revised Code. The department also shall approve one or more standard forms of DNR identification to be used throughout this state.

(B) ~~The department of health shall adopt rules in accordance with Chapter 119. of the Revised Code for the administration of sections 2133.21 to 2133.26 of the Revised Code.~~

~~(C)~~ The department of health shall appoint an advisory committee to advise the department in the development of rules under this section. The advisory committee shall include, but shall not be limited to, representatives of each of the following organizations:

(1) The Ohio hospital association;

(2) The Ohio state medical association;

(3) The Ohio chapter of the American college of emergency physicians;

(4) The Ohio hospice organization;

(5) The Ohio council for home care and hospice;

(6) The Ohio health care association;

(7) The Ohio ambulance association;

(8) The Ohio medical directors association;

(9) The Ohio association of emergency medical services;

(10) The bioethics network of Ohio;

(11) The Ohio nurses association;

(12) The Ohio academy of nursing homes;

(13) The Ohio association of professional firefighters;

(14) The department of developmental disabilities;

(15) The Ohio osteopathic association;

(16) The association of Ohio philanthropic homes and housing services for the aging;

(17) The catholic conference of Ohio;

(18) The department of aging;

(19) The department of mental health and addiction services;

(20) The Ohio private residential association;

(21) The northern Ohio fire fighters association;

(22) The Ohio association of advanced practice nurses.

Sec. 2151.412. (A) Each public children services agency and private child placing agency shall prepare and maintain a case plan for any child to whom the agency is providing services and to whom any of the following applies:

(1) The agency filed a complaint pursuant to section 2151.27 of the Revised Code alleging that the child is an abused, neglected, or dependent child;

(2) The agency has temporary or permanent custody of the child;

(3) The child is living at home subject to an order for protective supervision;

(4) The child is in a planned permanent living arrangement.

Except as provided by division (A)(2) of section 5103.153 of the Revised Code, a private child placing agency providing services to a child who is the subject of a voluntary permanent custody surrender agreement entered into under division (B)(4) of section 5103.15 of the Revised Code is not required to prepare and maintain a case plan for that child.

(B) Each public children services agency shall prepare and maintain a case plan for any child for whom the agency is providing in-home services pursuant to an alternative response.

(C)(1) The director of children and youth shall adopt rules pursuant to Chapter 119. of the Revised Code setting forth the content and format of case plans required by division (A) of this section and establishing procedures for developing, implementing, and changing the case plans. The rules shall at a minimum comply with the requirements of Title IV-E of the "Social Security Act," 42 U.S.C. 670, et seq. (1980).

(2) The director of children and youth shall adopt rules pursuant to Chapter 119. of the Revised Code requiring public children services agencies and private child placing agencies to maintain case plans for children and their families who are receiving services in their homes from the agencies and for whom case plans are not required by division (A) of this section. The rules for public children services agencies shall include the requirements for case plans maintained for children and their families who are receiving services in their homes from public children services agencies pursuant to an alternative response. The agencies shall maintain case plans as required by those rules; however, the case plans shall not be subject to any other provision of this section except as specifically required by the rules.

(D) Each public children services agency and private child placing agency that is required by division (A) of this section to maintain a case plan shall file the case plan with the court prior to the child's adjudicatory hearing but no later than thirty days after the earlier of the date on which the complaint in the case was filed or the child was first placed into shelter care. If the agency does not have sufficient information prior to the adjudicatory hearing to complete any part of the case plan, the agency shall specify in the case plan the additional information necessary to complete each part of the case plan and the steps that will be taken to obtain that information. All parts of the case plan shall be completed by the earlier of thirty days after the adjudicatory hearing or the date of the dispositional hearing for the child.

(E) Any agency that is required by division (A) of this section to prepare a case plan shall attempt to obtain an agreement among all parties, including, but not limited to, the parents, guardian, or custodian of the child and the guardian ad litem of the child regarding the content of the case plan. If all parties agree to the content of the case plan and the court approves it, the court shall journalize it as part of its dispositional order. If the agency cannot obtain an agreement upon the contents of the case plan or the court does not approve it, the parties shall present evidence on the contents of the case plan at the dispositional hearing. The court, based upon the evidence presented at the dispositional hearing and the best interest of the child, shall determine the contents of the case plan and journalize it as part of the dispositional order for the child.

(F)(1) All parties, including the parents, guardian, or custodian of the child, are bound by the terms of the

journalized case plan. A party that fails to comply with the terms of the journalized case plan may be held in contempt of court.

(2) Any party may propose a change to a substantive part of the case plan, including, but not limited to, the child's placement and the visitation rights of any party. A party proposing a change to the case plan shall file the proposed change with the court and give notice of the proposed change in writing before the end of the day after the day of filing it to all parties and the child's guardian ad litem. All parties and the guardian ad litem shall have seven days from the date the notice is sent to object to and request a hearing on the proposed change.

(a) If it receives a timely request for a hearing, the court shall schedule a hearing pursuant to section 2151.417 of the Revised Code to be held no later than thirty days after the request is received by the court. The court shall give notice of the date, time, and location of the hearing to all parties and the guardian ad litem. The agency may implement the proposed change after the hearing, if the court approves it. The agency shall not implement the proposed change unless it is approved by the court.

(b) If it does not receive a timely request for a hearing, the court may approve the proposed change without a hearing. If the court approves the proposed change without a hearing, it shall journalize the case plan with the change not later than fourteen days after the change is filed with the court. If the court does not approve the proposed change to the case plan, it shall schedule a hearing to be held pursuant to section 2151.417 of the Revised Code no later than thirty days after the

expiration of the fourteen-day time period and give notice of the date, time, and location of the hearing to all parties and the guardian ad litem of the child. If, despite the requirements of division (F)(2) of this section, the court neither approves and journalizes the proposed change nor conducts a hearing, the agency may implement the proposed change not earlier than fifteen days after it is submitted to the court.

(3) If an agency has reasonable cause to believe that a child is suffering from illness or injury and is not receiving proper care and that an appropriate change in the child's case plan is necessary to prevent immediate or threatened physical or emotional harm, to believe that a child is in immediate danger from the child's surroundings and that an immediate change in the child's case plan is necessary to prevent immediate or threatened physical or emotional harm to the child, or to believe that a parent, guardian, custodian, or other member of the child's household has abused or neglected the child and that the child is in danger of immediate or threatened physical or emotional harm from that person unless the agency makes an appropriate change in the child's case plan, it may implement the change without prior agreement or a court hearing and, before the end of the next day after the change is made, give all parties, the guardian ad litem of the child, and the court notice of the change. Before the end of the third day after implementing the change in the case plan, the agency shall file a statement of the change with the court and give notice of the filing accompanied by a copy of the statement to all parties and the guardian ad litem. All parties and the guardian ad litem shall have ten days from the date the notice is sent to object to and request a hearing on the change.

(a) If it receives a timely request for a hearing, the

court shall schedule a hearing pursuant to section 2151.417 of the Revised Code to be held no later than thirty days after the request is received by the court. The court shall give notice of the date, time, and location of the hearing to all parties and the guardian ad litem. The agency shall continue to administer the case plan with the change after the hearing, if the court approves the change. If the court does not approve the change, the court shall make appropriate changes to the case plan and shall journalize the case plan.

(b) If it does not receive a timely request for a hearing, the court may approve the change without a hearing. If the court approves the change without a hearing, it shall journalize the case plan with the change within fourteen days after receipt of the change. If the court does not approve the change to the case plan, it shall schedule a hearing under section 2151.417 of the Revised Code to be held no later than thirty days after the expiration of the fourteen-day time period and give notice of the date, time, and location of the hearing to all parties and the guardian ad litem of the child.

(G)(1) All case plans for children in temporary custody shall have the following general goals:

(a) Consistent with the best interest and special needs of the child, to achieve a safe out-of-home placement in the least restrictive, most family-like setting available and in close proximity to the home from which the child was removed or the home in which the child will be permanently placed;

(b) To eliminate with all due speed the need for the out-of-home placement so that the child can safely return home.

(2) The director of children and youth shall adopt rules

pursuant to Chapter 119. of the Revised Code setting forth the general goals of case plans for children subject to dispositional orders for protective supervision, a planned permanent living arrangement, or permanent custody.

(H) In the agency's development of a case plan and the court's review of the case plan, the child's health and safety shall be the paramount concern. The agency and the court shall be guided by the following general priorities:

(1) A child who is residing with or can be placed with the child's parents within a reasonable time should remain in their legal custody even if an order of protective supervision is required for a reasonable period of time;

(2) If both parents of the child have abandoned the child, have relinquished custody of the child, have become incapable of supporting or caring for the child even with reasonable assistance, or have a detrimental effect on the health, safety, and best interest of the child, the child should be placed in the legal custody of a suitable member of the child's extended family;

(3) If a child described in division (H)(2) of this section has no suitable member of the child's extended family to accept legal custody, the child should be placed in the legal custody of a suitable nonrelative who shall be made a party to the proceedings after being given legal custody of the child;

(4) If the child has no suitable member of the child's extended family to accept legal custody of the child and no suitable nonrelative is available to accept legal custody of the child and, if the child temporarily cannot or should not be placed with the child's parents, guardian, or custodian, the

child should be placed in the temporary custody of a public children services agency or a private child placing agency;

(5) If the child cannot be placed with either of the child's parents within a reasonable period of time or should not be placed with either, if no suitable member of the child's extended family or suitable nonrelative is available to accept legal custody of the child, and if the agency has a reasonable expectation of placing the child for adoption, the child should be committed to the permanent custody of the public children services agency or private child placing agency;

(6) If the child is to be placed for adoption or foster care, the placement shall not be delayed or denied on the basis of the child's or adoptive or foster family's race, color, or national origin.

(I) The case plan for a child in temporary custody shall include at a minimum the following requirements if the child is or has been the victim of abuse or neglect or if the child witnessed the commission in the child's household of abuse or neglect against a sibling of the child, a parent of the child, or any other person in the child's household:

(1) A requirement that the child's parents, guardian, or custodian participate in mandatory counseling;

(2) A requirement that the child's parents, guardian, or custodian participate in any supportive services that are required by or provided pursuant to the child's case plan.

(J)(1) Prior to January 1, 2023, a case plan for a child in temporary custody may include, as a supplement, a plan for locating a permanent family placement. The supplement shall not be considered part of the case plan for purposes of division (E)

of this section.

(2) On and after January 1, 2023, a case plan for a child in temporary custody shall include a permanency plan for the child unless it is documented that such a plan would not be in the best interest of the child. The permanency plan shall describe the services the agency shall provide to achieve permanency for the child if reasonable efforts to return the child to the child's home, or eliminate the continued removal from that home, are unsuccessful. Those services shall be provided concurrently with reasonable efforts to return the child home or eliminate the child's continued removal from home.

~~(3) The director of children and youth, pursuant to Chapter 119. of the Revised Code, shall adopt rules necessary to carry out the purposes of division (J) of this section.~~

(K)(1) A public children services agency may request that the superintendent of the bureau of criminal identification and investigation conduct a criminal records check with respect to a parent, guardian, custodian, prospective custodian, or prospective placement whose actions result in a finding after the filing of a complaint as described in division (A)(1) of this section that a child is an abused, neglected, or dependent child. The public children services agency shall request that the superintendent obtain information from the federal bureau of investigation as part of the criminal records check.

(2) At any time on or after the date that is ninety days after September 10, 2012, a prosecuting attorney, or an assistant prosecuting attorney appointed under section 309.06 of the Revised Code, may request that the superintendent of the bureau of criminal identification and investigation conduct a criminal records check with respect to each parent, guardian,

custodian, prospective custodian, or prospective placement whose actions resulted in a finding after the filing of a complaint described in division (A)(1) of this section that a child is an abused, neglected, or dependent child. Each prosecuting attorney or assistant prosecuting attorney who makes such a request shall request that the superintendent obtain information from the federal bureau of investigation as part of the criminal records check for each parent, guardian, custodian, prospective custodian, or prospective placement who is a subject of the request.

(3) A public children services agency, prosecuting attorney, or assistant prosecuting attorney that requests a criminal records check under division (K)(1) or (2) of this section shall do both of the following:

(a) Provide to each parent, guardian, custodian, prospective custodian, or prospective placement for whom a criminal records check is requested a copy of the form prescribed pursuant to division (C)(1) of section 109.572 of the Revised Code and a standard fingerprint impression sheet prescribed pursuant to division (C)(2) of that section and obtain the completed form and impression sheet from the parent, guardian, custodian, prospective custodian, or prospective placement;

(b) Forward the completed form and impression sheet to the superintendent of the bureau of criminal identification and investigation.

(4) A parent, guardian, custodian, prospective custodian, or prospective placement who is given a form and fingerprint impression sheet under division (K)(3)(a) of this section and who fails to complete the form or provide fingerprint

impressions may be held in contempt of court.

Sec. 2743.02. (A)(1) The state hereby waives its immunity from liability, except as provided for the office of the state fire marshal in division (G)(1) of section 9.60 and division (B) of section 3737.221 of the Revised Code and subject to division (H) of this section, and consents to be sued, and have its liability determined, in the court of claims created in this chapter in accordance with the same rules of law applicable to suits between private parties, except that the determination of liability is subject to the limitations set forth in this chapter and, in the case of state universities or colleges, in section 3345.40 of the Revised Code, and except as provided in division (A)(2) or (3) of this section. To the extent that the state has previously consented to be sued, this chapter has no applicability.

Except in the case of a civil action filed by the state, filing a civil action in the court of claims results in a complete waiver of any cause of action, based on the same act or omission, that the filing party has against any officer or employee, as defined in section 109.36 of the Revised Code. The waiver shall be void if the court determines that the act or omission was manifestly outside the scope of the officer's or employee's office or employment or that the officer or employee acted with malicious purpose, in bad faith, or in a wanton or reckless manner.

(2) If a claimant proves in the court of claims that an officer or employee, as defined in section 109.36 of the Revised Code, would have personal liability for the officer's or employee's acts or omissions but for the fact that the officer or employee has personal immunity under section 9.86 of the

Revised Code, the state shall be held liable in the court of claims in any action that is timely filed pursuant to section 2743.16 of the Revised Code and that is based upon the acts or omissions.

(3)(a) Except as provided in division (A)(3)(b) of this section, the state is immune from liability in any civil action or proceeding involving the performance or nonperformance of a public duty, including the performance or nonperformance of a public duty that is owed by the state in relation to any action of an individual who is committed to the custody of the state.

(b) The state immunity provided in division (A)(3)(a) of this section does not apply to any action of the state under circumstances in which a special relationship can be established between the state and an injured party. A special relationship under this division is demonstrated if all of the following elements exist:

(i) An assumption by the state, by means of promises or actions, of an affirmative duty to act on behalf of the party who was allegedly injured;

(ii) Knowledge on the part of the state's agents that inaction of the state could lead to harm;

(iii) Some form of direct contact between the state's agents and the injured party;

(iv) The injured party's justifiable reliance on the state's affirmative undertaking.

(B) The state hereby waives the immunity from liability of all hospitals owned or operated by one or more political subdivisions and consents for them to be sued, and to have their liability determined, in the court of common pleas, in

accordance with the same rules of law applicable to suits between private parties, subject to the limitations set forth in this chapter. This division is also applicable to hospitals owned or operated by political subdivisions that have been determined by the supreme court to be subject to suit prior to July 28, 1975.

(C) Any hospital, as defined in section 2305.113 of the Revised Code, may purchase liability insurance covering its operations and activities and its agents, employees, nurses, interns, residents, staff, and members of the governing board and committees, and, whether or not such insurance is purchased, may, to the extent that its governing board considers appropriate, indemnify or agree to indemnify and hold harmless any such person against expense, including attorney's fees, damage, loss, or other liability arising out of, or claimed to have arisen out of, the death, disease, or injury of any person as a result of the negligence, malpractice, or other action or inaction of the indemnified person while acting within the scope of the indemnified person's duties or engaged in activities at the request or direction, or for the benefit, of the hospital. Any hospital electing to indemnify those persons, or to agree to so indemnify, shall reserve any funds that are necessary, in the exercise of sound and prudent actuarial judgment, to cover the potential expense, fees, damage, loss, or other liability. The superintendent of insurance may recommend, or, if the hospital requests the superintendent to do so, the superintendent shall recommend, a specific amount for any period that, in the superintendent's opinion, represents such a judgment. This authority is in addition to any authorization otherwise provided or permitted by law.

(D) Recoveries against the state shall be reduced by the

aggregate of insurance proceeds, disability award, or other collateral recovery that the claimant receives or is entitled to. This division does not apply to civil actions in the court of claims against a state university or college under the circumstances described in section 3345.40 of the Revised Code. The collateral benefits provisions of division (B)(2) of that section apply under those circumstances.

(E) The only defendant in original actions in the court of claims is the state. The state may file a third-party complaint or counterclaim in any civil action, except a civil action for ten thousand dollars or less, that is filed in the court of claims.

(F) A civil action against an officer or employee, as defined in section 109.36 of the Revised Code, that alleges that the officer's or employee's conduct was manifestly outside the scope of the officer's or employee's employment or official responsibilities, or that the officer or employee acted with malicious purpose, in bad faith, or in a wanton or reckless manner shall first be filed against the state in the court of claims that has exclusive, original jurisdiction to determine, initially, whether the officer or employee is entitled to personal immunity under section 9.86 of the Revised Code and whether the courts of common pleas have jurisdiction over the civil action. The officer or employee may participate in the immunity determination proceeding before the court of claims to determine whether the officer or employee is entitled to personal immunity under section 9.86 of the Revised Code.

The filing of a claim against an officer or employee under this division tolls the running of the applicable statute of limitations until the court of claims determines whether the

officer or employee is entitled to personal immunity under section 9.86 of the Revised Code.

(G) If a claim lies against an officer or employee who is a member of the Ohio national guard, and the officer or employee was, at the time of the act or omission complained of, subject to the "Federal Tort Claims Act," 60 Stat. 842 (1946), 28 U.S.C. 2671, et seq., the Federal Tort Claims Act is the exclusive remedy of the claimant and the state has no liability under this section.

(H) If an inmate of a state correctional institution has a claim against the state for the loss of or damage to property and the amount claimed does not exceed three hundred dollars, before commencing an action against the state in the court of claims, the inmate shall file a claim for the loss or damage under the rules adopted by the director of rehabilitation and correction pursuant to this division. The inmate shall file the claim within the time allowed for commencement of a civil action under section 2743.16 of the Revised Code. If the state admits or compromises the claim, the director shall make payment from a fund designated by the director for that purpose. If the state denies the claim or does not compromise the claim at least sixty days prior to expiration of the time allowed for commencement of a civil action based upon the loss or damage under section 2743.16 of the Revised Code, the inmate may commence an action in the court of claims under this chapter to recover damages for the loss or damage.

The director of rehabilitation and correction shall adopt rules pursuant to Chapter 119. of the Revised Code ~~to implement~~ specifying the process for an inmate to file a claim for loss or damage under this division.

Sec. 2915.08. (A)(1) Except as otherwise permitted under section 2915.092 of the Revised Code, annually before the first day of January, a charitable organization that desires to conduct bingo shall apply to the attorney general for one or more of the following types of licenses to conduct bingo, as appropriate:

(a) A type I license to conduct bingo as described in division (O)(1) of section 2915.01 of the Revised Code;

(b) A type II license to conduct instant bingo, electronic instant bingo, or both at a bingo session;

(c) A type III license to conduct instant bingo, electronic instant bingo, or both other than at a bingo session, in accordance with sections 2915.093 to 2915.095 or sections 2915.13 to 2915.15 of the Revised Code, as applicable.

(2) A veteran's organization or fraternal organization that is authorized under section 2915.14 of the Revised Code to conduct electronic instant bingo may be issued only one license to conduct electronic instant bingo at any one time. The organization may conduct electronic instant bingo under that license at only one location specified on the license, which shall be the organization's principal place of business.

(B) The application shall be accompanied by a license fee as follows:

(1) If the charitable organization was not licensed to conduct bingo under this chapter before July 1, 2003, a fee established by the attorney general by rule adopted pursuant to section 111.15 of the Revised Code.

(2) If the charitable organization was licensed to conduct bingo under this chapter before July 1, 2003, the following

applicable fee:

(a) For a type I license for a charitable organization that wishes to conduct bingo during twenty-six or more weeks in any calendar year, a license fee of two hundred dollars;

(b) For a type II or type III license for a charitable organization that previously has not been licensed under this chapter to conduct instant bingo or electronic instant bingo and that wishes to conduct bingo during twenty-six or more weeks in any calendar year, a license fee of five hundred dollars;

(c) For a type II or type III license for a charitable organization that previously has been licensed under this chapter to conduct instant bingo or electronic instant bingo and that desires to conduct bingo during twenty-six or more weeks in any calendar year, a license fee that is based upon the gross profits received by the charitable organization from the operation of instant bingo or electronic instant bingo during the one-year period ending on the thirty-first day of October of the year immediately preceding the year for which the license is sought, and that is one of the following:

(i) Five hundred dollars, if the total is fifty thousand dollars or less;

(ii) One thousand two hundred fifty dollars plus one-fourth per cent of the gross profit, if the total is more than fifty thousand dollars but less than two hundred fifty thousand one dollars;

(iii) Two thousand two hundred fifty dollars plus one-half per cent of the gross profit, if the total is more than two hundred fifty thousand dollars but less than five hundred thousand one dollars;

(iv) Three thousand five hundred dollars plus one per cent of the gross profit, if the total is more than five hundred thousand dollars but less than one million one dollars;

(v) Five thousand dollars plus one per cent of the gross profit, if the total is one million one dollars or more.

~~(c)~~(d) For a type I, type II, or type III license for a charitable organization that desires to conduct bingo during fewer than twenty-six weeks in any calendar year, a reduced license fee established by the attorney general by rule adopted pursuant to section 111.15 of the Revised Code.

(C) The application shall be in the form prescribed by the attorney general, shall be signed and sworn to by the applicant, and shall contain all of the following:

(1) The name and post-office address of the applicant;

(2) A statement that the applicant is a charitable organization and that it has been in continuous existence as a charitable organization in this state for two years immediately preceding the making of the application;

(3) The location at which the organization will conduct bingo, which location shall be within the county in which the principal place of business of the applicant is located, the days of the week and the times on each of those days when bingo will be conducted, whether the organization owns, leases, or subleases the premises, and a copy of the rental agreement if it leases or subleases the premises;

(4) A statement of the applicant's previous history, record, and association that is sufficient to establish that the applicant is a charitable organization, and a copy of a determination letter that is issued by the Internal Revenue

Service and states that the organization is tax exempt under subsection 501(a) and described in subsection 501(c)(3), 501(c)(4), 501(c)(7), 501(c)(8), 501(c)(10), or 501(c)(19) of the Internal Revenue Code;

(5) A statement as to whether the applicant has ever had any previous application refused, whether it previously has had a license revoked or suspended, and the reason stated by the attorney general for the refusal, revocation, or suspension;

(6) A statement of the charitable purposes for which the net profit derived from bingo described in division (O)(1) of section 2915.01 of the Revised Code will be used, or a statement of how the net profit derived from instant bingo or electronic instant bingo will be distributed in accordance with section 2915.101 of the Revised Code, as applicable;

(7) Other necessary and reasonable information that the attorney general may require by rule adopted pursuant to section 111.15 of the Revised Code;

(8) If the applicant is a charitable trust as defined in section 109.23 of the Revised Code, a statement as to whether it has registered with the attorney general pursuant to section 109.26 of the Revised Code or filed annual reports pursuant to section 109.31 of the Revised Code, and, if it is not required to do either, the exemption in section 109.26 or 109.31 of the Revised Code that applies to it;

(9) If the applicant is a charitable organization as defined in section 1716.01 of the Revised Code, a statement as to whether it has filed with the attorney general a registration statement pursuant to section 1716.02 of the Revised Code and a financial report pursuant to section 1716.04 of the Revised

Code, and, if it is not required to do both, the exemption in section 1716.03 of the Revised Code that applies to it;

(10) In the case of an applicant seeking to qualify as a youth athletic park organization, a statement issued by a board or body vested with authority under Chapter 755. of the Revised Code for the supervision and maintenance of recreation facilities in the territory in which the organization is located, certifying that the playing fields owned by the organization were open for use to all residents of that territory, regardless of race, color, creed, religion, sex, or national origin, for athletic activities by youth athletic organizations that do not discriminate on the basis of race, color, creed, religion, sex, or national origin, and that the fields were not used for any profit-making activity at any time during the year. That type of board or body is authorized to issue the statement upon request and shall issue the statement if it finds that the applicant's playing fields were so used.

(D) The attorney general, within thirty days after receiving a timely filed application from a charitable organization that has been issued a license under this section that has not expired and has not been revoked or suspended, shall send a temporary permit to the applicant specifying the date on which the application was filed with the attorney general and stating that, pursuant to section 119.06 of the Revised Code, the applicant may continue to conduct bingo until a new license is granted or, if the application is rejected, until fifteen days after notice of the rejection is mailed to the applicant. The temporary permit does not affect the validity of the applicant's application and does not grant any rights to the applicant except those rights specifically granted in section 119.06 of the Revised Code. The issuance of a temporary

permit by the attorney general pursuant to this division does not prohibit the attorney general from rejecting the applicant's application because of acts that the applicant committed, or actions that the applicant failed to take, before or after the issuance of the temporary permit.

(E) Within thirty days after receiving an initial license application from a charitable organization to conduct bingo, the attorney general shall conduct a preliminary review of the application and notify the applicant regarding any deficiencies. Once an application is deemed complete, or beginning on the thirtieth day after the application is filed, if the attorney general failed to notify the applicant of any deficiencies, the attorney general shall have an additional sixty days to conduct an investigation and either grant, grant with limits, restrictions, or probationary conditions, or deny the application based on findings established and communicated in accordance with divisions (F) and (I) of this section. As an option to granting, granting with limits, restrictions, or probationary conditions, or denying an initial license application, the attorney general may grant a temporary license and request additional time to conduct the investigation if the attorney general has cause to believe that additional time is necessary to complete the investigation and has notified the applicant in writing about the specific concerns raised during the investigation.

(F)(1) ~~The attorney general shall adopt rules to enforce sections 2915.01, 2915.02, and 2915.07 to 2915.15 of the Revised Code to ensure that bingo is conducted in accordance with those sections and to maintain proper control over the conduct of bingo. Except as otherwise provided in this section, the rules shall be adopted pursuant to Chapter 119. of the Revised Code.~~

The attorney general shall license charitable organizations to conduct bingo in conformance with this chapter and with the licensing provisions of Chapter 119. of the Revised Code.

(2) If any of the following applies to an organization, the attorney general may refuse to grant a license to the organization, may revoke or suspend the organization's license, or may place limits, restrictions, or probationary conditions on the organization's license for a limited or indefinite period, as determined by the attorney general:

(a) The organization fails or has failed at any time to meet any requirement of section 109.26, 109.31, or 1716.02, or sections 2915.07 to 2915.15 of the Revised Code, or violates or has violated any provision of sections 2915.02 or 2915.07 to 2915.13 of the Revised Code or any rule adopted by the attorney general pursuant to this chapter.

(b) The organization makes or has made an incorrect or false statement that is material to the granting of the license in an application filed under this section.

(c) The organization submits or has submitted any incorrect or false information relating to an application if the information is material to the granting of the license.

(d) The organization maintains or has maintained any incorrect or false information that is material to the granting of the license in the records required to be kept pursuant to section 2915.10 of the Revised Code, if applicable.

(e) The attorney general has good cause to believe that the organization will not conduct bingo in accordance with sections 2915.07 to 2915.15 of the Revised Code or with any rule adopted by the attorney general pursuant to this chapter.

(3) If the attorney general has good cause to believe that any director or officer of the organization has breached the director's or officer's fiduciary duty to, or committed theft or any other type of misconduct related to, the organization or any other charitable organization that has been issued a bingo license under this chapter, the attorney general may refuse to grant a license to the organization, may impose limits, restrictions, or probationary conditions on the license, or may revoke or suspend the organization's license for a period not to exceed five years.

(4) The attorney general may impose a civil fine on an organization licensed or permitted under this chapter for failure to comply with any restrictions, limits, or probationary conditions on its license, and for failure to comply with this chapter or any rule adopted under this chapter, according to a schedule of fines that the attorney general shall adopt in accordance with Chapter 119. of the Revised Code.

(5) For the purposes of division (F) of this section, any action of an officer, trustee, agent, representative, or bingo game operator of an organization is an action of the organization.

(G) The attorney general may grant licenses to charitable organizations that are branches, lodges, or chapters of national charitable organizations.

(H) The attorney general shall send notice of any of the following actions in writing to the prosecuting attorney and sheriff of the county in which the charitable organization is located and to any other law enforcement agency in that county that so requests, of all of the following:

(1) The issuance of a license under this section;

(2) The issuance of an amended license under this section;

(3) The rejection of an application for and refusal to grant a license under this section;

(4) The revocation of any license previously issued under this section;

(5) The suspension of any license previously issued under this section;

(6) The placing of any limits, restrictions, or probationary conditions placed on a license issued under this section.

(I) A license issued by the attorney general under this section shall set forth the information contained on the application of the charitable organization that the attorney general determines is relevant, including, but not limited to, the location at which the organization will conduct bingo, whether the license is a type I, type II, or type III license, and the days of the week and the times on each of those days when bingo will be conducted. If the attorney general refuses to grant, places limits, restrictions, or probationary conditions on, or revokes or suspends a license, the attorney general shall notify the applicant in writing and specifically identify the reason for the refusal, revocation, limit, restriction, probationary condition, or suspension in narrative form and, if applicable, by identifying the section of the Revised Code violated. The failure of the attorney general to give the written notice of the reasons for the refusal, revocation, limit, restriction, probationary condition, or suspension or a mistake in the written notice does not affect the validity of

the attorney general's refusal to grant, or the revocation or suspension of, or limit, restriction, probationary condition on, a license. If the attorney general fails to give the written notice or if there is a mistake in the written notice, the applicant may bring an action to compel the attorney general to comply with this division or to correct the mistake, but the attorney general's order refusing to grant, or placing a limit, restriction, or probationary condition on, or revoking or suspending, a license shall not be enjoined during the pendency of the action.

(J)(1)(a) Except as otherwise provided in division (J)(2) of this section, a charitable organization that has been issued a license under this section but that cannot conduct bingo at the location, or on the day of the week or at the time, specified on the license due to circumstances that make it impractical to do so, or that desires to conduct instant bingo other than at a bingo session at additional locations not identified on the license, may apply in writing, together with an application fee of two hundred fifty dollars, to the attorney general, at least thirty days prior to a change in or addition of a location, day of the week, or time, and request an amended license.

(b) As applicable, the application shall describe the causes making it impractical for the organization to conduct bingo in conformity with its license and shall indicate the location, days of the week, and times on each of those days when it desires to conduct bingo and, as applicable, shall indicate the additional locations at which it desires to conduct instant bingo other than at a bingo session.

(c) Except as otherwise provided in division (J)(3) of

this section, the attorney general shall issue the amended license in accordance with division (I) of this section, and the organization shall surrender its original license to the attorney general.

(2)(a) A charitable organization that has been issued a license under this section to conduct electronic instant bingo but that cannot conduct electronic instant bingo at the location, or on the day of the week or at the time, specified on the license due to circumstances that make it impractical to do so, may apply in writing, together with an application fee of two hundred fifty dollars, to the attorney general, at least thirty days prior to a change in a location, day of the week, or time, and request an amended license. A charitable organization may not apply for an amended license to conduct electronic instant bingo at any additional location.

(b) The application shall describe the causes making it impractical for the organization to conduct electronic instant bingo in conformity with its license and shall indicate the location, days of the week, and times on each of those days when it desires to conduct electronic instant bingo.

(c) Except as otherwise provided in division (J)(3) of this section, the attorney general shall issue the amended license in accordance with division (I) of this section, and the organization shall surrender its original license to the attorney general.

(3) The attorney general may refuse to grant an amended license under division (J)(1) or (2) of this section according to the terms of division (F) of this section.

(K) The attorney general may enter into a written contract

with any other state agency to delegate to that state agency the powers prescribed to the attorney general under Chapter 2915. of the Revised Code.

(L) The attorney general, by rule adopted pursuant to section 111.15 of the Revised Code, may adopt rules to determine the requirements for a charitable organization that is exempt from federal income taxation under subsection 501(a) and described in subsection 501(c)(3) of the Internal Revenue Code to be in good standing in the state.

Sec. 2919.271. (A)(1)(a) If a defendant is charged with a violation of section 2919.27 of the Revised Code or of a municipal ordinance that is substantially similar to that section, the court may order an evaluation of the mental condition of the defendant if the court determines that either of the following criteria apply:

(i) If the alleged violation is a violation of a protection order issued or consent agreement approved pursuant to section 2919.26 or 3113.31 of the Revised Code, that the violation allegedly involves conduct by the defendant that caused physical harm to the person or property of a family or household member covered by the order or agreement, or conduct by the defendant that caused a family or household member to believe that the defendant would cause physical harm to that member or that member's property.

(ii) If the alleged violation is a violation of a protection order issued pursuant to section 2903.213 or 2903.214 of the Revised Code or a protection order issued by a court of another state, that the violation allegedly involves conduct by the defendant that caused physical harm to the person or property of the person covered by the order, or conduct by the

defendant that caused the person covered by the order to believe that the defendant would cause physical harm to that person or that person's property.

(b) If a defendant is charged with a violation of section 2903.211 of the Revised Code or of a municipal ordinance that is substantially similar to that section, the court may order an evaluation of the mental condition of the defendant.

(2) An evaluation ordered under division (A)(1) of this section shall be completed no later than thirty days from the date the order is entered pursuant to that division. In that order, the court shall do either of the following:

(a) Order that the evaluation of the mental condition of the defendant be preceded by an examination conducted either by a forensic center that is designated by the department of mental health and addiction services to conduct examinations and make evaluations of defendants charged with violations of section 2903.211 or 2919.27 of the Revised Code or of substantially similar municipal ordinances in the area in which the court is located, or by any other program or facility that is designated by the department of mental health and addiction services or the department of developmental disabilities to conduct examinations and make evaluations of defendants charged with violations of section 2903.211 or 2919.27 of the Revised Code or of substantially similar municipal ordinances, and that is operated by either department or is certified by either department as being in compliance with the standards established under division (B)(7) of section 5119.10 of the Revised Code or division ~~(C)~~ (B) of section 5123.04 of the Revised Code.

(b) Designate a center, program, or facility other than one designated by the department of mental health and addiction

services or the department of developmental disabilities, as described in division (A)(2)(a) of this section, to conduct the evaluation and preceding examination of the mental condition of the defendant.

Whether the court acts pursuant to division (A)(2)(a) or (b) of this section, the court may designate examiners other than the personnel of the center, program, facility, or department involved to make the evaluation and preceding examination of the mental condition of the defendant.

(B) If the court considers that additional evaluations of the mental condition of a defendant are necessary following the evaluation authorized by division (A) of this section, the court may order up to two additional similar evaluations. These evaluations shall be completed no later than thirty days from the date the applicable court order is entered. If more than one evaluation of the mental condition of the defendant is ordered under this division, the prosecutor and the defendant may recommend to the court an examiner whom each prefers to perform one of the evaluations and preceding examinations.

(C)(1) The court may order a defendant who has been released on bail to submit to an examination under division (A) or (B) of this section. The examination shall be conducted either at the detention facility in which the defendant would have been confined if the defendant had not been released on bail, or, if so specified by the center, program, facility, or examiners involved, at the premises of the center, program, or facility. Additionally, the examination shall be conducted at the times established by the examiners involved. If such a defendant refuses to submit to an examination or a complete examination as required by the court or the center, program,

facility, or examiners involved, the court may amend the conditions of the bail of the defendant and order the sheriff to take the defendant into custody and deliver the defendant to the detention facility in which the defendant would have been confined if the defendant had not been released on bail, or, if so specified by the center, program, facility, or examiners involved, to the premises of the center, program, or facility, for purposes of the examination.

(2) A defendant who has not been released on bail shall be examined at the detention facility in which the defendant is confined or, if so specified by the center, program, facility, or examiners involved, at the premises of the center, program, or facility.

(D) The examiner of the mental condition of a defendant under division (A) or (B) of this section shall file a written report with the court within thirty days after the entry of an order for the evaluation of the mental condition of the defendant. The report shall contain the findings of the examiner; the facts in reasonable detail on which the findings are based; the opinion of the examiner as to the mental condition of the defendant; the opinion of the examiner as to whether the defendant represents a substantial risk of physical harm to other persons as manifested by evidence of recent homicidal or other violent behavior, evidence of recent threats that placed other persons in reasonable fear of violent behavior and serious physical harm, or evidence of present dangerousness; and the opinion of the examiner as to the types of treatment or counseling that the defendant needs. The court shall provide copies of the report to the prosecutor and defense counsel.

(E) The costs of any evaluation and preceding examination

of a defendant that is ordered pursuant to division (A) or (B) of this section shall be taxed as court costs in the criminal case.

(F) If the examiner considers it necessary in order to make an accurate evaluation of the mental condition of a defendant, an examiner under division (A) or (B) of this section may request any family or household member of the defendant to provide the examiner with information. A family or household member may, but is not required to, provide information to the examiner upon receipt of the request.

(G) As used in this section:

(1) "Bail" includes a recognizance.

(2) "Examiner" means a psychiatrist, a licensed independent social worker who is employed by a forensic center that is certified as being in compliance with the standards established under division (B)(7) of section 5119.10 or division ~~(C)~~ (B) of section 5123.04 of the Revised Code, a licensed professional clinical counselor who is employed at a forensic center that is certified as being in compliance with such standards, or a licensed clinical psychologist, except that in order to be an examiner, a licensed clinical psychologist shall meet the criteria of division (I) of section 5122.01 of the Revised Code or be employed to conduct examinations by the department of mental health and addiction services or by a forensic center certified as being in compliance with the standards established under division (B)(7) of section 5119.10 or division ~~(C)~~ (B) of section 5123.04 of the Revised Code that is designated by the department of mental health and addiction services.

(3) "Family or household member" has the same meaning as in section 2919.25 of the Revised Code.

(4) "Prosecutor" has the same meaning as in section 2935.01 of the Revised Code.

(5) "Psychiatrist" and "licensed clinical psychologist" have the same meanings as in section 5122.01 of the Revised Code.

(6) "Protection order issued by a court of another state" has the same meaning as in section 2919.27 of the Revised Code.

Sec. 2927.27. (A) No person, other than a law enforcement officer, shall apprehend, detain, or arrest a principal on bond, wherever issued, unless that person meets all of the following criteria:

(1) The person is any of the following:

(a) Qualified, licensed, and appointed as a surety bail bond agent under sections 3905.83 to ~~3905.95~~ 3905.941 of the Revised Code;

(b) Licensed as a surety bail bond agent by the state where the bond was written;

(c) Licensed as a private investigator under ~~chapter~~ Chapter 4749. of the Revised Code;

(d) Licensed as a private investigator by the state where the bond was written;

(e) An off-duty peace officer, as defined in section 2921.51 of the Revised Code.

(2) The person, prior to apprehending, detaining, or arresting the principal, has entered into a written contract

with the surety or with a licensed surety bail bond agent appointed by the surety, which contract sets forth the name of the principal who is to be apprehended, detained, or arrested.

For purposes of division (A)(2) of this section, "surety" has the same meaning as in section 3905.83 of the Revised Code.

(3) The person, prior to apprehending, detaining, or arresting the principal, has notified the local law enforcement agency having jurisdiction over the area in which such activities will be performed and has provided any form of identification or other information requested by the law enforcement agency.

(B) No person shall represent the person's self to be a bail enforcement agent or bounty hunter, or claim any similar title, in this state.

(C)(1) Whoever violates this section is guilty of illegal bail bond agent practices.

(2) A violation of division (A) of this section is a misdemeanor of the first degree or, if the offender previously has been convicted of or pleaded guilty to two or more violations of division (A) of this section, a felony of the third degree.

(3) A violation of division (B) of this section is a misdemeanor of the first degree or, if the offender previously has been convicted of or pleaded guilty to two or more violations of division (B) of this section, a felony of the third degree.

Sec. 2950.08. (A) Subject to division (B) of this section, the statements, information, photographs, fingerprints, and material required by sections 2950.04, 2950.041, 2950.05, and

2950.06 of the Revised Code and provided by a person who registers, who provides notice of a change of residence, school, institution of higher education, or place of employment address and registers the new residence, school, institution of higher education, or place of employment address, or who provides verification of a current residence, school, institution of higher education, or place of employment address pursuant to those sections and that are in the possession of the bureau of criminal identification and investigation and the information in the possession of the bureau that was received by the bureau pursuant to section 2950.14 of the Revised Code shall not be open to inspection by the public or by any person other than the following persons:

(1) A regularly employed peace officer or other law enforcement officer;

(2) An authorized employee of the bureau of criminal identification and investigation for the purpose of providing information to a board, administrator, or person pursuant to division (F) or (G) of section 109.57 of the Revised Code;

(3) The registrar of motor vehicles, or an employee of the registrar of motor vehicles, for the purpose of verifying and updating any of the information so provided, upon the request of the bureau of criminal identification and investigation;

(4) The director of children and youth, or an employee of the director, for the purpose of complying with division (D) of section 5104.013 of the Revised Code.

(B) Division (A) of this section does not apply to any information that is contained in the internet sex offender and child-victim offender database established by the attorney

general under division ~~(A)(11)~~(A)(10) of section 2950.13 of the Revised Code regarding offenders and that is disseminated as described in that division.

Sec. 2950.13. (A) The attorney general shall do all of the following:

(1) No later than July 1, 1997, establish and maintain a state registry of sex offenders and child-victim offenders that is housed at the bureau of criminal identification and investigation and that contains all of the registration, change of residence, school, institution of higher education, or place of employment address, and verification information the bureau receives pursuant to sections 2950.04, 2950.041, 2950.05, and 2950.06 of the Revised Code regarding each person who is convicted of, pleads guilty to, has been convicted of, or has pleaded guilty to a sexually oriented offense or a child-victim oriented offense and each person who is or has been adjudicated a delinquent child for committing a sexually oriented offense or a child-victim oriented offense and is classified a juvenile offender registrant or is an out-of-state juvenile offender registrant based on that adjudication, all of the information the bureau receives pursuant to section 2950.14 of the Revised Code, and any notice of an order terminating or modifying an offender's or delinquent child's duty to comply with sections 2950.04, 2950.041, 2950.05, and 2950.06 of the Revised Code the bureau receives pursuant to section 2152.84, 2152.85, or 2950.15 of the Revised Code. For a person who was convicted of or pleaded guilty to the sexually oriented offense or child-victim related offense, the registry also shall indicate whether the person was convicted of or pleaded guilty to the offense in a criminal prosecution or in a serious youthful offender case. The registry shall not be open to inspection by the public or by any

person other than a person identified in division (A) of section 2950.08 of the Revised Code. In addition to the information and material previously identified in this division, the registry shall include all of the following regarding each person who is listed in the registry:

(a) A citation for, and the name of, all sexually oriented offenses or child-victim oriented offenses of which the person was convicted, to which the person pleaded guilty, or for which the person was adjudicated a delinquent child and that resulted in a registration duty, and the date on which those offenses were committed;

(b) The text of the sexually oriented offenses or child-victim oriented offenses identified in division (A)(1)(a) of this section as those offenses existed at the time the person was convicted of, pleaded guilty to, or was adjudicated a delinquent child for committing those offenses, or a link to a database that sets forth the text of those offenses;

(c) A statement as to whether the person is a tier I sex offender/child-victim offender, a tier II sex offender/child-victim offender, or a tier III sex offender/child-victim offender for the sexually oriented offenses or child-victim oriented offenses identified in division (A)(1)(a) of this section;

(d) The community supervision status of the person, including, but not limited to, whether the person is serving a community control sanction and the nature of any such sanction, whether the person is under supervised release and the nature of the release, or regarding a juvenile, whether the juvenile is under any type of release authorized under Chapter 2152. or 5139. of the Revised Code and the nature of any such release;

(e) The offense and delinquency history of the person, as determined from information gathered or provided under sections 109.57 and 2950.14 of the Revised Code;

(f) The bureau of criminal identification and investigation tracking number assigned to the person if one has been so assigned, the federal bureau of investigation number assigned to the person if one has been assigned and the bureau of criminal identification and investigation is aware of the number, and any other state identification number assigned to the person of which the bureau is aware;

(g) Fingerprints and palmprints of the person;

(h) A DNA specimen, as defined in section 109.573 of the Revised Code, from the person;

(i) Whether the person has any outstanding arrest warrants;

(j) Whether the person is in compliance with the person's duties under this chapter.

(2) ~~In consultation with local law enforcement representatives and no later than July 1, 1997, adopt rules that contain guidelines necessary for the implementation of this chapter;~~

~~(3)~~ In consultation with local law enforcement representatives, adopt rules for the implementation and administration of the provisions contained in section 2950.11 of the Revised Code that pertain to the notification of neighbors of an offender or a delinquent child who has committed a sexually oriented offense or a child-victim oriented offense and is in a category specified in division (F)(1) of that section and rules that prescribe a manner in which victims of a sexually

oriented offense or a child-victim oriented offense committed by an offender or a delinquent child who is in a category specified in division (B)(1) of section 2950.10 of the Revised Code may make a request that specifies that the victim would like to be provided the notices described in divisions (A)(1) and (2) of section 2950.10 of the Revised Code;

~~(4)~~ (3) In consultation with local law enforcement representatives and through the bureau of criminal identification and investigation, prescribe the forms to be used by judges and officials pursuant to section 2950.03 or 2950.032 of the Revised Code to advise offenders and delinquent children of their duties of filing a notice of intent to reside, registration, notification of a change of residence, school, institution of higher education, or place of employment address and registration of the new school, institution of higher education, or place of employment address, as applicable, and address verification under sections 2950.04, 2950.041, 2950.05, and 2950.06 of the Revised Code, and prescribe the forms to be used by sheriffs relative to those duties of filing a notice of intent to reside, registration, change of residence, school, institution of higher education, or place of employment address notification, and address verification;

~~(5)~~ (4) Make copies of the forms prescribed under division ~~(A)(4)~~ (A)(3) of this section available to judges, officials, and sheriffs;

~~(6)~~ (5) Through the bureau of criminal identification and investigation, provide the notifications, the information and materials, and the documents that the bureau is required to provide to appropriate law enforcement officials and to the federal bureau of investigation pursuant to sections 2950.04,

2950.041, 2950.05, and 2950.06 of the Revised Code;

~~(7)~~ (6) Through the bureau of criminal identification and investigation, maintain the verification forms returned under the address verification mechanism set forth in section 2950.06 of the Revised Code;

~~(8)~~ (7) In consultation with representatives of the officials, judges, and sheriffs, adopt procedures for officials, judges, and sheriffs to use to forward information, photographs, and fingerprints to the bureau of criminal identification and investigation pursuant to the requirements of sections 2950.03, 2950.04, 2950.041, 2950.05, 2950.06, and 2950.11 of the Revised Code;

~~(9)~~ (8) In consultation with the director of education, the director of children and youth, and the director of rehabilitation and correction, adopt rules that contain guidelines to be followed by boards of education of a school district, chartered nonpublic schools or other schools not operated by a board of education, preschool programs, child care centers, type A family child care homes, licensed type B family child care homes, and institutions of higher education regarding the proper use and administration of information received pursuant to section 2950.11 of the Revised Code relative to an offender or delinquent child who has committed a sexually oriented offense or a child-victim oriented offense and is in a category specified in division (F)(1) of that section;

~~(10)~~ (9) In consultation with local law enforcement representatives and no later than July 1, 1997, adopt rules that designate a geographic area or areas within which the notice described in division (B) of section 2950.11 of the Revised Code must be given to the persons identified in divisions (A)(2) to

(8) and (A)(10) of that section;

~~(11)~~ (10) Through the bureau of criminal identification and investigation, not later than January 1, 2004, establish and operate on the internet a sex offender and child-victim offender database that contains information for every offender who has committed a sexually oriented offense or a child-victim oriented offense and registers in any county in this state pursuant to section 2950.04 or 2950.041 of the Revised Code and for every delinquent child who has committed a sexually oriented offense, is a public registry-qualified juvenile offender registrant, and registers in any county in this state pursuant to either such section. The bureau shall not include on the database the identity of any offender's or public registry-qualified juvenile offender registrant's victim, any offender's or public registry-qualified juvenile offender registrant's social security number, the name of any school or institution of higher education attended by any offender or public registry-qualified juvenile offender registrant, the name of the place of employment of any offender or public registry-qualified juvenile offender registrant, any tracking or identification number described in division (A)(1)(f) of this section, or any information described in division (C)(7) of section 2950.04 or 2950.041 of the Revised Code. The bureau shall provide on the database, for each offender and each public registry-qualified juvenile offender registrant, at least the information specified in divisions ~~(A)(11)(a)~~ (A)(10)(a) to (h) of this section. Otherwise, the bureau shall determine the information to be provided on the database for each offender and public registry-qualified juvenile offender registrant and shall obtain that information from the information contained in the state registry of sex offenders and child-victim offenders described in division (A)(1) of this

section, which information, while in the possession of the sheriff who provided it, is a public record open for inspection as described in section 2950.081 of the Revised Code. The database is a public record open for inspection under section 149.43 of the Revised Code, and it shall be searchable by offender or public registry-qualified juvenile offender registrant name, by county, by zip code, and by school district. The database shall provide a link to the web site of each sheriff who has established and operates on the internet a sex offender and child-victim offender database that contains information for offenders and public registry-qualified juvenile offender registrants who register in that county pursuant to section 2950.04 or 2950.041 of the Revised Code, with the link being a direct link to the sex offender and child-victim offender database for the sheriff. The bureau shall provide on the database, for each offender and public registry-qualified juvenile offender registrant, at least the following information:

(a) The information described in divisions (A)(1)(a), (b), (c), and (d) of this section relative to the offender or public registry-qualified juvenile offender registrant;

(b) The address of the offender's or public registry-qualified juvenile offender registrant's school, institution of higher education, or place of employment provided in a registration form;

(c) The information described in division (C)(6) of section 2950.04 or 2950.041 of the Revised Code;

(d) A chart describing which sexually oriented offenses and child-victim oriented offenses are included in the definitions of tier I sex offender/child-victim offender, tier

II sex offender/child-victim offender, and tier III sex offender/child-victim offender;

(e) Fingerprints and palmprints of the offender or public registry-qualified juvenile offender registrant and a DNA specimen from the offender or public registry-qualified juvenile offender registrant;

(f) The information set forth in division (B) of section 2950.11 of the Revised Code;

(g) Any outstanding arrest warrants for the offender or public registry-qualified juvenile offender registrant;

(h) The offender's or public registry-qualified juvenile offender registrant's compliance status with duties under this chapter.

~~(12)~~ (11) Develop software to be used by sheriffs in establishing on the internet a sex offender and child-victim offender database for the public dissemination of some or all of the information and materials described in division (A) of section 2950.081 of the Revised Code that are public records under that division, that are not prohibited from inclusion by division (B) of that section, and that pertain to offenders and public registry-qualified juvenile offender registrants who register in the sheriff's county pursuant to section 2950.04 or 2950.041 of the Revised Code and for the public dissemination of information the sheriff receives pursuant to section 2950.14 of the Revised Code and, upon the request of any sheriff, provide technical guidance to the requesting sheriff in establishing on the internet such a database;

~~(13)~~ (12) Through the bureau of criminal identification and investigation, not later than January 1, 2004, establish and

operate on the internet a database that enables local law enforcement representatives to remotely search by electronic means the state registry of sex offenders and child-victim offenders described in division (A)(1) of this section and any information and materials the bureau receives pursuant to sections 2950.04, 2950.041, 2950.05, 2950.06, and 2950.14 of the Revised Code. The database shall enable local law enforcement representatives to obtain detailed information regarding each offender and delinquent child who is included in the registry, including, but not limited to the offender's or delinquent child's name, aliases, residence address, name and address of any place of employment, school, institution of higher education, if applicable, license plate number of each vehicle identified in division (C)(5) of section 2950.04 or 2950.041 of the Revised Code to the extent applicable, victim preference if available, date of most recent release from confinement if applicable, fingerprints, and palmprints, all of the information and material described in divisions (A)(1)(a) to (h) of this section regarding the offender or delinquent child, and other identification parameters the bureau considers appropriate. The database is not a public record open for inspection under section 149.43 of the Revised Code and shall be available only to law enforcement representatives as described in this division. Information obtained by local law enforcement representatives through use of this database is not open to inspection by the public or by any person other than a person identified in division (A) of section 2950.08 of the Revised Code.

~~(14)~~ (13) Through the bureau of criminal identification and investigation, maintain a list of requests for notice about a specified offender or delinquent child or specified geographical

notification area made pursuant to division (J) of section 2950.11 of the Revised Code and, when an offender or delinquent child changes residence to another county, forward any requests for information about that specific offender or delinquent child to the appropriate sheriff;

~~(15)~~ (14) Through the bureau of criminal identification and investigation, establish and operate a system for the immediate notification by electronic means of the appropriate officials in other states specified in this division each time an offender or delinquent child registers a residence, school, institution of higher education, or place of employment address under section 2950.04 or 2950.041 of the Revised Code or provides a notice of a change of address or registers a new address under division (A) or (B) of section 2950.05 of the Revised Code. The immediate notification by electronic means shall be provided to the appropriate officials in each state in which the offender or delinquent child is required to register a residence, school, institution of higher education, or place of employment address. The notification shall contain the offender's or delinquent child's name and all of the information the bureau receives from the sheriff with whom the offender or delinquent child registered the address or provided the notice of change of address or registered the new address.

(B) The attorney general in consultation with local law enforcement representatives, may adopt rules that establish one or more categories of neighbors of an offender or delinquent child who, in addition to the occupants of residential premises and other persons specified in division (A)(1) of section 2950.11 of the Revised Code, must be given the notice described in division (B) of that section.

(C) No person, other than a local law enforcement representative, shall knowingly do any of the following:

(1) Gain or attempt to gain access to the database established and operated by the attorney general, through the bureau of criminal identification and investigation, pursuant to division ~~(A)(13)~~ (A)(12) of this section.

(2) Permit any person to inspect any information obtained through use of the database described in division (C)(1) of this section, other than as permitted under that division.

(D) As used in this section, "local law enforcement representatives" means representatives of the sheriffs of this state, representatives of the municipal chiefs of police and marshals of this state, and representatives of the township constables and chiefs of police of the township police departments or police district police forces of this state.

Sec. 2950.131. (A) By January 1, 2008, the bureau of criminal identification and investigation, with the assistance of the office of criminal justice services, shall include on the internet sex offender and child-victim offender database established and operated pursuant to division ~~(A)(11)~~ (A)(10) of section 2950.13 of the Revised Code a link to educational information for the public on current research about sex offenders and child-victim offenders. Each sheriff who has established on the internet a sex offender and child-victim offender database may include a link to this information on the sheriff's internet database.

(B) By January 1, 2008, the internet sex offender and child-victim offender database established and operated pursuant to division ~~(A)(11)~~ (A)(10) of section 2950.13 of the Revised

Code and each sheriff's internet sex offender and child-victim offender database is required to inform offenders and public registry-qualified juvenile offender registrants that they may contact the sheriff of the county in which the offender or delinquent child registered an address if the offender or delinquent child believes that information contained on the internet sex offender and child-victim offender database or sheriff's internet sex offender and child-victim offender database pertaining to the offender or delinquent child is incorrect.

Sec. 2950.14. (A) Prior to releasing an offender who is under the custody and control of the department of rehabilitation and correction and who has been convicted of or pleaded guilty to committing, either prior to, on, or after January 1, 1997, any sexually oriented offense or any child-victim oriented offense, the department of rehabilitation and correction shall provide all of the information described in division (B) of this section to the bureau of criminal identification and investigation regarding the offender and to the sheriff of the county in which the offender's anticipated future residence is located. Prior to releasing a delinquent child who is in the custody of the department of youth services who has been adjudicated a delinquent child for committing any sexually oriented offense or any child-victim oriented offense, regardless of when the offense was committed, and who has been classified a juvenile offender registrant based on that adjudication, the department of youth services shall provide all of the information described in division (B) of this section to the bureau of criminal identification and investigation regarding the delinquent child.

(B) The department of rehabilitation and correction and

the department of youth services shall provide all of the following information to the bureau of criminal identification and investigation regarding an offender or delinquent child described in division (A) of this section:

(1) The offender's or delinquent child's name and any aliases used by the offender or delinquent child;

(2) All identifying factors concerning, and a physical description of, the offender or delinquent child;

(3) The offender's or delinquent child's anticipated future residence;

(4) The offense and delinquency history and the terms and conditions of release of the offender or delinquent child;

(5) Whether the offender or delinquent child was treated for a mental abnormality or personality disorder while under the custody and control of the department;

(6) Any other information that the bureau indicates is relevant and that the department possesses.

(C) Upon receipt of the information described in division (B) of this section regarding an offender or delinquent child, the bureau immediately shall enter the information into the state registry of sex offenders and child-victim offenders that the bureau maintains pursuant to section 2950.13 of the Revised Code and into the records that the bureau maintains pursuant to division (A) of section 109.57 of the Revised Code. Upon receipt of that information regarding an offender, the bureau immediately shall enter the information on the sex offender and child-victim offender database it establishes and operates on the internet pursuant to division ~~(A)(11)~~ (A)(10) of section 2950.13 of the Revised Code.

(D) Upon receipt of the information described in division (B) of this section regarding an offender, a sheriff who has established on the internet a sex offender and child-victim offender database for the public dissemination of information regarding such offenders shall enter that information on the database.

Sec. 2953.26. (A) As used in this section:

(1) "Collateral sanction for housing" means a penalty, disability, or disadvantage that is related to housing as a result of the individual's conviction of or plea of guilty to an offense and that applies by operation of law in this state whether or not the penalty, disability, or disadvantage is included in the sentence or judgment imposed.

"Collateral sanction for housing" does not include imprisonment, probation, parole, supervised release, forfeiture, restitution, fine, assessment, or costs of prosecution.

(2) "Decision-maker" means a housing provider in this state of residential premises as defined in section 1923.01 of the Revised Code, including a landlord as defined in section 1923.01 of the Revised Code and a metropolitan housing authority established in Chapter 3735. of the Revised Code.

(3) "Division of parole and community services" means the division of parole and community services of the department of rehabilitation and correction.

(4) "Offense" means any felony or misdemeanor under the laws of this state.

(5) "Tort action" means a civil action for injury, death, or loss to person or property.

(B)(1) An individual who is subject to one or more collateral sanctions for housing as a result of being convicted of or pleading guilty to an offense and who has not already received a certificate of qualification for housing under section 2961.25 of the Revised Code may file for a certificate of qualification for housing by doing either of the following:

(a) In the case of an individual who resides in this state, filing a petition with the court of common pleas of the county in which the person resides;

(b) In the case of an individual who resides outside of this state, filing a petition with the court of common pleas of any county in which any conviction or plea of guilty from which the individual seeks relief was entered.

(2) A petition under division (B)(1) of this section shall be made on a copy of the form prescribed by the division of parole and community services under division (I) of this section, shall contain all of the information described in division (E) of this section, and, except as provided in division (B)(5) of this section, shall be accompanied by an application fee of fifty dollars.

(3) An individual may file a petition under division (B)(1) of this section at any time after the expiration of whichever of the following is applicable:

(a) If the offense that resulted in the collateral sanction for housing from which the individual seeks relief is a felony, at any time after the expiration of one year from the date of release of the individual from any period of incarceration in a state or local correctional facility that was imposed for that offense or, if the individual was not

incarcerated for that offense, at any time after the expiration of one year from the date of the individual's final release from all other sanctions imposed for that offense;

(b) If the offense that resulted in the collateral sanction for housing from which the individual seeks relief is a misdemeanor, at any time after the expiration of six months from the date of release of the individual from any period of incarceration in a local correctional facility that was imposed for that offense and all periods of supervision imposed after release from the period of incarceration or, if the individual was not incarcerated for that offense, at any time after the expiration of six months from the date of the final release of the individual from all sanctions imposed for that offense including any period of supervision.

(4) A court of common pleas that receives a petition for a certificate of qualification for housing from an individual shall attempt to determine all other courts in this state in which the individual was convicted of or pleaded guilty to an offense other than the offense from which the individual is seeking relief. The court shall notify all other courts in this state that it determines under this division were courts in which the individual was convicted of or pleaded guilty to an offense other than the offense from which the individual is seeking relief that the individual has filed the petition and that the court may send comments regarding the possible issuance of the certificate, and shall notify the county's prosecuting attorney that the individual has filed the petition.

A court of common pleas that receives a petition for a certificate of qualification for housing may direct the clerk of court to process and record all notices required in or under

this section. Except as provided in division (B)(5) of this section, the court shall pay thirty dollars of the application fee into the state treasury and twenty dollars of the application fee into the county general revenue fund.

(5) Upon receiving a petition for a certificate of qualification for housing, a court of common pleas may waive all or part of the fifty-dollar-filing fee for an applicant who is indigent. If an application fee is partially waived, the first twenty dollars of the fee that is collected shall be paid into the county general revenue fund. Any partial fee collected in excess of twenty dollars shall be paid into the state treasury.

(C)(1) Upon receiving a petition for a certificate of qualification for housing, the court shall review the individual's petition, the individual's criminal history, except for information contained in any record that has been sealed under section 2953.32 of the Revised Code, all filings submitted by the prosecutor or by the victim ~~in accordance with rules adopted by the division of parole and community services~~, the applicant's military service record, if applicable, and whether the applicant has an emotional, mental, or physical condition that is traceable to the applicant's military service in the armed forces of the United States and that was a contributing factor in the commission of the offense or offenses, and all other relevant evidence. The court may order any report, investigation, or disclosure by the individual that the court believes is necessary for the court to reach a decision on whether to approve the individual's petition for a certificate of qualification for housing, except that the court shall not require an individual to disclose information about any record sealed under section 2953.32 of the Revised Code.

(2) Upon receiving a petition for a certificate of qualification for housing, except as otherwise provided in this division, the court shall decide whether to issue the certificate within sixty days after the court receives the completed petition and all information requested for the court to make that decision. Upon request of the individual who filed the petition, the court may extend the sixty-day period specified in this division.

(3) Except as provided in division (C)(5) of this section and subject to division (D)(3) of this section, a court that receives an individual's petition for a certificate of qualification for housing may issue a certificate of qualification for housing, at the court's discretion, if the court finds that the individual has established all of the following by a preponderance of the evidence:

(a) Granting the petition will materially assist the individual in obtaining housing.

(b) The individual has a substantial need for the relief requested in order to live a law-abiding life.

(c) Granting the petition would not pose an unreasonable risk to the safety of the public or any individual.

(4) The submission of an incomplete petition by an individual shall not be grounds for the court to deny the petition.

(5) Subject to division (C)(6) of this section, an individual is rebuttably presumed to be eligible for a certificate of qualification for housing if the court that receives the individual's petition finds all of the following:

(a) The application was filed after the expiration of the

applicable waiting period prescribed in division (B)(3) of this section.

(b) If the offense that resulted in the collateral sanction for housing from which the individual seeks relief is a felony, at least three years have elapsed since the date of release of the individual from any period of incarceration in a state or local correctional facility that was imposed for that offense and all periods of supervision imposed after release from the period of incarceration or, if the individual was not incarcerated for that offense, at least three years have elapsed since the date of the individual's final release from all other sanctions imposed for that offense;

(c) If the offense that resulted in the collateral sanction for housing from which the individual seeks relief is a misdemeanor, at least one year has elapsed since the date of release of the individual from any period of incarceration in a local correctional facility that was imposed for that offense and all periods of supervision imposed after release from the period of incarceration or, if the individual was not incarcerated for that offense, at least one year has elapsed since the date of the final release of the individual from all sanctions imposed for that offense including any period of supervision.

(6) An application that meets all of the requirements for the presumption under division (C)(5) of this section shall be denied only if the court that receives the petition finds that the evidence reviewed under division (C)(1) of this section rebuts the presumption of eligibility for issuance by establishing, by a preponderance of the evidence, that the applicant has not been rehabilitated.

(7) If a court that receives an individual's petition for a certificate of qualification for housing denies the petition, the court shall provide written notice to the individual of the court's denial. The court may place conditions on the individual regarding the individual's filing of any subsequent petition for a certificate of qualification for housing. The written notice must notify the individual of any conditions placed on the individual's filing of a subsequent petition for a certificate of qualification for housing.

If a court of common pleas that receives an individual's petition for a certificate of qualification for housing denies the petition, the individual may appeal the decision to the court of appeals only if the individual alleges that the denial was an abuse of discretion on the part of the court of common pleas.

(D)(1) A certificate of qualification for housing issued to an individual under this section or section 2961.25 of the Revised Code lifts the automatic bar of a collateral sanction for housing and a decision-maker shall consider on a case-by-case basis whether to provide or deny housing, notwithstanding the individual's possession of the certificate, without, however, reconsidering or rejecting any finding made by a court under division (C)(3) of this section.

(2) The certificate constitutes a rebuttable presumption that the person's criminal convictions are insufficient evidence that the person is unfit for the housing in question. Notwithstanding the presumption established under this division, the decision-maker may deny the housing to the person if it determines that the person is unfit for the housing.

(3) A certificate of qualification for housing issued to

an individual under this section or section 2961.25 of the Revised Code does not create relief from requirements imposed by Chapter 2950. of the Revised Code and rules adopted under ~~sections 2950.13 and~~ section 2950.132 of the Revised Code.

(E) A petition for a certificate of qualification for housing filed by an individual under division (B)(1) of this section shall include all of the following:

(1) The individual's name, date of birth, and social security number;

(2) All aliases of the individual and all social security numbers associated with those aliases;

(3) The individual's current residential address, including the length of time that the individual has resided in the current residence, expressed in years and months, and the city, county, state, and zip code of the residence;

(4) A history of the individual's residential address or addresses for the past ten years, including the length of time that the individual has resided at the address, expressed in years and months of residence, and the city, county, state, and zip code of residence;

(5) A general statement as to why the individual has filed the petition and how the certificate of qualification for housing would assist the individual;

(6) A summary of the individual's criminal history, except for information contained in any record that has been sealed under section 2953.32 of the Revised Code, with respect to each offense that is a disqualification from housing, including the years of each conviction or plea of guilty for each of those offenses;

(7) A summary of the individual's employment history, specifying the name of, and dates of employment with, each employer;

(8) Verifiable references and endorsements;

(9) The name of one or more immediate family members of the individual, or other persons with whom the individual has a close relationship, who support the individual's reentry plan;

(10) A summary of the reason the individual believes the certificate of qualification for housing should be granted;

(11) Any other information required by rule by the department of rehabilitation and correction.

(F)(1) In a tort action, a certificate of qualification for housing issued to an individual under this section or section 2961.25 of the Revised Code may be introduced as evidence of a decision-maker's due care in leasing to the individual to whom the certificate of qualification for housing was issued if the decision-maker knew of the certificate at the time of the alleged negligence or other fault.

(2) In a tort action against a decision-maker for negligent leasing, a certificate of qualification for housing issued to an individual under this section or section 2961.25 of the Revised Code provides immunity for the decision-maker as to the claim if the decision-maker knew of the certificate at the time of the alleged negligence.

(3) If a decision-maker leases to an individual who has been issued a certificate of qualification for housing under this section or section 2961.25 of the Revised Code, if the individual, after being leased to, subsequently demonstrates dangerousness or is convicted of or pleads guilty to a felony or

a misdemeanor offense of violence, and if the decision-maker retains the individual as a lessee after the demonstration of dangerousness or the conviction or guilty plea, the decision-maker may be held liable in a tort action that is based on or relates to the retention of the individual as a lessee only if it is proved by a preponderance of the evidence that both of the following apply:

(a) The decision-maker had actual knowledge that the lessee was dangerous or had been convicted of or pleaded guilty to the felony or the misdemeanor offense of violence.

(b) The decision-maker was willful in retaining the individual as a lessee after the demonstration of dangerousness or the conviction or guilty plea of which the decision-maker has actual knowledge.

(G) A certificate of qualification for housing issued under this section or section 2961.25 of the Revised Code shall be revoked if the individual to whom the certificate of qualification for housing was issued is convicted of or pleads guilty to a felony or a misdemeanor offense of violence committed subsequent to the issuance of the certificate of qualification for housing.

(H) A court's issuance, or failure to issue, under this section, or the department of rehabilitation and correction's or adult parole authority's issuance, or failure to issue, under section 2961.25 of the Revised Code, a certificate of qualification for housing to an individual does not give rise to a claim for damages against the department of rehabilitation and correction or court.

(I) The division of parole and community services ~~shall~~

~~adopt rules in accordance with Chapter 119. of the Revised Code for the implementation and administration of this section and~~ shall prescribe the form for the petition to be used under division (B)(1) of this section. The form for the petition shall include places for all of the information specified in division (E) of this section.

(J) Nothing in this section shall be construed to create or provide a private right of action.

Sec. 3107.01. As used in sections 3107.01 to 3107.20 of the Revised Code:

(A) "Adoption" means to create the legal relationship of parent and child between the petitioner and the adopted person, as if the adopted person were a legitimate blood descendant of the petitioner, for all purposes including inheritance and applicability of statutes, documents, and instruments, whether executed before or after the adoption is decreed, and which do not expressly exclude an adopted person from their operation or effect.

(B) "Agency" means any public or private organization certified, licensed, or otherwise specially empowered by law or rule to place minors for adoption.

(C) "Attorney" means a person who has been admitted to the bar by order of the Ohio supreme court.

(D) "Best interest" means the factors a court uses to determine the best interest of a child as set forth in section 3107.161 of the Revised Code.

(E) "Child" means a son or daughter, whether by birth or by adoption.

(F) "Court" means the probate courts of this state, and when the context requires, means the court of any other state empowered to grant petitions for adoption.

(G) "Date of placement" means the date on which a child is living with the child's prospective adoptive parent and becomes eligible for adoption pursuant to statutory authority, judgment decree or court order, or as otherwise authorized by law.

(H) "Foster caregiver" has the same meaning as in section 5103.02 of the Revised Code.

(I) "Identifying information" means any of the following with regard to a person: first name, last name, maiden name, alias, social security number, address, telephone number, place of employment, number used to identify the person for the purpose of the statewide education management information system established pursuant to section 3301.0714 of the Revised Code, and any other number federal or state law requires or permits to be used to identify the person.

(J) "Kinship caregiver" has the same meaning as in section 5180.50 of the Revised Code.

(K) "Legal custodian" has the same meaning as in section 5103.16 of the Revised Code.

(L) "Legal custody" has the same meaning as in section 2151.011 of the Revised Code.

(M) "Minor" means a person under the age of eighteen years.

(N) "Parent" means a legally recognized natural or adoptive parent of a child.

(O) "Party" means a petitioner, adoptee, or any other

person or agency that is part of an adoption proceeding and whose consent to the adoption is necessary but has not been obtained.

(P) "Permanent custody" has the same meaning as in section 2151.011 of the Revised Code.

(Q) "Placement" means the act by a public children services agency, a private child placing agency, or a parent who is utilizing an agency or attorney that is intended to arrange for the care or custody of a child in accordance with Chapter 5103. of the Revised Code.

(R) "Planned permanent living arrangement" has the same meaning as in section 2151.011 of the Revised Code.

(S) "Putative father" means a man, including one under age eighteen, who may be a child's father and to whom all of the following apply:

(1) He is not married to the child's mother at the time of the child's conception or birth;

(2) He has not adopted the child;

(3) He has not been determined, prior to the date a petition to adopt the child is filed, to have a parent and child relationship with the child by a court proceeding pursuant to sections 3111.01 to 3111.18 of the Revised Code, a court proceeding in another state, an administrative agency proceeding pursuant to sections 3111.38 to 3111.54 of the Revised Code, or an administrative agency proceeding in another state;

(4) He has not acknowledged paternity of the child pursuant to sections 3111.21 to ~~3111.35~~ 3111.34 of the Revised Code.

Sec. 3107.033. The director of children and youth shall adopt rules in accordance with Chapter 119. of the Revised Code specifying both of the following:

(A) The manner in which a home study is to be conducted and the information and documents to be included in a home study report, which shall include, pursuant to section 3107.034 of the Revised Code, a summary report of a search of the uniform statewide automated child welfare information system established in section 5180.40 of the Revised Code and a report of a check of a central registry of another state if a request for a check of a central registry of another state is required under division (A) of section 3107.034 of the Revised Code. The director shall ensure that rules adopted under this section align the home study content, time period, and process with any foster care home study content, time period, and process required by rules ~~adopted under section 5103.03 of the Revised Code~~.

(B) A procedure under which a person whose application for adoption has been denied as a result of a search of the uniform statewide automated child welfare information system established in section 5180.40 of the Revised Code as part of the home study may appeal the denial to the agency that employed the assessor who filed the report.

Sec. 3107.035. (A) At the time of the initial home study, and every two years thereafter, if the home study is updated, and until it becomes part of a final decree of adoption or an interlocutory order of adoption, the agency or attorney that arranges an adoption for the prospective adoptive parent shall conduct a search of the United States department of justice national sex offender public web site regarding the prospective

adoptive parent and all persons eighteen years of age or older who reside with the prospective adoptive parent.

(B) A petition for adoption may be denied based solely on the results of the search of the national sex offender public web site.

~~(C) The director of children and youth shall adopt rules in accordance with Chapter 119. of the Revised Code necessary for the implementation and execution of this section.~~

Sec. 3107.0611. Notice served under section 3107.067 of the Revised Code shall be provided to the putative father of the child in substantially the following form:

"_____ (putative father's name), who has been named as the father of the unborn child of _____ (birth mother's name), or who claims to be the father of the unborn child, is notified that _____ (birth mother's name) has expressed an intention to place the child for adoption.

On receipt of this notice, _____ (putative father's name) may file an action under section 3111.04 of the Revised Code.

Under Ohio law, a putative father means a man, including one under age eighteen, who may be a child's father and to whom all of the following apply:

(1) He is not married to the child's mother at the time of the child's conception or birth.

(2) He has not adopted the child.

(3) He has not been determined, prior to the date a petition to adopt the child is filed, to have a parent and child

relationship with the child by a court proceeding pursuant to sections 3111.01 to 3111.18 of the Revised Code, a court proceeding in another state, an administrative agency proceeding pursuant to sections 3111.38 to 3111.54 of the Revised Code, or an administrative agency proceeding in another state.

(4) He has not acknowledged paternity of the child pursuant to sections 3111.20 to ~~3111.35~~ 3111.34 of the Revised Code.

For purposes of this notice, _____ (putative father's name) is a putative father under the laws in Ohio regarding adoption."

Sec. 3107.10. (A)(1) A public children services agency arranging an adoption in a county other than the county where that public children services agency is located, private child placing agency, or private noncustodial agency, or an attorney arranging an adoption, shall notify the public children services agency in the county in which the prospective adoptive parent resides within ten days after initiation of a home study required under section 3107.031 of the Revised Code.

(2) After a public children services agency has received notification pursuant to division (A)(1) of this section, both the public children services agency arranging an adoption in a county other than the county where that public children services agency is located, private child placing agency, private noncustodial agency, or attorney arranging an adoption, and the public children services agency shall share relevant information regarding the prospective adoptive parent as soon as possible after initiation of the home study.

(B) A public children services agency arranging an

adoption in a county other than the county where that public children services agency is located, private child placing agency, or private noncustodial agency, or an attorney arranging an adoption, shall notify the public children services agency in the county in which the prospective adoptive parent resides of an impending adoptive placement not later than ten days prior to that placement. Notification shall include a description of the special needs and the age of the prospective adoptive child and the name of the prospective adoptive parent and number of children that will be residing in the prospective adoptive home when the prospective adoptive child is placed in the prospective adoptive home.

(C) An agency or attorney sharing relevant information pursuant to this section is immune from liability in a civil action to recover damages for injury, death, or loss to person or property allegedly caused by any act or omission in connection with sharing relevant information unless the acts or omissions are with malicious purpose, in bad faith, or in a wanton or reckless manner.

(D) The director of children and youth shall, by rule, adopt ~~rules in accordance with Chapter 119. of the Revised Code necessary for the implementation and execution of this section, including, but not limited to,~~ a definition of "relevant information" for the purposes of division (A) of this section.

(E) This section does not apply to an adoption by a stepparent whose spouse is a biological or adoptive parent of the minor to be adopted.

Sec. 3107.101. (A) Not later than seven days after a minor to be adopted is placed in a prospective adoptive home pursuant to section 5103.16 of the Revised Code, the assessor providing

placement or post placement services in the prospective adoptive home shall begin monthly prospective adoptive home visits in that home, until the court issues a final decree of adoption. During the prospective adoptive home visits, the assessor shall evaluate the progression of the placement in the prospective adoptive home. The assessor shall include the evaluation in the prefinalization assessment required under section 3107.12 of the Revised Code.

(B) During the prospective home visit required under division (A) of this section, the assessor shall make face-to-face contact with the prospective adoptive parent and the minor to be adopted. The assessor shall make contact, as prescribed by rule under division (C) of this section, with all other children or adults residing in the prospective adoptive home.

(C) The director of children and youth shall adopt rules in accordance with Chapter 119. of the Revised Code ~~necessary for~~ requiring the ~~implementation and execution of this section~~assessor to make contact with all other children or adults residing in the prospective adoptive home.

(D) This section does not apply to an adoption by a stepparent whose spouse is a biological or adoptive parent of the minor to be adopted.

Sec. 3109.16. (A) The children's trust fund board, upon the recommendation of the director of children and youth, shall approve the employment of an executive director who will administer the programs of the board.

(B) The department of children and youth shall provide budgetary, procurement, accounting, and other related management functions for the board ~~and may adopt rules in accordance with~~

~~Chapter 119. of the Revised Code for these purposes~~. An amount not to exceed three per cent of the total amount of fees deposited in the children's trust fund in each fiscal year may be used for costs directly related to these administrative functions of the department. Each fiscal year, the board shall approve a budget for administrative expenditures for the next fiscal year.

(C) ~~The board may request that the department adopt rules the board considers necessary for the purpose of carrying out the board's responsibilities under this section, and the department may adopt those rules. The department may, after consultation with the board and the executive director, adopt any other rules to assist the board in carrying out its responsibilities under this section. In either case, the rules shall be adopted under Chapter 119. of the Revised Code.~~

~~(D)~~ The board shall meet at least quarterly at the call of the chairperson to conduct its official business. All business transactions of the board shall be conducted in public meetings. A majority of the members appointed to the board constitute a quorum. A majority of the quorum is required to make all decisions of the board.

~~(E)~~ (D) With respect to funding, all of the following apply:

(1) The board may apply for and accept federal and other funds for the purpose of funding child abuse and child neglect prevention programs.

(2) The board may solicit and accept gifts, money, and other donations from any public or private source, including individuals, philanthropic foundations or organizations,

corporations, or corporation endowments.

(3) The board may develop private-public partnerships to support the mission of the children's trust fund.

(4) The acceptance and use of federal and other funds shall not obligate the general assembly to continue the programs or activities for which the federal and other funds are made available.

(5) All funds received in the manner described in this section shall be transmitted to the treasurer of state, who shall credit them to the children's trust fund created in section 3109.14 of the Revised Code.

Sec. 3109.179. (A) The department of children and youth shall adopt rules in accordance with Chapter 119. of the Revised Code regarding all of the following:

(1) Operation requirements for child abuse and child neglect regional prevention councils;

(2) The manner in which boards of county commissioners are to appoint council members;

(3) The form and manner by which councils are to submit regional prevention plans.

(B) The department may adopt rules in accordance with Chapter 119. of the Revised Code regarding the following:

(1) Duties of council members;

(2) Duties of regional prevention coordinators~~;~~

~~(3) Any other rules necessary to implement sections 3109.13 to 3109.178 of the Revised Code~~.

(C) The department shall consult with the children's trust

fund board and the board's executive director regarding all rules adopted under this section.

Sec. 3111.02. (A) The parent and child relationship between a child and the child's natural mother may be established by proof of her having given birth to the child or pursuant to sections 3111.01 to 3111.18 or 3111.20 to 3111.85 of the Revised Code. The parent and child relationship between a child and the natural father of the child may be established by an acknowledgment of paternity as provided in sections 3111.20 to ~~3111.35~~ 3111.34 of the Revised Code, and pursuant to sections 3111.01 to 3111.18 or 3111.38 to 3111.54 of the Revised Code. The parent and child relationship between a child and the adoptive parent of the child may be established by proof of adoption or pursuant to Chapter 3107. of the Revised Code.

(B) A court that is determining a parent and child relationship pursuant to this chapter shall give full faith and credit to a parentage determination made under the laws of this state or another state, regardless of whether the parentage determination was made pursuant to a voluntary ~~acknowledgement~~acknowledgment of paternity, an administrative procedure, or a court proceeding.

Sec. 3111.65. (A) The birth registry shall be maintained as part of and be accessible through the automated system created pursuant to section 3125.07 of the Revised Code. The office of child support shall make comparisons of the information in the registry with the information maintained by the department of job and family services pursuant to sections 3107.062 and 3121.894 of the Revised Code. The office shall make the comparisons in the manner and in the time intervals required by the rules adopted pursuant to division (B) of this section

~~3111.67 of the Revised Code~~.

(B) The director of job and family services shall adopt rules pursuant to Chapter 119. of the Revised Code that are consistent with Title IV-D of the "Social Security Act," 42 U.S.C. 651 et seq., as amended, to determine both of the following:

(1) The manner in which the office of child support will compare the information in the birth registry with the information maintained by the department of job and family services pursuant to sections 3107.062 and 3121.894 of the Revised Code;

(2) The time intervals at which the office of child support will compare the information in the birth registry with the information maintained by the department of job and family services pursuant to sections 3107.062 and 3121.894 of the Revised Code.

Sec. 3115.401. (A) If a support order entitled to recognition under this chapter has not been issued, a responding tribunal of this state with personal jurisdiction over the parties may issue a support order if either of the following applies:

(1) The individual seeking the order resides outside this state.

(2) The support enforcement agency seeking the order is located outside this state.

(B) The tribunal may issue a temporary child-support order if the tribunal determines that such an order is appropriate and the individual ordered to pay is any of the following:

(1) A presumed father of the child;

(2) Petitioning to have his paternity adjudicated;

(3) Identified as the father of the child through genetic testing;

(4) An alleged father who has declined to submit to genetic testing;

(5) Shown by clear and convincing evidence to be the father of the child;

(6) An acknowledged father as provided by section 3111.20 to ~~3111.35~~ 3111.34 of the Revised Code;

(7) The mother of the child;

(8) An individual who has been ordered to pay child support in a previous proceeding and the order has not been reversed or vacated.

(C) Upon finding, after notice and opportunity to be heard, that an obligor owes a duty of support, the tribunal shall issue a support order directed to the obligor and may issue other orders pursuant to section 3115.305 of the Revised Code.

Sec. 3119.33. A child support enforcement agency shall send the national medical support notice to the employer of a person required to provide health insurance coverage for the children who are the subject of a child support order. The child support enforcement agency shall act in accordance with federal regulations governing the national medical support notice~~ and rules adopted by the department of job and family services under section 3119.51 of the Revised Code~~.

Sec. 3119.36. On receipt of a national medical support notice sent pursuant to section 3119.33 or section 3119.34 of the Revised Code, an employer shall do one of the following not later than twenty business days after the date specified in the notice:

(A) If the person named in the national medical support notice is a current employee and health insurance coverage of the children is available through the employer, complete and comply with the notice in accordance with its instructions~~,~~ and federal regulations~~, and any rules adopted by the department of job and family services under section 3119.51 of the Revised Code~~ and send the appropriate portion of the notice to the health plan administrator;

(B) If the person named in the notice is not a current employee, health insurance coverage of the children is not available through the employer, or the employer determines that coverage of the children would cause the total amount of income withholding and health insurance contributions from the person's income to exceed the maximum amount permitted under section 303(b) of the "Consumer Credit Protection Act," 15 U.S.C. 1673(b), complete the notice in accordance with its instructions~~,~~ and federal regulations~~, and any rules adopted by the department of job and family services under section 3119.51 of the Revised Code~~ and return the completed notice to the child support enforcement agency.

Sec. 3119.37. On receipt of a national medical support notice sent by an employer under section 3119.36 of the Revised Code, a health plan administrator shall complete and comply with the notice in accordance with its instructions~~,~~ and federal regulations~~, and any rules adopted by the department of job and~~

~~family services under section 3119.51 of the Revised Code~~.

Sec. 3119.371. (A) As used in this section:

(1) "Health insurance provider" means:

(a) A person authorized to engage in the business of sickness and accident insurance under Title XXXIX of the Revised Code;

(b) A person or government entity providing coverage for medical services or items to individuals on a self-insurance basis;

(c) A health insuring corporation as defined in section 1751.01 of the Revised Code;

(d) A group health plan as defined in 29 U.S.C. 1167;

(e) Any organization, business, or association described in 42 U.S.C. 1396a(a)(25); or

(f) A managed care organization.

(2) "Information" means all of the following:

(a) An individual's name, address, date of birth, and social security number;

(b) The group or plan number or other identifier assigned by a health insurance provider to a policy held by an individual or a plan in which the individual participates and the nature of the coverage~~; and~~

~~(c) Any other data specified by the director of job and family services in rules adopted under section 3119.51 of the Revised Code~~.

(B) Upon request of the office of child support in the

department of job and family services and for the purpose of establishing and enforcing orders to provide health insurance coverage, a health insurance provider shall provide the information described in division (A)(2) of this section to the office of child support.

Sec. 3119.94. (A) The director of job and family services shall adopt rules that provide for all of the following:

(1) The payment to the appropriate person of any funds that a court or child support enforcement agency has impounded under section 3119.90 or 3119.92 of the Revised Code;

(2) The return to the appropriate person of any other payments made pursuant to a child support order if the payments were made at any time after the child support order has been terminated pursuant to section 3119.90 or 3119.92 of the Revised Code~~;~~

~~(3) Any other standards, forms, or procedures needed to ensure uniform implementation of sections 3119.86 to 3119.94 of the Revised Code~~.

(B) With respect to the court order for impoundment required under division (A)(1) of section 3119.90 of the Revised Code, the director of job and family services may adopt rules that specify a form for the order or approve a form developed by the Ohio judicial conference.

Sec. 3121.50. On receipt of any amount forwarded from a payor or financial institution, the office of child support shall distribute the amount to the obligee within two business days of its receipt of the amount forwarded. Unless otherwise prohibited from doing so by a law of this state or the United States, the office may distribute the amount by means of

electronic disbursement, and the obligee shall accept payment by means of electronic disbursement. ~~The director of job and family services may adopt, revise, or amend rules under Chapter 119. of the Revised Code to assist in the implementation of this section.~~

Sec. 3121.89. As used in sections 3121.891 to ~~3121.8911~~ 3121.8910 of the Revised Code:

(A) "Contractor" means an individual who provides services to an employer as an independent contractor for compensation that is reported as income other than wages and who is an individual, the sole shareholder of a corporation, or the sole member of a limited liability company. "Contractor" does not include any of the following:

(1) An individual performing intelligence or counterintelligence functions for a state agency if the head of the agency has determined that reporting pursuant to this section could endanger the safety of the individual or compromise an ongoing investigation or intelligence mission;

(2) A professionally licensed person who is providing services to the employer under that license;

(3) An individual who will receive for the services provided under the contract compensation of less than two thousand five hundred dollars per year or a greater amount that the director of job and family services establishes by rule adopted under section 3121.896 of the Revised Code.

(B) "Employee" means an individual who is employed to provide services to an employer for compensation that is reported as income from wages. "Employee" does not include an individual performing intelligence or counterintelligence

functions for a state agency, if the head of the agency has determined that reporting pursuant to this section could endanger the safety of the employee or compromise an ongoing investigation or intelligence mission.

(C) "Employer" means any person or governmental entity other than the federal government for which an individual performs any service, of whatever nature, as the employee or contractor of such person, except that:

(1) If the person for whom the individual performs services does not have control of the payment of compensation for the services, "employer" means the person having control of the payment of the compensation.

(2) In the case of a person paying compensation on behalf of a nonresident alien individual, foreign partnership, or foreign corporation not engaged in trade or business within the United States, "employer" means the person paying the compensation.

(3) In the case of compensation paid to a contractor, "employer" does not include any person or entity that lacks a federal employer identification number.

(D) "Newly hired employee" means either of the following:

(1) An employee who has not previously been employed by the employer;

(2) An employee who was previously employed by an employer but has been separated from that prior employment for at least sixty consecutive days.

(E) "Professionally licensed person" has the same meaning as in section 2925.01 of the Revised Code.

Sec. 3123.22. Except as otherwise provided in this section, if an obligor is paying off an arrearage owed under a support order pursuant to a withholding or deduction notice or order issued under section 3121.03 of the Revised Code, a support order newly issued or modified, or any other order issued to collect the arrearage, the child support enforcement agency administering the notice or order may also take any action, including, but not limited to, any of the following to collect any arrearage amount that has not yet been collected under the notice or order, unless the obligee and obligor agree in a writing signed by the obligee and obligor and approved by the court by journal entry that the additional actions be limited to the actions provided for in division (C) of this section:

(A) Issue one or more withholding or deduction notices under section 3121.03 of the Revised Code;

(B) Collect pursuant to section 3121.12 of the Revised Code a lump sum payment owed to the obligor;

(C) Collect pursuant to sections 3123.81 to ~~3123.823~~ 3123.822 of the Revised Code any federal or state income tax refund owed to the obligor;

(D) Issue a withdrawal directive pursuant to sections 3123.24 to 3123.38 of the Revised Code;

(E) Obtain administrative offset pursuant to section 3123.85 of the Revised Code.

Sec. 3123.63. The director of job and family services shall adopt rules in accordance with Chapter 119. of the Revised Code ~~to implement sections 3123.41 to 3123.50, 3123.53 to 3123.60, and 3123.62 of the Revised Code. The rules shall~~

~~include both of~~ to do all of the following:

(A) Requirements concerning the contents of, and the conditions for issuance of, a notice required by section 3123.44 or 3123.55 of the Revised Code. The rules shall require the contents of the notice to include information about the effect of a license suspension and appropriate steps that an individual can take to avoid license suspension.

(B) Requirements establishing standards for confirming an individual's employment or the existence of an account pursuant to sections 3123.45 and 3123.56 of the Revised Code.

(C) Requirements concerning the authority of a child support enforcement agency to direct the registrar of motor vehicles to eliminate from the abstract maintained by the bureau of motor vehicles any reference to the suspension of an individual's license, permit, or endorsement imposed under section 3123.58 of the Revised Code.

Sec. 3123.82. As used in sections 3123.82 to ~~3123.823~~ 3123.822 of the Revised Code:

(A) "Obligor" means a person who owes "overdue support," as defined in section 666 of Title IV-D of the "Social Security Act," 98 Stat. 1306 (1984), 42 U.S.C. 666, as amended, and any rules promulgated under Title IV-D.

(B) "Overpaid child support" means amounts paid to an obligee under a child support order prior to termination of the child support order that exceed the amount required to be paid under the child support order, have not been impounded under section 3119.90 or 3119.92 of the Revised Code, and have not been repaid to the obligor under the child support order.

Sec. 3123.88. (A) The requirements of this section are

effective on the date that all support orders have been converted to the automated data processing system under section 3125.07 of the Revised Code and the office of child support in the department of job and family services authorizes centralized collection and disbursement of support amounts under the support order pursuant to the rules adopted under section 3121.71 of the Revised Code.

(B) The director of commerce shall provide the office no later than the first day of March of each year, the name, address, social security number, if the social security number is available, and any other identifying information for any individual included in a request sent by the office pursuant to division (C) of this section who has unclaimed funds delivered or reported to the state under Chapter 169. of the Revised Code.

(C) The office shall, no later than the first day of February of each year, send to the director of commerce a request containing the name, address, and social security number of all obligors in default under a support order being administered by a child support enforcement agency of this state and requests that the director provide information to the office as required in division (B) of this section. If the information the director provides identifies or results in identifying unclaimed funds held by the state for an obligor in default, the office shall file a claim under section 169.08 of the Revised Code to recover the unclaimed funds. If the director allows the claim, the director shall pay the claim directly to the office. The director shall not disallow a claim made by the office because the office is not the owner of the unclaimed funds according to the report made pursuant to section 169.03 of the Revised Code.

~~(D) The director of job and family services, in consultation with the department of commerce, may adopt rules in accordance with Chapter 119. of the Revised Code to aid in implementation of this section.~~

Sec. 3123.90. (A) As used in this section:

(1) "Casino facility," "casino operator," and "management company" have the meanings defined in section 3772.01 of the Revised Code.

(2) "Sports gaming proprietor" has the meaning defined in section 3775.01 of the Revised Code.

(3) "Lottery sports gaming" has the same meaning as in section 3770.23 of the Revised Code.

(B) The department of job and family services shall develop and implement a real time data match program with each casino facility's casino operator or management company and with each sports gaming proprietor to identify obligors who are subject to a final and enforceable determination of default made under sections 3123.01 to 3123.07 of the Revised Code.

(C) Subject to division (E) of this section, upon the data match program's implementation, if a person receives a payout of winnings at a casino facility or from sports gaming in an amount for which reporting to the internal revenue service of the amount is required by section 6041 of the Internal Revenue Code, as amended, the casino operator, management company, or sports gaming proprietor shall refer to the data match program to determine if the person entitled to the winnings is in default under a support order. If the data match program indicates that the person is in default, the casino operator, management company, or sports gaming proprietor shall withhold from the

person's winnings an amount sufficient to satisfy any past due support owed by the obligor identified in the data match up to the amount of the winnings.

(D) Not later than fourteen days after withholding the amount, the casino operator, management company, or sports gaming proprietor shall electronically transmit any amount withheld to the department as payment on the support obligation.

(E) A sports gaming proprietor that offers lottery sports gaming through a terminal described in division (B)(3) of section 3770.24 of the Revised Code shall not withhold amounts under this section from winnings from wagers placed through that terminal. The state lottery commission shall withhold amounts from those winnings under section 3770.071 of the Revised Code.

~~(F) The department, in consultation with the Ohio casino control commission, may adopt rules under Chapter 119. of the Revised Code as are necessary for implementation of this section.~~

Sec. 3129.01. As used in this chapter:

(A) "Biological sex," "birth sex," and "sex" mean the biological indication of male and female, including sex chromosomes, naturally occurring sex hormones, gonads, and nonambiguous internal and external genitalia present at birth, without regard to an individual's psychological, chosen, or subjective experience of gender.

(B) "Cross-sex hormone" means testosterone, estrogen, or progesterone given to a minor individual in an amount greater than would normally be produced endogenously in a healthy individual of the minor individual's age and sex.

(C) "Gender reassignment surgery" means any surgery

performed for the purpose of assisting an individual with gender transition that seeks to surgically alter or remove healthy physical or anatomical characteristics or features that are typical for the individual's biological sex, in order to instill or create physiological or anatomical characteristics that resemble a sex different from the individual's birth sex, including genital or non-genital gender reassignment surgery.

(D) "Gender-related condition" means any condition where an individual feels an incongruence between the individual's gender identity and biological sex. "Gender-related condition" includes gender dysphoria.

(E) "Gender transition" means the process in which an individual goes from identifying with and living as a gender that corresponds to his or her biological sex to identifying with and living as a gender different from his or her biological sex, including social, legal, or physical changes.

(F) "Gender transition services" means any medical or surgical service (including physician services, inpatient and outpatient hospital services, or prescription drugs or hormones) provided for the purpose of assisting an individual with gender transition that seeks to alter or remove physical or anatomical characteristics or features that are typical for the individual's biological sex, or to instill or create physiological or anatomical characteristics that resemble a sex different from the individual's birth sex, including medical services that provide puberty blocking drugs, cross-sex hormones, or other mechanisms to promote the development of feminizing or masculinizing features in the opposite sex, or genital or non-genital gender reassignment surgery.

(G) "Genital gender reassignment surgery" means surgery

performed for the purpose of assisting an individual with gender transition and includes both of the following:

(1) Surgeries that sterilize, such as castration, vasectomy, hysterectomy, oophorectomy, orchiectomy, and penectomy;

(2) Surgeries that artificially construct tissue with the appearance of genitalia that differs from the individual's biological sex, such as metoidiplasty, phalloplasty, and vaginoplasty.

(H) "Mental health professional" means all of the following:

(1) Either of the following advanced practice registered nurses who holds a current, valid license issued under Chapter 4723. of the Revised Code that authorizes the practice of nursing as an advanced practice registered nurse:

(a) A clinical nurse specialist who is certified as a psychiatric-mental health CNS by the American nurses credentialing center;

(b) A certified nurse practitioner who is certified as a psychiatric-mental health NP by the American nurses credentialing center.

(2) A physician specializing in psychiatry;

(3) A psychologist, school psychologist, or independent school psychologist licensed under Chapter 4732. of the Revised Code or under rules adopted in accordance with ~~sections 3301.07 and~~ section 3319.22 of the Revised Code;

(4) An independent social worker, social worker, licensed professional clinical counselor, licensed professional

counselor, independent marriage and family therapist, or marriage and family therapist licensed under Chapter 4757. of the Revised Code.

(I) "Minor individual" means an individual under eighteen years of age.

(J) "Non-genital gender reassignment surgery" means surgery performed for the purpose of assisting an individual with gender transition such as augmentation mammoplasty, facial feminization surgery, liposuction, lipofilling, voice surgery, thyroid cartilage reduction, gluteal augmentation, pectoral implants, or other aesthetic procedures.

(K) "Physician" means an individual authorized under Chapter 4731. of the Revised Code to practice medicine and surgery or osteopathic medicine and surgery.

(L) "Puberty-blocking drugs" means Gonadotropin-releasing hormone analogs or other synthetic drugs used to stop luteinizing hormone and follicle stimulating hormone secretion, synthetic antiandrogen drugs used to block the androgen receptor, or any drug to delay or suppress normal puberty.

Sec. 3301.07. The director of education and workforce shall exercise under the acts of the general assembly general supervision of the system of public education in the state. In addition to the powers otherwise imposed on the director under the provisions of law, the director shall have the powers described in this section.

(A) The director shall exercise policy forming, planning, and evaluative functions for the public schools of the state except as otherwise provided by law.

(B)(1) The director shall exercise leadership in the

improvement of public education in this state, and administer the educational policies of this state relating to public schools, and relating to instruction and instructional material, building and equipment, transportation of pupils, administrative responsibilities of school officials and personnel, and finance and organization of school districts, educational service centers, and territory. Consultative and advisory services in such matters shall be provided by the department of education and workforce to school districts and educational service centers of this state.

(2) The director also shall develop a standard of financial reporting which shall be used by each school district board of education and each governing board of an educational service center, each governing authority of a community school established under Chapter 3314., each governing body of a STEM school established under Chapter 3326., and each board of trustees of a college-preparatory boarding school established under Chapter 3328. of the Revised Code to make its financial information and annual budgets for each school building under its control available to the public in a format understandable by the average citizen. The format shall show, both at the district and at the school building level, revenue by source; expenditures for salaries, wages, and benefits of employees, showing such amounts separately for classroom teachers, other employees required to hold licenses issued pursuant to sections 3319.22 to 3319.31 of the Revised Code, and all other employees; expenditures other than for personnel, by category, including utilities, textbooks and other educational materials, equipment, permanent improvements, pupil transportation, extracurricular athletics, and other extracurricular activities; and per pupil expenditures. The format shall also include information on total

revenue and expenditures, per pupil revenue, and expenditures for both classroom and nonclassroom purposes, as defined by the standards adopted under section 3302.20 of the Revised Code in the aggregate and for each subgroup of students, as defined by section 3317.40 of the Revised Code, that receives services provided for by state or federal funding.

(3) Each school district board, governing authority, governing body, or board of trustees, or its respective designee, shall annually report, to the department, all financial information required by the standards for financial reporting, as prescribed by division (B)(2) of this section and adopted by the director. The department shall make all reports submitted pursuant to this division available in such a way that allows for comparison between financial information included in these reports and financial information included in reports produced prior to July 1, 2013. The department shall post these reports in a prominent location on its web site and shall notify each school when reports are made available.

(C) The director shall administer and supervise the allocation and distribution of all state and federal funds for public school education under the provisions of law, and may prescribe such systems of accounting as are necessary and proper to this function. It may require county auditors and treasurers, boards of education, educational service center governing boards, treasurers of such boards, teachers, and other school officers and employees, or other public officers or employees, to file with it such reports as it may prescribe relating to such funds, or to the management and condition of such funds.

(D)(1) Wherever in Titles IX, XXIII, XXIX, XXXIII, XXXVII, XLVII, and LI of the Revised Code a reference is made to

standards prescribed under this section or division (D) of this section, that reference shall be construed to refer to the standards prescribed under division (D)(2) of this section, unless the context specifically indicates a different meaning or intent.

(2) The director shall formulate and prescribe minimum standards to be applied to all elementary and secondary schools in this state for the purpose of providing children access to a general education of high quality according to the learning needs of each individual, including students with disabilities, economically disadvantaged students, English learners, and students identified as gifted. Such standards shall provide adequately for: a requirement that teachers, administrators, and other professional personnel be licensed by the state board of education and assigned according to training and qualifications; efficient and effective instructional materials and equipment, including library facilities; the proper organization, administration, and supervision of each school, including regulations for preparing all necessary records and reports and the preparation of a statement of policies and objectives for each school; the provision of safe buildings, grounds, health and sanitary facilities and services; admission of pupils, and such requirements for their promotion from grade to grade as will assure that they are capable and prepared for the level of study to which they are certified; and requirements for graduation. The minimum standards the director adopts under this section are limited to powers and duties that are expressly prescribed and authorized in statute.

The director shall base any standards governing the promotion of students or requirements for graduation on the ability of students, at any grade level, to earn credits or

advance upon demonstration of mastery of knowledge and skills through competency-based learning models. Credits of grade level advancement shall not require a minimum number of days or hours in a classroom.

The director shall base any standards governing the assignment of staff on ensuring each school has a sufficient number of teachers to ensure a student has an appropriate level of interaction to meet each student's personal learning goals.

In the formulation and administration of such standards for nonpublic schools the director shall also consider the particular needs, methods and objectives of those schools, provided they do not conflict with the provision of a general education of a high quality and provided that regular procedures shall be followed for promotion from grade to grade of pupils who have met the educational requirements prescribed.

(3) In addition to the minimum standards required by division (D)(2) of this section, the director may formulate and prescribe the following additional minimum operating standards for school districts:

(a) Standards for the effective and efficient organization, administration, and supervision of each school district with a commitment to high expectations for every student based on the learning needs of each individual, including students with disabilities, economically disadvantaged students, English learners, and students identified as gifted, and commitment to closing the achievement gap without suppressing the achievement levels of higher achieving students so that all students achieve core knowledge and skills in accordance with the statewide academic standards adopted under section 3301.079 of the Revised Code;

(b) Standards for the establishment of business advisory councils under section 3313.82 of the Revised Code;

(c) Standards for school district buildings that may require the effective and efficient organization, administration, and supervision of each school district building with a commitment to high expectations for every student based on the learning needs of each individual, including students with disabilities, economically disadvantaged students, English learners, and students identified as gifted, and commitment to closing the achievement gap without suppressing the achievement levels of higher achieving students so that all students achieve core knowledge and skills in accordance with the statewide academic standards adopted under section 3301.079 of the Revised Code.

(E) The director may require as part of the health curriculum information developed under section 2108.34 of the Revised Code promoting the donation of anatomical gifts pursuant to Chapter 2108. of the Revised Code and may provide the information to high schools, educational service centers, and joint vocational school district boards of education;

(F) The director shall prepare and submit annually to the governor and the general assembly a report on the status, needs, and major problems of the public schools of the state, with recommendations for necessary legislative action and a ten-year projection of the state's public and nonpublic school enrollment, by year and by grade level.

(G) The director shall prepare and submit to the director of budget and management the biennial budgetary requests of the department and its divisions and for the public schools of the state.

(H) The director shall cooperate with federal, state, and local agencies concerned with the health and welfare of children and youth of the state.

(I) The director shall require such reports from school districts and educational service centers, school officers, and employees as are necessary and desirable. The superintendents and treasurers of school districts and educational service centers shall certify as to the accuracy of all reports required by statutory law or director's rules to be submitted by the district or educational service center and which contain information necessary for calculation of state funding. Any superintendent who knowingly falsifies such report shall be subject to license revocation pursuant to section 3319.31 of the Revised Code.

(J) In accordance with Chapter 119. of the Revised Code, the director shall adopt procedures, standards, and guidelines for the education of children with disabilities pursuant to Chapter 3323. of the Revised Code, including procedures, standards, and guidelines governing programs and services operated by county boards of developmental disabilities pursuant to section 3323.09 of the Revised Code.

(K) For the purpose of encouraging the development of special programs of education for academically gifted children, the director shall employ competent persons to analyze and publish data, promote research, advise and counsel with boards of education, and encourage the training of teachers in the special instruction of gifted children. The director may provide financial assistance out of any funds appropriated for this purpose to boards of education and educational service center governing boards for developing and conducting programs of

education for academically gifted children.

(L) The director shall require that all public schools emphasize and encourage, within existing units of study, the teaching of energy and resource conservation as recommended to each district board of education by leading business persons involved in energy production and conservation, beginning in the primary grades.

(M) The director shall formulate and prescribe minimum standards requiring the use of phonics as a technique in the teaching of reading in grades kindergarten through three. In addition, the director shall provide in-service training programs for teachers on the use of phonics as a technique in the teaching of reading in grades kindergarten through three.

(N) The director ~~may adopt rules necessary for carrying out any function imposed on the director by law, and may provide rules as are necessary for the government of the department and its employees, and~~ may delegate to any deputy director the management and administration of any function imposed on the director by law.

(O) Upon application from the board of education of a school district, the director may issue a waiver exempting the district from compliance with the standards adopted under divisions (B)(2) and (D) of this section, as they relate to the operation of a school operated by the district. The director shall adopt standards for the approval or disapproval of waivers under this division. The director shall consider every application for a waiver, and shall determine whether to grant or deny a waiver in accordance with ~~the~~ those standards. For each waiver granted, the director shall specify the period of time during which the waiver is in effect, which shall not

exceed five years. A district board may apply to renew a waiver.

Sec. 3301.0728. Notwithstanding anything in the Revised Code to the contrary, a student may retake any end-of-course examination prescribed under division (B)(2) of section 3301.0712 of the Revised Code during the student's academic career at a time designated by the department of education and workforce. If, for any reason, a student does not take an end-of-course examination on the scheduled administration date, the department shall make available to the student the examination for which the student was absent, or a substantially similar examination as determined by the department, so that the student may take the examination or a substantially similar examination at a later time in the student's academic career. ~~The department shall adopt rules in accordance with Chapter 119. of the Revised Code to implement the provisions of this section.~~

Sec. 3301.53. (A) The department of children and youth shall formulate and prescribe by rule adopted under Chapter 119. of the Revised Code minimum standards to be applied to preschool programs operated by school district boards of education, county boards of developmental disabilities, community schools, or eligible nonpublic schools. The rules shall ~~include~~ establish the following:

(1) Standards ensuring that the preschool program is located in a safe and convenient facility that accommodates the enrollment of the program, is of the quality to support the growth and development of the children according to the program objectives, and meets the requirements of section 3301.55 of the Revised Code;

(2) Standards ensuring that supervision, discipline, and programs will be administered according to established

objectives and procedures;

(3) Standards ensuring that preschool staff members and nonteaching employees are recruited, employed, assigned, evaluated, and provided in-service education without discrimination on the basis of age, color, national origin, race, or sex; and that preschool staff members and nonteaching employees are assigned responsibilities in accordance with written position descriptions commensurate with their training and experience;

(4) A requirement that boards of education intending to establish a preschool program demonstrate a need for a preschool program prior to establishing the program;

(5) Requirements that children participating in preschool programs have been immunized to the extent considered appropriate by the director of children and youth to prevent the spread of communicable disease;

(6) Requirements that the parents of preschool children complete the emergency medical authorization form specified in section 3313.712 of the Revised Code~~;~~

~~(7) The department of education and workforce's rules or standards for providing special education and related services for children with disabilities under section 3323.02 of the Revised Code incorporated by reference, as appropriate~~.

(B) The department of children and youth shall ensure that the rules adopted under sections 3301.52 to 3301.58 of the Revised Code are consistent with and meet or exceed the requirements of Chapter 5104. of the Revised Code with regard to child care centers that serve preschool children. The department shall review all such rules at least once every five years.

(C) The department shall adopt rules for school child programs that are consistent with and meet or exceed the requirements of the rules adopted for child care centers that serve school-age children under Chapter 5104. of the Revised Code.

Sec. 3301.80. (A) The department of education and workforce shall award a certificate of high school equivalence to each person who achieves the equivalent of a high school education, as measured by scores obtained on a high school equivalency test approved by the department pursuant to division (B) of this section. Each certificate awarded under this section shall be signed by the director of education and workforce.

Notwithstanding anything to the contrary in the Revised Code, a person who seeks to obtain a certificate of high school equivalence shall be subject to the requirements of section 3301.81 of the Revised Code.

(B) The department shall approve at least two nationally recognized high school equivalency tests for the purpose of awarding certificates of high school equivalence under this section. For each test approved pursuant to division (B) of this section, the department shall ensure that the scores required for passage are equivalent to the scores required for passage on the other approved equivalency tests.

(C) All of the following shall be considered the equivalent of a certificate of high school equivalence awarded by the department under this section:

(1) A high school equivalence diploma or a certificate of high school equivalence awarded by the state board of education prior to September 14, 2016;

(2) A certificate of high school equivalence issued prior to January 1, 1994, attesting to the achievement of the equivalent of a high school education as measured by scores obtained on tests of general educational development;

(3) A statement issued by a primary-secondary education or higher education agency of another state that indicates that its holder has achieved the equivalent of a high school education as measured by scores obtained on a similar nationally recognized high school equivalency test.

~~(D) The department, in consultation with the chancellor of higher education, shall adopt rules to administer this section and section 3301.81 of the Revised Code.~~

Sec. 3301.94. The department of education and workforce and the chancellor of higher education may enter into a memorandum of understanding under which the department, on behalf of the chancellor, will receive and maintain copies of data records containing student information reported to the chancellor for the purpose of combining those records with the data reported to the education management information system, established under section 3301.0714 of the Revised Code, to establish an education data repository that may be used to conduct longitudinal research and evaluation. The memorandum of understanding shall specify the following:

(A) That, prior to establishing the repository, the department and chancellor shall develop a strategic plan for the repository that outlines the goals to be achieved from its implementation and use. A copy of the strategic plan shall be provided to the governor, the president of the senate, and the speaker of the house of representatives;

(B) That the chancellor shall submit all student data to be included in the repository to the independent contractor engaged by the department to create and maintain the student data verification codes required by division (D)(2) of section 3301.0714 of the Revised Code. For each student included in the data submitted by the chancellor, the independent contractor shall determine whether a data verification code has been assigned to that student. In the case of a student to whom a data verification code has been assigned, the independent contractor shall add the code to the student's data record and remove from the data record any information that would enable the data verification code to be matched to personally identifiable student data. In the case of a student to whom a data verification code has not been assigned, the independent contractor shall assign a data verification code to the student, add the data verification code to the student's data record, and remove from the data record any information that would enable the data verification code to be matched to personally identifiable student data. After making the modifications described in this division, the independent contractor shall transmit the data to the department and the chancellor.

(C) That the department and the chancellor jointly shall develop procedures for the maintenance of the data in the repository and shall designate the types of research that may be conducted using that data. Permitted uses of the data shall include, but are not limited to, the following:

(1) Assisting the department of education and the department of children and youth in performing audit and evaluation functions concerning preschool, elementary, and secondary education as required or authorized by any provision of law, including division (C) of section 3301.07 and sections

3301.12, 3301.16, 3301.53, 3301.57, 3301.58, and 3302.03 of the Revised Code;

(2) Assisting the department and the chancellor in performing audit and evaluation functions concerning higher education as required or authorized by any provision of law, including sections 3333.04, 3333.041, 3333.047, 3333.122, 3333.123, 3333.16, 3333.161, ~~3333.374,~~ 3333.72, and 3333.82 of the Revised Code.

(D) That the department and the chancellor, from time to time, jointly may enter into written agreements with entities for the use of data in the repository to conduct research and analysis designed to evaluate the effectiveness of programs or services, to measure progress against specific strategic planning goals, or for any other purpose permitted by law that the department and chancellor consider necessary for the performance of their duties under the Revised Code. The agreements may permit the disclosure of personally identifiable student information to the entity named in the agreement, provided that disclosure complies with the "Family Educational Rights and Privacy Act of 1974," 88 Stat. 571, 20 U.S.C. 1232g, as amended, and regulations promulgated under that act prescribing requirements for such agreements.

(E) That the data in the repository submitted by the department of education shall remain under the direct control of the department and that the data in the repository submitted by the chancellor shall remain under the direct control of the chancellor;

(F) That the data in the repository shall be managed in a manner that complies with the "Family Educational Rights and Privacy Act of 1974," 88 Stat. 571, 20 U.S.C. 1232g, as amended;

(G) That all costs related to the initial establishment and ongoing maintenance of the repository shall be paid from funds received from state incentive grants awarded under division (A), Title XIV, section 14006 of the American Recovery and Reinvestment Act of 2009, other federal grant programs, or existing appropriations of the department or chancellor that are designated for a purpose consistent with this section;

(H) That the department of education annually shall report to the chancellor and the department of children and youth all requests for access to or use of the data in the repository and all costs related to the initial establishment and ongoing maintenance of the repository.

Sec. 3302.03. Not later than the thirty-first day of July of each year, the department of education and workforce shall submit preliminary report card data for overall academic performance and for each separate performance measure for each school district, and each school building, in accordance with this section.

Annually, not later than the fifteenth day of September or the preceding Friday when that day falls on a Saturday or Sunday, the department shall assign a letter grade or performance rating for overall academic performance and for each separate performance measure for each school district, and each school building in a district, in accordance with this section. The department shall adopt rules pursuant to Chapter 119. of the Revised Code ~~to implement this section. The department's rules shall~~ that establish performance criteria for each letter grade or performance rating and prescribe a method by which the department assigns each letter grade or performance rating. For a school building to which any of the performance measures do

not apply, due to grade levels served by the building, the department shall designate the performance measures that are applicable to the building and that must be calculated separately and used to calculate the building's overall grade or performance rating. The department shall issue annual report cards reflecting the performance of each school district, each building within each district, and for the state as a whole using the performance measures and letter grade or performance rating system described in this section. The department shall include on the report card for each district and each building within each district the most recent two-year trend data in student achievement for each subject and each grade.

(A)(1) For the 2012-2013 school year, the department shall issue grades as described in division (F) of this section for each of the following performance measures:

(a) Annual measurable objectives;

(b) Performance index score for a school district or building. Grades shall be awarded as a percentage of the total possible points on the performance index system as adopted by the department. In adopting benchmarks for assigning letter grades under division (A)(1)(b) of this section, the department shall designate ninety per cent or higher for an "A," at least seventy per cent but not more than eighty per cent for a "C," and less than fifty per cent for an "F."

(c) The extent to which the school district or building meets each of the applicable performance indicators established by the department under section 3302.02 of the Revised Code and the percentage of applicable performance indicators that have been achieved. In adopting benchmarks for assigning letter grades under division (A)(1)(c) of this section, the department

shall designate ninety per cent or higher for an "A."

(d) The four- and five-year adjusted cohort graduation rates.

In adopting benchmarks for assigning letter grades under division (A)(1)(d), (B)(1)(d), or (C)(1)(d) of this section, the department shall designate a four-year adjusted cohort graduation rate of ninety-three per cent or higher for an "A" and a five-year cohort graduation rate of ninety-five per cent or higher for an "A."

(e) The overall score under the value-added progress dimension of a school district or building, for which the department shall use up to three years of value-added data as available. The letter grade assigned for this growth measure shall be as follows:

(i) A score that is at least one standard error of measure above the mean score shall be designated as an "A."

(ii) A score that is less than one standard error of measure above but greater than one standard error of measure below the mean score shall be designated as a "B."

(iii) A score that is less than or equal to one standard error of measure below the mean score but greater than two standard errors of measure below the mean score shall be designated as a "C."

(iv) A score that is less than or equal to two standard errors of measure below the mean score but is greater than three standard errors of measure below the mean score shall be designated as a "D."

(v) A score that is less than or equal to three standard

errors of measure below the mean score shall be designated as an "F."

Whenever the value-added progress dimension is used as a graded performance measure in this division and divisions (B) and (C) of this section, whether as an overall measure or as a measure of separate subgroups, the grades for the measure shall be calculated in the same manner as prescribed in division (A)(1)(e) of this section.

(f) The value-added progress dimension score for a school district or building disaggregated for each of the following subgroups: students identified as gifted, students with disabilities, and students whose performance places them in the lowest quintile for achievement on a statewide basis. Each subgroup shall be a separate graded measure.

(2) The department shall adopt a resolution describing the performance measures, benchmarks, and grading system for the 2012-2013 school year and shall adopt rules in accordance with Chapter 119. of the Revised Code that prescribe the methods by which the performance measures under division (A)(1) of this section shall be assessed and assigned a letter grade, including performance benchmarks for each letter grade.

At least forty-five days prior to the department's adoption of rules to prescribe the methods by which the performance measures under division (A)(1) of this section shall be assessed and assigned a letter grade, the department shall conduct a public presentation before the standing committees of the house of representatives and the senate that consider education legislation describing such methods, including performance benchmarks.

(3) There shall not be an overall letter grade for a school district or building for the 2012-2013 school year.

(B)(1) For the 2013-2014 school year, the department shall issue grades as described in division (F) of this section for each of the following performance measures:

(a) Annual measurable objectives;

(b) Performance index score for a school district or building. Grades shall be awarded as a percentage of the total possible points on the performance index system as created by the department. In adopting benchmarks for assigning letter grades under division (B)(1)(b) of this section, the department shall designate ninety per cent or higher for an "A," at least seventy per cent but not more than eighty per cent for a "C," and less than fifty per cent for an "F."

(c) The extent to which the school district or building meets each of the applicable performance indicators established by the department under section 3302.03 of the Revised Code and the percentage of applicable performance indicators that have been achieved. In adopting benchmarks for assigning letter grades under division (B)(1)(c) of this section, the department shall designate ninety per cent or higher for an "A."

(d) The four- and five-year adjusted cohort graduation rates;

(e) The overall score under the value-added progress dimension of a school district or building, for which the department shall use up to three years of value-added data as available.

(f) The value-added progress dimension score for a school district or building disaggregated for each of the following

subgroups: students identified as gifted in superior cognitive ability and specific academic ability fields under Chapter 3324. of the Revised Code, students with disabilities, and students whose performance places them in the lowest quintile for achievement on a statewide basis. Each subgroup shall be a separate graded measure.

(g) Whether a school district or building is making progress in improving literacy in grades kindergarten through three, as determined using a method prescribed by the department. The department shall adopt rules to prescribe benchmarks and standards for assigning grades to districts and buildings for purposes of division (B)(1)(g) of this section. In adopting benchmarks for assigning letter grades under divisions (B)(1)(g) and (C)(1)(g) of this section, the department shall determine progress made based on the reduction in the total percentage of students scoring below grade level, or below proficient, compared from year to year on the reading diagnostic assessments administered under section 3301.0715 of the Revised Code and the third grade English language arts assessment under section 3301.0710 of the Revised Code, as applicable. The department shall designate for a "C" grade a value that is not lower than the statewide average value for this measure. No grade shall be issued under divisions (B)(1)(g) and (C)(1)(g) of this section for a district or building in which less than five per cent of students have scored below grade level on the diagnostic assessment administered to students in kindergarten under division (B)(1) of section 3313.608 of the Revised Code.

(h) For a high mobility school district or building, an additional value-added progress dimension score. For this measure, the department shall use value-added data from the most recent school year available and shall use assessment scores for

only those students to whom the district or building has administered the assessments prescribed by section 3301.0710 of the Revised Code for each of the two most recent consecutive school years.

As used in this division, "high mobility school district or building" means a school district or building where at least twenty-five per cent of its total enrollment is made up of students who have attended that school district or building for less than one year.

(2) In addition to the graded measures in division (B)(1) of this section, the department shall include on a school district's or building's report card all of the following without an assigned letter grade:

(a) The percentage of students enrolled in a district or building participating in advanced placement classes and the percentage of those students who received a score of three or better on advanced placement examinations;

(b) The number of a district's or building's students who have earned at least three college credits through dual enrollment or advanced standing programs, such as the post-secondary enrollment options program under Chapter 3365. of the Revised Code and state-approved career-technical courses offered through dual enrollment or statewide articulation, that appear on a student's transcript or other official document, either of which is issued by the institution of higher education from which the student earned the college credit. The credits earned that are reported under divisions (B)(2)(b) and (C)(2)(c) of this section shall not include any that are remedial or developmental and shall include those that count toward the curriculum requirements established for completion of a degree.

(c) The percentage of students enrolled in a district or building who have taken a national standardized test used for college admission determinations and the percentage of those students who are determined to be remediation-free in accordance with standards adopted under division (F) of section 3345.061 of the Revised Code;

(d) The percentage of the district's or the building's students who receive industry-recognized credentials as approved under section 3313.6113 of the Revised Code.

(e) The percentage of students enrolled in a district or building who are participating in an international baccalaureate program and the percentage of those students who receive a score of four or better on the international baccalaureate examinations.

(f) The percentage of the district's or building's students who receive an honors diploma under division (B) of section 3313.61 of the Revised Code.

(3) The department shall adopt rules in accordance with Chapter 119. of the Revised Code that prescribe the methods by which the performance measures under divisions (B)(1)(f) and (B)(1)(g) of this section will be assessed and assigned a letter grade, including performance benchmarks for each grade.

At least forty-five days prior to the department's adoption of rules to prescribe the methods by which the performance measures under division (B)(1) of this section shall be assessed and assigned a letter grade, the department shall conduct a public presentation before the standing committees of the house of representatives and the senate that consider education legislation describing such methods, including

performance benchmarks.

(4) There shall not be an overall letter grade for a school district or building for the 2013-2014, 2014-2015, 2015-2016, and 2016-2017 school years.

(C)(1) For the 2014-2015, 2015-2016, 2016-2017, 2017-2018, 2018-2019, 2019-2020, and 2020-2021 school years, the department shall issue grades as described in division (F) of this section for each of the performance measures prescribed in division (C)(1) of this section. The graded measures are as follows:

(a) Annual measurable objectives. For the 2017-2018 school year, the department shall not include any subgroup data in the annual measurable objectives that includes data from fewer than twenty-five students. For the 2018-2019 school year, the department shall not include any subgroup data in the annual measurable objectives that includes data from fewer than twenty students. Beginning with the 2019-2020 school year, the department shall not include any subgroup data in the annual measurable objectives that includes data from fewer than fifteen students.

(b) Performance index score for a school district or building. Grades shall be awarded as a percentage of the total possible points on the performance index system as created by the department. In adopting benchmarks for assigning letter grades under division (C)(1)(b) of this section, the department shall designate ninety per cent or higher for an "A," at least seventy per cent but not more than eighty per cent for a "C," and less than fifty per cent for an "F."

(c) The extent to which the school district or building meets each of the applicable performance indicators established

by the department under section 3302.03 of the Revised Code and the percentage of applicable performance indicators that have been achieved. In adopting benchmarks for assigning letter grades under division (C)(1)(c) of this section, the department shall designate ninety per cent or higher for an "A."

(d) The four- and five-year adjusted cohort graduation rates;

(e) The overall score under the value-added progress dimension, or another measure of student academic progress if adopted by the department, of a school district or building, for which the department shall use up to three years of value-added data as available.

In adopting benchmarks for assigning letter grades for overall score on value-added progress dimension under division (C)(1)(e) of this section, the department shall prohibit the assigning of a grade of "A" for that measure unless the district's or building's grade assigned for value-added progress dimension for all subgroups under division (C)(1)(f) of this section is a "C" or higher.

For the metric prescribed by division (C)(1)(e) of this section, the department may adopt a student academic progress measure to be used instead of the value-added progress dimension. If the department adopts such a measure, it also shall prescribe a method for assigning letter grades for the new measure that is comparable to the method prescribed in division (A)(1)(e) of this section.

(f) The value-added progress dimension score of a school district or building disaggregated for each of the following subgroups: students identified as gifted in superior cognitive

ability and specific academic ability fields under Chapter 3324. of the Revised Code, students with disabilities, and students whose performance places them in the lowest quintile for achievement on a statewide basis, as determined by a method prescribed by the department. Each subgroup shall be a separate graded measure.

The department may adopt student academic progress measures to be used instead of the value-added progress dimension. If the department adopts such measures, it also shall prescribe a method for assigning letter grades for the new measures that is comparable to the method prescribed in division (A)(1)(e) of this section.

(g) Whether a school district or building is making progress in improving literacy in grades kindergarten through three, as determined using a method prescribed by the department. The department shall adopt rules to prescribe benchmarks and standards for assigning grades to a district or building for purposes of division (C)(1)(g) of this section. The department shall designate for a "C" grade a value that is not lower than the statewide average value for this measure. No grade shall be issued under division (C)(1)(g) of this section for a district or building in which less than five per cent of students have scored below grade level on the kindergarten diagnostic assessment under division (B)(1) of section 3313.608 of the Revised Code.

(h) For a high mobility school district or building, an additional value-added progress dimension score. For this measure, the department shall use value-added data from the most recent school year available and shall use assessment scores for only those students to whom the district or building has

administered the assessments prescribed by section 3301.0710 of the Revised Code for each of the two most recent consecutive school years.

As used in this division, "high mobility school district or building" means a school district or building where at least twenty-five per cent of its total enrollment is made up of students who have attended that school district or building for less than one year.

(2) In addition to the graded measures in division (C)(1) of this section, the department shall include on a school district's or building's report card all of the following without an assigned letter grade:

(a) The percentage of students enrolled in a district or building who have taken a national standardized test used for college admission determinations and the percentage of those students who are determined to be remediation-free in accordance with the standards adopted under division (F) of section 3345.061 of the Revised Code;

(b) The percentage of students enrolled in a district or building participating in advanced placement classes and the percentage of those students who received a score of three or better on advanced placement examinations;

(c) The percentage of a district's or building's students who have earned at least three college credits through advanced standing programs, such as the college credit plus program under Chapter 3365. of the Revised Code and state-approved career-technical courses offered through dual enrollment or statewide articulation, that appear on a student's college transcript issued by the institution of higher education from which the

student earned the college credit. The credits earned that are reported under divisions (B)(2)(b) and (C)(2)(c) of this section shall not include any that are remedial or developmental and shall include those that count toward the curriculum requirements established for completion of a degree.

(d) The percentage of the district's or building's students who receive an honor's diploma under division (B) of section 3313.61 of the Revised Code;

(e) The percentage of the district's or building's students who receive industry-recognized credentials as approved under section 3313.6113 of the Revised Code;

(f) The percentage of students enrolled in a district or building who are participating in an international baccalaureate program and the percentage of those students who receive a score of four or better on the international baccalaureate examinations;

(g) The results of the college and career-ready assessments administered under division (B)(1) of section 3301.0712 of the Revised Code;

(h) Whether the school district or building has implemented a positive behavior intervention and supports framework in compliance with the requirements of section 3319.46 of the Revised Code, notated as a "yes" or "no" answer.

(3) The department shall adopt rules pursuant to Chapter 119. of the Revised Code that establish a method to assign an overall grade for a school district or school building for the 2017-2018 school year and each school year thereafter. The rules shall group the performance measures in divisions (C)(1) and (2) of this section into the following components:

(a) Gap closing, which shall include the performance measure in division (C)(1)(a) of this section;

(b) Achievement, which shall include the performance measures in divisions (C)(1)(b) and (c) of this section;

(c) Progress, which shall include the performance measures in divisions (C)(1)(e) and (f) of this section;

(d) Graduation, which shall include the performance measure in division (C)(1)(d) of this section;

(e) Kindergarten through third-grade literacy, which shall include the performance measure in division (C)(1)(g) of this section;

(f) Prepared for success, which shall include the performance measures in divisions (C)(2)(a), (b), (c), (d), (e), and (f) of this section. The department shall develop a method to determine a grade for the component in division (C)(3)(f) of this section using the performance measures in divisions (C)(2)(a), (b), (c), (d), (e), and (f) of this section. When available, the department may incorporate the performance measure under division (C)(2)(g) of this section into the component under division (C)(3)(f) of this section. When determining the overall grade for the prepared for success component prescribed by division (C)(3)(f) of this section, no individual student shall be counted in more than one performance measure. However, if a student qualifies for more than one performance measure in the component, the department may, in its method to determine a grade for the component, specify an additional weight for such a student that is not greater than or equal to 1.0. In determining the overall score under division (C)(3)(f) of this section, the department shall ensure that the

pool of students included in the performance measures aggregated under that division are all of the students included in the four- and five-year adjusted graduation cohort.

In the rules adopted under division (C)(3) of this section, the department shall adopt a method for determining a grade for each component in divisions (C)(3)(a) to (f) of this section. The department also shall establish a method to assign an overall grade of "A," "B," "C," "D," or "F" using the grades assigned for each component. The method the department adopts for assigning an overall grade shall give equal weight to the components in divisions (C)(3)(b) and (c) of this section.

At least forty-five days prior to the department's adoption of rules to prescribe the methods for calculating the overall grade for the report card, as required by this division, the department shall conduct a public presentation before the standing committees of the house of representatives and the senate that consider education legislation describing the format for the report card, weights that will be assigned to the components of the overall grade, and the method for calculating the overall grade.

(D) For the 2021-2022 school year and each school year thereafter, all of the following apply:

(1) The department shall include on a school district's or building's report card all of the following performance measures without an assigned performance rating:

(a) Whether the district or building meets the gifted performance indicator under division (A)(2) of section 3302.02 of the Revised Code and the extent to which the district or building meets gifted indicator performance benchmarks;

(b) The extent to which the district or building meets the chronic absenteeism indicator under division (A)(3) of section 3302.02 of the Revised Code;

(c) Performance index score percentage for a district or building, which shall be calculated by dividing the district's or building's performance index score according to the performance index system created by the department by the maximum performance index score for a district or building. The maximum performance index score shall be as follows:

(i) For a building, the average of the highest two per cent of performance index scores achieved by a building for the school year for which a report card is issued;

(ii) For a district, the average of the highest two per cent of performance index scores achieved by a district for the school year for which a report card is issued.

(d) The overall score under the value-added progress dimension of a district or building, for which the department shall use three consecutive years of value-added data. In using three years of value-added data to calculate the measure prescribed under division (D)(1)(d) of this section, the department shall assign a weight of fifty per cent to the most recent year's data and a weight of twenty-five per cent to the data of each of the other years. However, if three consecutive years of value-added data is not available, the department shall use prior years of value-added data to calculate the measure, as follows:

(i) If two consecutive years of value-added data is not available, the department shall use one year of value-added data to calculate the measure.

(ii) If two consecutive years of value-added data is available, the department shall use two consecutive years of value-added data to calculate the measure. In using two years of value-added data to calculate the measure, the department shall assign a weight of sixty-seven per cent to the most recent year's data and a weight of thirty-three per cent to the data of the other year.

(e) The four-year adjusted cohort graduation rate.

(f) The five-year adjusted cohort graduation rate.

(g) The percentage of students in the district or building who score proficient or higher on the reading segment of the third grade English language arts assessment under section 3301.0710 of the Revised Code.

To the extent possible, the department shall include the results of the summer administration of the third grade reading assessment under section 3301.0710 of the Revised Code in the performance measures prescribed under divisions (D)(1)(g) and (h) of this section.

(h) Whether a district or building is making progress in improving literacy in grades kindergarten through three, as determined using a method prescribed by the department. The method shall determine progress made based on the reduction in the total percentage of students scoring below grade level, or below proficient, compared from year to year on the reading segments of the diagnostic assessments administered under division (A)(1) of section 3301.0715 of the Revised Code and the third grade English language arts assessment under section 3301.0710 of the Revised Code, as applicable. The method shall not include a deduction for students who did not pass the third

grade English language arts assessment under section 3301.0710 of the Revised Code and were not on a reading improvement and monitoring plan.

The performance measure prescribed under division (D)(1)(h) of this section shall not be included on the report card of a district or building in which less than ten per cent of students have scored below grade level on the diagnostic assessment administered to students in kindergarten under division (B)(1) of section 3313.608 of the Revised Code.

(i) The percentage of students in a district or building who are promoted to the fourth grade based on the student's score on the third grade English language arts assessment under division (A)(3) of section 3301.0710 of the Revised Code or demonstrate competency on an alternative assessment under division (A)(2)(c) of section 3313.608 of the Revised Code;

(j) A post-secondary readiness measure. This measure shall be calculated by dividing the number of students included in the four-year adjusted graduation rate cohort who demonstrate post-secondary readiness by the total number of students included in the denominator of the four-year adjusted graduation rate cohort. Demonstration of post-secondary readiness shall include a student doing any of the following:

(i) Attaining a remediation-free score, in accordance with standards adopted under division (F) of section 3345.061 of the Revised Code, on a nationally standardized assessment prescribed under division (B)(1) of section 3301.0712 of the Revised Code;

(ii) Attaining required scores on three or more advanced placement, college-level examination program, or international baccalaureate examinations. The required score for an advanced

placement examination shall be a three or better. The required score for a college-level examination program examination shall be a passing score, as determined by the department. The required score for an international baccalaureate examination shall be a four or better. A student may satisfy this condition with any combination of advanced placement, college-level examination program, or international baccalaureate examinations.

(iii) Earning at least twelve college credits through advanced standing programs, such as the college credit plus program under Chapter 3365. of the Revised Code, an early college high school program under section 3313.6013 of the Revised Code, and state-approved career-technical courses offered through dual enrollment or statewide articulation, that appear on a student's college transcript issued by the institution of higher education from which the student earned the college credit. Earned credits reported under division (D)(1)(j)(iii) of this section shall include credits that count toward the curriculum requirements established for completion of a degree, but shall not include any remedial or developmental credits.

(iv) Meeting the additional criteria for an honors diploma under division (B) of section 3313.61 of the Revised Code;

(v) Earning an industry-recognized credential or license issued by a state agency or board for practice in a vocation that requires an examination for issuance of that license approved under section 3313.6113 of the Revised Code;

(vi) Satisfying any of the following conditions:

(I) Completing a pre-apprenticeship aligned with options

established under section 3313.904 of the Revised Code in the student's chosen career field;

(II) Completing an apprenticeship registered with the apprenticeship council established under section 4139.02 of the Revised Code in the student's chosen career field;

(III) Providing evidence of acceptance into an apprenticeship program after high school that is restricted to participants eighteen years of age or older.

(vii) Earning a cumulative score of proficient or higher on three or more state technical assessments aligned with section 3313.903 of the Revised Code in a single career pathway;

(viii) Earning an OhioMeansJobs-readiness seal established under section 3313.6112 of the Revised Code and completing two hundred fifty hours of an internship or other work-based learning experience that is either:

(I) Approved by the business advisory council established under section 3313.82 of the Revised Code that represents the student's district; or

(II) Aligned to the career-technical education pathway approved by the department in which the student is enrolled.

(ix) Providing evidence that the student has enlisted in a branch of the armed services of the United States as defined in section 5910.01 of the Revised Code.

A student who satisfies more than one of the conditions prescribed under this division shall be counted as one student for the purposes of calculating the measure prescribed under division (D)(1)(j) of this section.

(2) In addition to the performance measures under division

(D)(1) of this section, the department shall report on a district's or building's report card all of the following data without an assigned performance rating:

(a) The applicable performance indicators established by the department under division (A)(1) of section 3302.02 of the Revised Code;

(b) The overall score under the value-added progress dimension of a district or building for the most recent school year;

(c) A composite of the overall scores under the value-added progress dimension of a district or building for the previous three school years or, if only two years of value-added data are available, for the previous two years;

(d) The percentage of students included in the four- and five-year adjusted cohort graduation rates of a district or building who did not receive a high school diploma under section 3313.61 or 3325.08 of the Revised Code. To the extent possible, the department shall disaggregate that data according to the following categories:

(i) Students who are still enrolled in the district or building and receiving general education services;

(ii) Students with an individualized education program, as defined in section 3323.01 of the Revised Code, who satisfied the conditions for a high school diploma under section 3313.61 or 3325.08 of the Revised Code, but opted not to receive a diploma and are still receiving education services;

(iii) Students with an individualized education program who have not yet satisfied conditions for a high school diploma under section 3313.61 or 3325.08 of the Revised Code and who are

still receiving education services;

(iv) Students who are no longer enrolled in any district or building;

(v) Students who, upon enrollment in the district or building for the first time, had completed fewer units of high school instruction required under section 3313.603 of the Revised Code than other students in the four- or five-year adjusted cohort graduation rate.

The department may disaggregate the data prescribed under division (D)(2)(d) of this section according to other categories that the department determines are appropriate.

(e) Post-graduate outcomes for students who were enrolled in a district or building and received a high school diploma under section 3313.61 or 3325.08 of the Revised Code in the school year prior to the school year for which the report card is issued, including the percentage of students who:

(i) Enrolled in a post-secondary educational institution. To the extent possible, the department shall disaggregate that data according to whether the student enrolled in a four-year institution of higher education, a two-year institution of higher education, an Ohio technical center that provides adult technical education services and is recognized by the chancellor of higher education, or another type of post-secondary educational institution.

(ii) Entered an apprenticeship program registered with the apprenticeship council established under Chapter 4139. of the Revised Code. The department may include other job training programs with similar rigor and outcomes.

(iii) Attained gainful employment, as determined by the

department;

(iv) Enlisted in a branch of the armed forces of the United States, as defined in section 5910.01 of the Revised Code.

(f) Whether the school district or building has implemented a positive behavior intervention and supports framework in compliance with the requirements of section 3319.46 of the Revised Code, notated with a "yes" or "no";

(g) The number and percentage of high school seniors in each school year who completed the free application for federal student aid;

(h) Beginning with the report card issued under this section for the 2022-2023 school year, a student opportunity profile measure that reports data regarding the opportunities provided to students by a district or building. To the extent possible, and when appropriate, the data shall be disaggregated by grade level and subgroup. The measure also shall include data regarding the statewide average, the average for similar school districts, and, for a building, the average for the district in which the building is located. The measure shall include all of the following data for the district or building:

(i) The average ratio of teachers of record to students in each grade level in a district or building;

(ii) The average ratio of school counselors to students in a district or building;

(iii) The average ratio of nurses to students in a district or building;

(iv) The average ratio of licensed librarians and library

media specialists to students in a district or building;

(v) The average ratio of social workers to students in a district or building;

(vi) The average ratio of mental health professionals to students in a district or building;

(vii) The average ratio of paraprofessionals to students in a district or building;

(viii) The percentage of teachers with fewer than three years of experience teaching in any school;

(ix) The percentage of principals with fewer than three years of experience as a principal in any school;

(x) The percentage of teachers who are not teaching in the subject or field for which they are certified or licensed;

(xi) The percentage of kindergarten students who are enrolled in all-day kindergarten, as defined in section 3321.05 of the Revised Code;

(xii) The percentage of students enrolled in a performing or visual arts course;

(xiii) The percentage of students enrolled in a physical education or wellness course;

(xiv) The percentage of students enrolled in a world language course;

(xv) The percentage of students in grades seven through twelve who are enrolled in a career-technical education course;

(xvi) The percentage of students participating in one or more cocurricular activities;

(xvii) The percentage of students participating in advance placement courses, international baccalaureate courses, honors courses, or courses offered through the college credit plus program established under Chapter 3365. of the Revised Code;

(xviii) The percentage of students identified as gifted in superior cognitive ability and specific academic ability fields under Chapter 3324. of the Revised Code and receiving gifted services pursuant to that chapter;

(xix) The percentage of students participating in enrichment or support programs offered by the district or building outside of the normal school day;

(xx) The percentage of eligible students participating each school day in school breakfast programs offered by the district or building in accordance with section 3313.813 or 3313.818 of the Revised Code;

(xxi) The percentage of students who are transported by a school bus each school day;

(xxii) The ratio of portable technology devices that students may take home to the number of students.

The department shall include only opportunity measures at the building level for which data for buildings is available, as determined by a school district.

(i)(i) The percentage of students included in the four- and five-year adjusted cohort graduation rates of the district or building who completed all of grades nine through twelve while enrolled in the district or building;

(ii) The four-year adjusted cohort graduation rate for only those students who were continuously enrolled in the same

district or building for grades nine through twelve.

(j) Whether the district or building provides information about and promotes the college credit plus program established under Chapter 3365. of the Revised Code to students in accordance with section 3365.04 of the Revised Code, notated with a "yes" or "no";

(k) The percentage of students in the district or building to whom both of the following apply:

(i) The students are promoted to fourth grade and not subject to retention under division (A)(2) of section 3313.608 of the Revised Code.

(ii) The students completed all of the grade levels offered prior to the fourth grade in the district or building.

(3) Except as provided in division (D)(3)(f) of this section, the department shall use the method prescribed under rules adopted under division (D)(4) of this section to assign performance ratings of "one star," "two stars," "three stars," "four stars," or "five stars," as described in division (F) of this section, for a district or building for the individual components prescribed under division (D)(3) of this section. The department also shall assign an overall performance rating for a district or building in accordance with division (D)(3)(g) of this section. The method shall use the performance measures prescribed under division (D)(1) of this section to calculate performance ratings for components. The method may report data under division (D)(2) of this section with corresponding components, but shall not use the data to calculate performance ratings for that component. The performance measures and reported data shall be grouped together into components as

follows:

(a) Gap closing. In addition to other criteria determined appropriate by the department, performance ratings for the gap closing component shall reflect whether each of the following performance measures are met or not met:

(i) The gifted performance indicator as described in division (D)(1)(a) of this section;

(ii) The chronic absenteeism indicator as described in division (D)(1)(b) of this section;

(iii) For English learners, an English language proficiency improvement indicator established by the department;

(iv) The subgroup graduation targets;

(v) The subgroup achievement targets in both mathematics and English language arts;

(vi) The subgroup progress targets in both mathematics and English language arts.

Achievement and progress targets under division (D)(3)(a) of this section shall be calculated individually, and districts and buildings shall receive a status of met or not met on each measure. The department shall not require a subgroup of a district or building to meet both the achievement and progress targets at the same time to receive a status of met.

The department shall not include any subgroup data in this measure that includes data from fewer than fifteen students. Any penalty for failing to meet the required assessment participation rate must be partially in proportion to how close the district or building was to meeting the rate requirement.

(b) Achievement, which shall include the performance measure in division (D)(1)(c) of this section and the reported data in division (D)(2)(a) of this section. Performance ratings for the achievement component shall be awarded as a percentage of the maximum performance index score described in division (D)(1)(c) of this section.

(c) Progress, which shall include the performance measure in division (D)(1)(d) of this section and the reported data in divisions (D)(2)(b) and (c) of this section;

(d) Graduation, which shall include the performance measures in divisions (D)(1)(e) and (f) of this section and the reported data in divisions (D)(2)(d) and (j) of this section. The four-year adjusted cohort graduation rate shall be assigned a weight of sixty per cent and the five-year adjusted cohort graduation rate shall be assigned a weight of forty per cent.

(e) Early literacy, which shall include the performance measures in divisions (D)(1)(g), (h), and (i) of this section and the reported data in division (D)(2)(k) of this section.

If the measure prescribed under division (D)(1)(h) of this section is included in a report card, performance ratings for the early literacy component shall give a weight of forty per cent to the measure prescribed under division (D)(1)(g) of this section, a weight of thirty-five per cent to the measure prescribed under division (D)(1)(i) of this section, and a weight of twenty-five per cent to the measure prescribed under division (D)(1)(h) of this section.

If the measure prescribed under division (D)(1)(h) of this section is not included in a report card of a district or building, performance ratings for the early literacy component

shall give a weight of sixty per cent to the measure prescribed under division (D)(1)(g) of this section and a weight of forty per cent to the measure prescribed under division (D)(1)(i) of this section.

(f) College, career, workforce, and military readiness, which shall include the performance measure in division (D)(1)(j) of this section and the reported data in division (D)(2)(e) of this section.

For the 2021-2022, 2022-2023, and 2023-2024 school years, the department only shall report the data for, and not assign a performance rating to, the college, career, workforce, and military readiness component. The reported data shall include the percentage of students who demonstrate post-secondary readiness using any of the options described in division (D)(1)(j) of this section.

The department shall analyze the data included in the performance measure prescribed in division (D)(1)(j) of this section for the 2021-2022, 2022-2023, and 2023-2024 school years. Using that data, the department shall develop and propose rules for a method to assign a performance rating to the college, career, workforce, and military readiness component based on that measure. The method to assign a performance rating shall not include a tiered structure or per student bonuses. The rules shall specify that a district or building shall not receive lower than a performance rating of three stars for the component if the district's or building's performance on the component meets or exceeds a level of improvement set by the department. Notwithstanding division (D)(4)(b) of this section, more than half of the total districts and buildings may earn a performance rating of three stars on this component to account

for the districts and buildings that earned a performance rating of three stars because they met or exceeded the level of improvement set by the department.

The department shall submit the rules to the joint committee on agency rule review. The committee shall conduct at least one public hearing on the proposed rules and approve or disapprove the rules. If the committee approves the rules, the department shall adopt the rules in accordance with Chapter 119. of the Revised Code. If the rules are adopted, the department shall assign a performance rating to the college, career, workforce, and military readiness component under the rules beginning with the 2024-2025 school year, and for each school year thereafter. If the committee disapproves the rules, the component shall be included in the report card only as reported data for the 2024-2025 school year, and each school year thereafter.

(g)(i) Except as provided for in division (D)(3)(g)(ii) of this section, beginning with the 2022-2023 school year, under the method prescribed under rules adopted in division (D)(4) of this section, the department shall use the performance ratings assigned for the components prescribed in divisions (D)(3)(a) to (e) of this section to determine and assign an overall performance rating of "one star," "one and one-half stars," "two stars," "two and one-half stars," "three stars," "three and one-half stars," "four stars," "four and one-half stars," or "five stars" for a district or building. The method shall give equal weight to the components in divisions (D)(3)(b) and (c) of this section. The method shall give equal weight to the components in divisions (D)(3)(a), (d), and (e) of this section. The individual weights of each of the components prescribed in divisions (D)(3)(a), (d), and (e) of this section shall be equal

to one-half of the weight given to the component prescribed in division (D)(3)(b) of this section.

(ii) If the joint committee on agency rule review approves the department's rules regarding the college, career, workforce, and military readiness component as described in division (D)(3)(f) of this section, for the 2024-2025 school year, and each school year thereafter, the department's method shall use the components in divisions (D)(3)(a), (b), (c), (d), (e), and (f) of this section to calculate the overall performance rating. The method shall give equal weight to the components in divisions (D)(3)(b) and (c) of this section. The method shall give equal weight to the components prescribed in divisions (D)(3)(a), (d), (e), and (f) of this section. The individual weights of each of the components prescribed in divisions (D)(3)(a), (d), (e), and (f) of this section shall be equal to one-half the weight given to the component prescribed in division (D)(3)(b) of this section.

If the joint committee on agency rule review disapproves the department's rules regarding the college, career, workforce, and military readiness component as described in division (D)(3)(f) of this section, division (D)(3)(g)(ii) of this section does not apply.

(4)(a) The department shall adopt rules in accordance with Chapter 119. of the Revised Code to establish the performance criteria, benchmarks, and rating system necessary to implement divisions (D) and (F) of this section, including the method for the department to assign performance ratings under division (D)(3) of this section.

(b) In establishing the performance criteria, benchmarks, and rating system, the department shall consult with stakeholder

groups and advocates that represent parents, community members, students, business leaders, and educators from different school typology regions. The department shall use data from prior school years and simulations to ensure that there is meaningful differentiation among districts and buildings across all performance ratings and that, except as permitted in division (D)(3)(f) of this section, more than half of all districts or buildings do not earn the same performance rating in any component or overall performance rating.

(c) The department shall adopt the rules prescribed by division (D)(4) of this section not later than March 31, 2022. However, the department shall notify districts and buildings of the changes to the report card prescribed in law not later than one week after September 30, 2021.

(d) Prior to adopting or updating rules under division (D)(4) of this section, the director of education and workforce and the department shall conduct a public presentation before the standing committees of the house of representatives and the senate that consider primary and secondary education legislation describing the format for the report card and the performance criteria, benchmarks, and rating system, including the method to assign performance ratings under division (D)(3) of this section.

(E) The department may develop a measure of student academic progress for high school students using only data from assessments in English language arts and mathematics. If the department develops this measure, each school district and applicable school building shall be assigned a separate letter grade for it not sooner than the 2017-2018 school year. The district's or building's grade for that measure shall not be

included in determining the district's or building's overall letter grade.

(F)(1) The letter grades assigned to a school district or building under this section shall be as follows:

(a) "A" for a district or school making excellent progress;

(b) "B" for a district or school making above average progress;

(c) "C" for a district or school making average progress;

(d) "D" for a district or school making below average progress;

(e) "F" for a district or school failing to meet minimum progress.

(2) For the overall performance rating under division (D)(3) of this section, the department shall include a descriptor for each performance rating as follows:

(a) "Significantly exceeds state standards" for a performance rating of five stars;

(b) "Exceeds state standards" for a performance rating of four stars or four and one-half stars;

(c) "Meets state standards" for a performance rating of three stars or three and one-half stars;

(d) "Needs support to meet state standards" for a performance rating of two stars or two and one-half stars;

(e) "Needs significant support to meet state standards" for a performance rating of one star or one and one-half stars.

(3) For performance ratings for each component under divisions (D)(3)(a) to (f) of this section, the department shall include a description of each component and performance rating. The description shall include component-specific context to each performance rating earned, estimated comparisons to other school districts and buildings if appropriate, and any other information determined by the department. The descriptions shall be not longer than twenty-five words in length when possible. In addition to such descriptions, the department shall include the descriptors in division (F)(2) of this section for component performance ratings.

(4) Each report card issued under this section shall include all of the following:

(a) A graphic that depicts the performance ratings of a district or school on a color scale. The color associated with a performance rating of three stars shall be green and the color associated with a performance rating of one star shall be red.

(b) An arrow graphic that shows data trends for performance ratings for school districts or buildings. The department shall determine the data to be used for this graphic, which shall include at least the three most recent years of data.

(c) A description regarding the weights that are assigned to each component and used to determine an overall performance rating, as prescribed under division (D)(3)(g) of this section, which shall be included in the presentation of the overall performance rating on each report card.

(G) When reporting data on student achievement and progress, the department shall disaggregate that data according

to the following categories:

(1) Performance of students by grade-level;

(2) Performance of students by race and ethnic group;

(3) Performance of students by gender;

(4) Performance of students grouped by those who have been enrolled in a district or school for three or more years;

(5) Performance of students grouped by those who have been enrolled in a district or school for more than one year and less than three years;

(6) Performance of students grouped by those who have been enrolled in a district or school for one year or less;

(7) Performance of students grouped by those who are economically disadvantaged;

(8) Performance of students grouped by those who are enrolled in a conversion community school established under Chapter 3314. of the Revised Code;

(9) Performance of students grouped by those who are classified as English learners;

(10) Performance of students grouped by those who have disabilities;

(11) Performance of students grouped by those who are classified as migrants;

(12) Performance of students grouped by those who are identified as gifted in superior cognitive ability and the specific academic ability fields of reading and math pursuant to Chapter 3324. of the Revised Code. In disaggregating specific academic ability fields for gifted students, the department

shall use data for those students with specific academic ability in math and reading. If any other academic field is assessed, the department shall also include data for students with specific academic ability in that field as well.

(13) Performance of students grouped by those who perform in the lowest quintile for achievement on a statewide basis, as determined by a method prescribed by the department.

The department may disaggregate data on student performance according to other categories that the department determines are appropriate. To the extent possible, the department shall disaggregate data on student performance according to any combinations of two or more of the categories listed in divisions (G)(1) to (13) of this section that it deems relevant.

In reporting data pursuant to division (G) of this section, the department shall not include in the report cards any data statistical in nature that is statistically unreliable or that could result in the identification of individual students. For this purpose, the department shall not report student performance data for any group identified in division (G) of this section that contains less than ten students. If the department does not report student performance data for a group because it contains less than ten students, the department shall indicate on the report card that is why data was not reported.

(H) The department may include with the report cards any additional education and fiscal performance data it deems valuable.

(I) The department shall include on each report card a list of additional information collected by the department that

is available regarding the district or building for which the report card is issued. When available, such additional information shall include student mobility data disaggregated by race and socioeconomic status, college enrollment data, and the reports prepared under section 3302.031 of the Revised Code.

The department shall maintain a site on the world wide web. The report card shall include the address of the site and shall specify that such additional information is available to the public at that site. The department shall also provide a copy of each item on the list to the superintendent of each school district. The district superintendent shall provide a copy of any item on the list to anyone who requests it.

(J)(1)(a) Except as provided in division (J)(1)(b) of this section, for any district that sponsors a conversion community school under Chapter 3314. of the Revised Code, the department shall combine data regarding the academic performance of students enrolled in the community school with comparable data from the schools of the district for the purpose of determining the performance of the district as a whole on the report card issued for the district under this section or section 3302.033 of the Revised Code.

(b) The department shall not combine data from any conversion community school that a district sponsors if the conversion community school is a dropout prevention and recovery community school, as defined in section 3314.02 of the Revised Code. The department shall include as an addendum to the district's report card the ratings and performance measures that are required under section 3314.017 of the Revised Code for any community school to which division (J)(1)(b) of this section applies. This addendum shall include, at a minimum, the data

specified in divisions (C)(1)(a), (C)(2), and (C)(3) of section 3314.017 of the Revised Code.

(2) Any district that leases a building to a community school located in the district or that enters into an agreement with a community school located in the district whereby the district and the school endorse each other's programs may elect to have data regarding the academic performance of students enrolled in the community school combined with comparable data from the schools of the district for the purpose of determining the performance of the district as a whole on the district report card. Any district that so elects shall annually file a copy of the lease or agreement with the department.

(3) Any municipal school district, as defined in section 3311.71 of the Revised Code, that sponsors a community school located within the district's territory, or that enters into an agreement with a community school located within the district's territory whereby the district and the community school endorse each other's programs, may exercise either or both of the following elections:

(a) To have data regarding the academic performance of students enrolled in that community school combined with comparable data from the schools of the district for the purpose of determining the performance of the district as a whole on the district's report card;

(b) To have the number of students attending that community school noted separately on the district's report card.

The election authorized under division (J)(3)(a) of this section is subject to approval by the governing authority of the community school.

Any municipal school district that exercises an election to combine or include data under division (J)(3) of this section, by the first day of October of each year, shall file with the department documentation indicating eligibility for that election, as required by the department.

(K) The department shall include on each report card the percentage of teachers in the district or building who are properly certified or licensed teachers, as defined in section 3319.074 of the Revised Code, and a comparison of that percentage with the percentages of such teachers in similar districts and buildings.

(L)(1) In calculating English language arts, mathematics, science, American history, or American government assessment passage rates used to determine school district or building performance under this section, the department shall include all students taking an assessment with accommodation or to whom an alternate assessment is administered pursuant to division (C)(1) or (3) of section 3301.0711 of the Revised Code and all students who take substitute examinations approved under division (B)(4) of section 3301.0712 of the Revised Code in the subject areas of science, American history and American government.

(2) In calculating performance index scores, rates of achievement on the performance indicators established by the department under section 3302.02 of the Revised Code, and annual measurable objectives for determining adequate yearly progress for school districts and buildings under this section, the department shall do all of the following:

(a) Include for each district or building only those students who are included in the ADM certified for the first full school week of October and are continuously enrolled in the

district or building through the time of the spring administration of any assessment prescribed by division (A)(1) or (B)(1) of section 3301.0710 or division (B) of section 3301.0712 of the Revised Code that is administered to the student's grade level;

(b) Include cumulative totals from both the fall and spring administrations of the third grade English language arts achievement assessment and, to the extent possible, the summer administration of that assessment;

(c) Include for each district or building any English learner in accordance with the department's plan, as approved by the United States secretary of education, to comply with the "Elementary and Secondary Education Act of 1965," 20 U.S.C. 6311 to 6339.

As used in this section, "English learner" has the same meaning as in section 3301.0731 of the Revised Code.

(M) Beginning with the 2015-2016 school year and at least once every three years thereafter, the department shall review and may adjust the benchmarks for assigning letter grades or performance ratings to the performance measures and components prescribed under divisions (C)(3), (D), and (E) of this section.

Sec. 3304.29. The bureau of services for the visually impaired shall:

(A) Survey suitable vending facility concession opportunities for individuals who are blind on governmental property;

(B) Obtain and make public, information concerning employment opportunities for individuals who are blind in suitable vending facilities;

(C) License individuals who are blind to operate suitable vending facilities on governmental property~~;~~

~~(D) Adopt rules and do everything necessary and proper to carry out sections 3304.29 to 3304.34 of the Revised Code~~.

Sec. 3304.41. The opportunities for Ohioans with disabilities agency shall establish and administer a program for the use of funds appropriated for that purpose to provide personal care assistance to enable eligible individuals with severe physical disabilities to live and work independently. ~~The agency shall adopt rules in accordance with Chapter 119. of the Revised Code as necessary to carry out the purposes of this section.~~

Sec. 3305.031. (A) As part of the process established under section 3305.03 of the Revised Code for designating an entity as a vendor and conducting periodic reviews of a vendor, the Ohio board of regents shall do all of the following:

(1) Provide written notice to each public institution of higher education that an entity has applied to be designated as a vendor under section 3305.03 of the Revised Code;

(2) Provide written notice to each public institution of higher education that a vendor is scheduled for a review;

(3) Establish a comment period of not less than thirty days during which a public institution of higher education is authorized to comment about an entity's application for designation or a vendor's review and to request a meeting with the board of regents concerning the application or review;

(4) Not later than fourteen days after the board makes a decision with respect to an application or review, including any rescission of a vendor's designation, provide written notice to

each public institution of higher education of the board's decision.

(B) If a meeting is requested by a public institution of higher education under division (A)(3) of this section, the board of regents shall do all of the following:

(1) Notify each public institution of higher education of the meeting and its time and place;

(2) Hold the meeting not less than ten but not more than thirty days after the end of the comment period;

(3) Continue to accept comments concerning the application or review, as applicable, until five business days after the meeting is held.

(C) The board of regents shall adopt rules under ~~section 3305.032~~ Chapter 119. of the Revised Code specifying the method to be used by public institutions of higher education in submitting comments to the board concerning an application or review.

Sec. 3305.032. The Ohio board of regents ~~shall~~ may adopt rules ~~as the board considers necessary to carry out its duties and responsibilities under this chapter. The rules shall be adopted~~ in accordance with Chapter 119. of the Revised Code~~. The rules may~~ to provide for fees to be charged providers by the board to cover administrative and marketing expenses of the board.

Sec. 3307.04. The general administration and the management of the state teachers retirement system is hereby vested in the state teachers retirement board~~, which shall adopt rules necessary for the fulfillment of its duties and responsibilities under Chapter 3307. of the Revised Code~~. The

board shall adopt policies for the operation of the system, and the investment of funds as provided by section 3307.15 of the Revised Code, and may authorize its administrative officers, or committees composed of board members, to act for the board in accord with such policies.

The board may take all appropriate action to avoid payment by the system or its members of federal or state income taxes on contributions to the system or amounts earned on such contributions and to comply with any plan qualification requirements, including those on distributions, established under Title 26 of the United States Code.

The attorney general shall prescribe procedures for the adoption of rules authorized under this chapter, consistent with the provision of section 111.15 of the Revised Code under which all rules shall be filed in order to be effective. Such procedures shall establish methods by which notice of proposed rules is given to interested parties and rules adopted by the board published and otherwise made available. When it files a rule with the joint committee on agency rule review pursuant to section 111.15 of the Revised Code, the board shall submit to the Ohio retirement study council a copy of the full text of the rule, and if applicable, a copy of the rule summary and fiscal analysis required by division (B) of section 106.024 of the Revised Code.

All rules adopted pursuant to this chapter, prior to August 20, 1976, shall be published and made available to interested parties by January 1, 1977.

Sec. 3307.041. The state teachers retirement board shall do all of the following:

(A) In consultation with the Ohio ethics commission, review any existing policy regarding the travel and payment of travel expenses of members and employees of the state teachers retirement board and adopt rules in accordance with section ~~3307.04~~ 111.15 of the Revised Code establishing a new or revised policy regarding travel and payment of travel expenses. Not less than sixty days before adopting a new or revised policy, the board shall submit the policy to the Ohio retirement study council for review.

(B) If the board intends to award a bonus to any employee of the board, adopt rules in accordance with section ~~3307.04~~ 111.15 of the Revised Code establishing a policy regarding employee bonuses;

(C) Provide copies of the rules adopted under divisions (A) and (B) of this section to each member of the Ohio retirement study council;

(D) Submit to the Ohio retirement study council a proposed operating budget, including an administrative budget for the board, for the next immediate fiscal year and adopt that budget not earlier than sixty days after it is submitted to the council;

(E) Submit to the council a plan describing how the board will improve the dissemination of public information pertaining to the board.

Sec. 3307.35. (A) As used in this section and section 3307.352 of the Revised Code, "other system retirant" means either of the following:

(1) A member or former member of the public employees retirement system, Ohio police and fire pension fund, school

employees retirement system, state highway patrol retirement system, or Cincinnati retirement system who is receiving from a system of which the retirant is a member or former member age and service or commuted age and service retirement, a benefit, allowance, or distribution under a plan established under section 145.81 or 3309.81 of the Revised Code, or a disability benefit;

(2) A person who is participating or has participated in an alternative retirement plan established under Chapter 3305. of the Revised Code and is receiving a benefit, allowance, or distribution under the plan.

(B) Subject to this section and section 3307.353 of the Revised Code, a superannuate or other system retirant may be employed as a teacher.

(C) A superannuate or other system retirant employed in accordance with this section shall contribute to the state teachers retirement system in accordance with section 3307.26 of the Revised Code and the employer shall contribute in accordance with sections 3307.28 and 3307.31 of the Revised Code. Such contributions shall be received as specified in section 3307.14 of the Revised Code. A superannuate or other system retirant employed as a teacher is not a member of the state teachers retirement system, does not have any of the rights, privileges, or obligations of membership, except as provided in this section, and is not eligible to receive health, medical, hospital, or surgical benefits under section 3307.39 of the Revised Code for employment subject to this section.

(D) The employer that employs a superannuate or other system retirant shall notify the state teachers retirement board of the employment not later than the end of the month in which

the employment commences. Any overpayment of benefits to a superannuate by the retirement system resulting from an employer's failure to give timely notice may be charged to the employer and may be certified and deducted as provided in section 3307.31 of the Revised Code.

(E) On receipt of notice from an employer that a person who is an other system retirant has been employed, the state teachers retirement system shall notify the state retirement system of which the other system retirant was a member of such employment.

(F) A superannuate or other system retirant who has received an allowance or benefit for less than two months when employment subject to this section or section 3305.05 of the Revised Code commences shall forfeit the allowance or benefit for any month the superannuate or retirant is employed prior to the expiration of such period. The allowance or benefit forfeited each month shall be equal to the monthly amount the superannuate or other system retirant is eligible to receive under a single lifetime benefit plan of payment described in division (A) of section 3307.60 of the Revised Code. Contributions shall be made to the retirement system from the first day of such employment, but service and contributions for that period shall not be used in the calculation of any benefit payable to the superannuate or other system retirant, and those contributions shall be refunded on the superannuate's or retirant's death or termination of the employment. Contributions made on compensation earned after the expiration of such period shall be used in calculation of the benefit or payment due under section 3307.352 of the Revised Code.

For purposes of this division, "employment" does not

include uncompensated volunteer work if the position is different from the superannuate's or other system retirant's position with the employer by which the superannuate or retirant was employed at the time of retirement.

(G) On receipt of notice from the Ohio police and fire pension fund, public employees retirement system, school employees retirement system, or Cincinnati retirement system of the re-employment of a superannuate, the state teachers retirement system shall not pay, or if paid shall recover, the amount to be forfeited by the superannuate in accordance with section 145.38, 742.26, or 3309.341 of the Revised Code or any requirement of the Cincinnati retirement system.

(H) If the disability benefit of an other system retirant employed under this section is terminated, the retirant shall become a member of the state teachers retirement system, effective on the first day of the month next following the termination, with all the rights, privileges, and obligations of membership. If the retirant, after the termination of the retirant's disability benefit, earns two years of service credit under this retirement system or under the public employees retirement system, Ohio police and fire pension fund, school employees retirement system, or state highway patrol retirement system, the retirant's prior contributions as an other system retirant under this section shall be included in the retirant's total service credit, as defined in section 3307.50 of the Revised Code, as a state teachers retirement system member, and the retirant shall forfeit all rights and benefits of this section. Not more than one year of credit may be given for any period of twelve months.

(I) This section does not affect the receipt of benefits

by or eligibility for benefits of any person who on August 20, 1976, was receiving a disability benefit or service retirement pension or allowance from a state or municipal retirement system in Ohio and was a member of any other state or municipal retirement system of this state.

~~(J) The state teachers retirement board may make the necessary rules to carry into effect this section and to prevent the abuse of the rights and privileges thereunder.~~

Sec. 3307.353. (A) This section applies in the case of a person who is or most recently has been employed by an employer in a position that is customarily filled by a vote of members of a board or commission.

(B) Except as otherwise provided in this section, a board or commission that proposes to continue the employment as a reemployed superannuate or rehire as a reemployed superannuate to the same position an individual described in division (A) of this section shall do both of the following ~~in accordance with rules adopted under division (E) of this section~~:

(1) Not less than sixty days before the employment as a reemployed superannuate is to begin, give public notice that the person is or will be retired and is seeking employment with the employer;

(2) Between fifteen and thirty days before the employment as a reemployed superannuate is to begin, hold a public meeting on the issue of the person being employed by the employer.

The notice regarding division (B)(1) of this section shall include the time, date, and location at which the public meeting is to take place.

(C) A board or commission that proposes to continue a

person's employment or rehire the person as a reemployed superannuate to a position that the board or commission has urgent reasons to fill in an expedited manner shall give thirty days' notice under division (B)(1) of this section. The board or commission shall include an explanation in the notice of the urgent reasons requiring the position to be filled in an expedited manner.

(D) A board or commission is not required to give notice under division (B)(1) or (C) of this section if the person has been retired for at least one year before the person's employment as a reemployed superannuate is to begin.

~~(E) The state teachers retirement board shall adopt rules as necessary to implement this section.~~

Sec. 3307.39. (A) The state teachers retirement board may enter into an agreement with insurance companies, health insuring corporations, or government agencies authorized to do business in the state for issuance of a policy or contract of health, medical, hospital, or surgical coverage, or any combination thereof, for those individuals receiving, under the STRS defined benefit plan, service retirement or a disability or survivor benefit who subscribe to the plan. Notwithstanding any other provision of this chapter, the policy or contract may also include coverage for any eligible individual's spouse and dependent children as the board considers appropriate. If all or any portion of the policy or contract premium is to be paid by any individual receiving service retirement or a disability or survivor benefit, the individual shall, by written authorization, instruct the board to deduct the premium agreed to be paid by the individual to the companies, corporations, or agencies.

The board may contract for coverage on the basis of part or all of the cost of the coverage to be paid from appropriate funds of the state teachers retirement system. The cost paid from the funds of the system shall be included in the employer's contribution rate provided by section 3307.28 of the Revised Code.

The board may enter into an agreement under this division for coverage of recipients of benefits under an STRS defined contribution plan if the plan selected includes health, medical, hospital, or surgical coverage, or any combination thereof. The board may contract for coverage on the basis that the cost of the coverage will be paid by the recipient or by the plan to which the recipient contributed under this chapter. The board may offer to recipients plans that provide for different levels of coverage or for prepayment of the cost of coverage.

The board may provide for self-insurance of risk or level of risk as set forth in the contract with the companies, corporations, or agencies, and may provide through the self-insurance method specific coverage as authorized by the rules of the board.

(B) The board may make a monthly payment to each recipient of service retirement, or a disability or survivor benefit under the STRS defined benefit plan who is enrolled in coverage under part B of the medicare program established under Title XVIII of "The Social Security Amendments of 1965," 79 Stat. 301 (1965), 42 U.S.C.A. 1395j, as amended, and may make a monthly payment to a recipient of benefits under an STRS defined contribution plan who is eligible for that insurance coverage if the monthly payments are funded through the plan selected by the recipient. The payment shall be the greater of the following:

(1) Twenty-nine dollars and ninety cents;

(2) An amount determined by the board, which shall not exceed ninety per cent of the basic premium for the coverage, except that the amount shall not exceed the amount paid by the recipient.

At the request of the board, the recipient shall certify the amount paid by the recipient for coverage described in this division.

The board shall make all payments under this division beginning the month following receipt of satisfactory evidence of the payment for the coverage.

(C) The board shall establish by rule requirements for the coordination of any coverage or payment provided under this section with any similar coverage or payment made available to the same individual by the public employees retirement system, Ohio police and fire pension fund, school employees retirement system, or state highway patrol retirement system.

~~(D) The board shall make all other necessary rules pursuant to the purpose and intent of this section.~~

Sec. 3307.393. As used in this section, "STRS defined benefit plan" means the plan established under sections 3307.50 to 3307.79 of the Revised Code and "STRS defined contribution plan" means a plan established under section 3307.81 of the Revised Code.

The STRS defined benefit plan or a STRS defined contribution plan may include a program under which a member participating in the plan or a member's employer is permitted to make additional deposits for the purpose of providing funds for the payment of health, medical, hospital, surgical, dental, or

vision care expenses, including insurance premiums, deductible amounts, or copayments. The program may be a voluntary employees' beneficiary association, as described in section 501(c)(9) of the Internal Revenue Code, 26 U.S.C. 501(c)(9), as amended; an account described in section 401(h) of the Internal Revenue Code, 26 U.S.C. 401(h), as amended; a medical savings account; or a similar type of program under which an individual may accumulate funds for the purpose of paying such expenses. To implement the program, the state teachers retirement board may enter into agreements with insurance companies or other entities authorized to conduct business in this state.

~~If the STRS defined benefit plan or a STRS defined contribution plan includes a program described in this section, the board shall adopt rules to establish and administer the program.~~

Sec. 3307.461. The state teachers retirement board may establish and maintain a qualified governmental excess benefit arrangement that meets the requirements of division (m) of section 415 of the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 415, as amended, and any regulations adopted thereunder. If established, the arrangement shall be a separate portion of the state teachers retirement system and be maintained solely for the purpose of providing to retired members that part of a benefit otherwise payable under this chapter that exceeds the limits established by section 415 of the "Internal Revenue Code of 1986," as amended.

Members participating in an arrangement established under this section shall not be permitted to elect to defer compensation to the arrangement. Contributions to and benefits paid under an arrangement shall not be payable from a trust that

is part of the system unless the trust is maintained solely for the purpose of providing such benefits.

~~The board shall adopt rules to administer an arrangement established under this section.~~

Sec. 3307.501. (A) As used in this section, "percentage increase" means the percentage that an increase in compensation is of the compensation paid prior to the increase.

(B) For the purpose of determining final average salary under this section, "compensation" has the same meaning as in section 3307.01 of the Revised Code, except that it does not include any amount resulting from a percentage increase paid to a member during the member's two highest years of compensation, and any partial year of compensation as determined under divisions (C)(1) and (2) of this section to which the percentage increase also applies, if the percentage increase exceeds the greater of the following:

(1) The highest percentage increase in compensation paid to the member during any of the three years immediately preceding the earlier of the member's two highest years of compensation;

(2) A percentage increase paid to the member as part of an increase generally applicable to members employed by the employer. An increase shall be considered generally applicable if it is paid to members employed by a school district board of education in positions requiring a license issued under section 3319.22 of the Revised Code in accordance with uniform criteria applicable to all such members or if paid to members employed by an employer other than a school district board of education in accordance with uniform criteria applicable to all such members.

(C) The state teachers retirement board shall determine the final average salary of a member as follows:

(1) For benefits beginning before August 1, 2015, by dividing the sum of the member's annual compensation for the three highest years of compensation for which the member made contributions plus any amount determined under division (E) of this section by three, except that if the member has a partial year of contributing service in the year the member's employment terminates and the compensation for the partial year is at a rate higher than the rate of compensation for any one of the member's highest three years of compensation, the board shall substitute the compensation for the partial year for the compensation for the same portion of the lowest of the member's three highest years of compensation;

(2) For benefits beginning on or after August 1, 2015, except as provided in division (C)(3) of this section, by dividing the sum of the member's annual compensation for the five highest years of compensation for which the member made contributions plus any amount determined under division (E) of this section by five, except that if the member has a partial year of contributing service in the year the member's employment terminates and the compensation for the partial year is at a rate higher than the rate of compensation for any one of the member's highest five years of compensation, the board shall substitute the compensation for the partial year for the compensation for the same portion of the lowest of the member's five highest years of compensation;

(3) For benefits beginning on or after August 1, 2015, that were preceded by a disability benefit effective before that date and with no break in benefits, by dividing the sum of the

member's annual compensation for the three highest years of compensation for which the member made contributions plus any amount determined under division (E) of this section by three, except that if the member has a partial year of contributing service in the year the member's employment terminates and the compensation for the partial year is at a rate higher than the rate of compensation for any one of the member's highest three years of compensation, the board shall substitute the compensation for the partial year for the compensation for the same portion of the lowest of the member's three highest years of compensation.

If a member has less than the requisite years of contributing membership, the member's final average salary shall be the member's total compensation for the period of contributing membership plus any amount determined under division (E) of this section divided by the total years, including any portion of a year, of contributing service.

For the purpose of calculating benefits payable to a member qualifying for service credit under division (I) of section 3307.01 of the Revised Code, the board shall calculate the member's final average salary by dividing the member's total compensation as a teacher covered under this chapter plus any amount determined under division (E) of this section by the total number of years, including any portion of a year, of contributing membership during that period. If contributions were made for less than twelve months, the member's final average salary is the total amount of compensation paid to the member during all periods of contributions under this chapter.

(D) Contributions made by a member on amounts that, pursuant to division (B) of this section, are not compensation

or are not included, pursuant to division (E) of this section, for the purpose of determining final average salary shall be treated as additional deposits to the member's account under section 3307.26 of the Revised Code and used to provide additional annuity income.

(E) The state teachers retirement board ~~shall adopt rules establishing criteria and procedures for administering this division.~~

~~The board~~ shall notify each applicant for retirement of any amount excluded from the applicant's compensation in accordance with division (B) of this section and of the procedures ~~established by the board~~ for requesting a hearing on this exclusion.

Any applicant for retirement who has had any amount excluded from the applicant's compensation in accordance with division (B) of this section may request a hearing on this exclusion. Upon receiving such a request, the board shall determine ~~in accordance with its criteria and procedures~~ whether, for good cause as determined by the board, all or any portion of any amount excluded from the applicant's compensation in accordance with division (B) of this section, up to a maximum of seventy-five hundred dollars, is to be included in the determination of final average salary under division (C) of this section. Any determination of the board under this division shall be final.

Sec. 3307.67. (A) Except as provided in divisions (D) and (E) of this section, the state teachers retirement board shall annually increase each allowance or benefit payable under the STRS defined benefit plan. Through July 31, 2013, the increase shall be three per cent. On and after August 1, 2013, the

increase shall be two per cent. No allowance or benefit shall exceed the limit as annually determined pursuant to section 415 of the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 415, as amended, and regulations adopted pursuant thereto but before August 1, 2013. The limit may be adjusted in accordance with rules adopted by the board.

(B) The first increase is payable to all persons becoming eligible as follows:

(1) For an allowance or benefit beginning on or after July 1, 1971, but before August 1, 2013, upon such persons receiving an allowance or benefit for twelve months;

(2) For an allowance or benefit beginning on or after August 1, 2013, that was immediately preceded by a disability benefit effective before that date but terminated on or after it, upon the date that would have been the disability benefit's next anniversary date;

(3) For an allowance or benefit beginning on or after August 1, 2013, except for an allowance or benefit described in division (B)(2) of this section, upon such persons receiving an allowance or benefit for sixty months.

The increased amount is payable for the ensuing twelve-month period or until the next increase is granted under this section, whichever is later. Subsequent increases shall be determined from the date of the first increase paid to the former member in the case of an allowance being paid a beneficiary under an option, or from the date of the first increase to the survivor first receiving an allowance or benefit in the case of an allowance or benefit being paid to the subsequent survivors of the former member.

The date of the first increase under this section becomes the anniversary date for any future increases.

The allowance or benefit used in the first calculation of an increase under this section shall remain as the base for all future increases, unless a new base is established.

(C) If payment of a portion of a benefit is made to an alternate payee under section 3307.371 of the Revised Code, increases under this section granted while the order is in effect shall be apportioned between the alternate payee and the benefit recipient in the same proportion that the amount being paid to the alternate payee bears to the amount paid to the benefit recipient.

If payment of a portion of a benefit is made to one or more beneficiaries under "option 4" under division (A)(4) of section 3307.60 of the Revised Code, each increase under this section granted while the plan of payment is in effect shall be divided among the designated beneficiaries in accordance with the portion each beneficiary has been allocated.

The apportioned increases under this section shall begin with increases granted on or after October 27, 2006.

(D) The board shall not make the increases it would otherwise make during the period July 1, 2013, through June 30, 2014, to persons granted an allowance or benefit prior to July 1, 2013. The board shall not increase any allowance or benefit granted on July 1, 2013, until July 1, 2015.

(E) The board may adjust the increase payable under this section if the board's actuary, in its annual actuarial valuation required by section 3307.51 of the Revised Code or in other evaluations conducted under that section, determines that

an adjustment does not materially impair the fiscal integrity of the retirement system or is necessary to preserve the fiscal integrity of the system.

~~(F) The board shall make all rules necessary to carry out this section.~~

Sec. 3307.671. In December 1980, and in December of each year thereafter, the state teachers retirement board may allocate an amount from the guarantee fund created in division (E) of section 3307.14 of the Revised Code to establish a temporary supplemental benefit fund for the purpose of making a lump sum benefit payment to all persons receiving an allowance, pension, or benefit under the STRS defined benefit plan for each of the twelve months preceding the first day of the following January.

On or after July 1, 1980, and on or after the first day of July of each year thereafter, the board may determine the amount to be placed in a temporary supplemental benefit fund. Such amount, if placed, shall be not more than twenty-five per cent of the income from investments for the twelve months preceding the first day of July not otherwise required to be credited to the several funds set forth in section 3307.14 of the Revised Code.

The board shall adopt rules ~~to administer this supplemental benefit. The rules shall~~ that recognize the effective date of the allowance, pension, or benefit and the years of Ohio service credit for each recipient as an equitable basis for allocating the amount payable to each recipient.

If the board determines that a supplemental benefit shall be paid under this section, it shall pay such amount within

sixty calendar days following its allocation to the supplemental benefit fund.

Amounts paid pursuant to this section shall not be included in the base for increasing an allowance, pension, or benefit provided in section 3307.67 of the Revised Code and shall not incur any obligation or liability for future payments under this section.

Sec. 3307.6913. (A) As used in this section and in section 3307.6914 of the Revised Code, "eligible recipient" means any person receiving a benefit on July 1, 1999.

(B) For each eligible recipient of a benefit payable under section 3307.58, 3307.59, or 3307.60 of the Revised Code, the state teachers retirement board shall recalculate the annual single lifetime benefit, excluding any increases granted under section 3307.67 of the Revised Code, of the benefit payable to the recipient using division (B) of section 3307.38 of the Revised Code as that section existed immediately prior to ~~the effective date of this section~~July 13, 2000, except that the recalculated annual single lifetime benefit shall be adjusted by the per cent shown in the schedule in the version of division (B) of section 3307.38 of the Revised Code that was in effect at the time the initial recipient's benefit was calculated on the basis of age and service.

(C) If the amount determined under division (B) of this section is greater than the annual single lifetime benefit granted the recipient, the board shall recalculate the recipient's benefit so that it equals the annual single lifetime benefit determined under division (B) of this section or its actuarial equivalent.

(D) The board shall include the increase in amount paid under this section in an individual's base for purposes of future increase in any benefit under section 3307.67 of the Revised Code.

(E) The board shall make the recalculations required under this section not later than one hundred eighty days after ~~the effective date of this section~~July 13, 2000. ~~The board may adopt rules to implement this section.~~

Sec. 3307.6914. (A) As used in this section:

(1) "Cumulative percentage change in the CPI" means the total percentage change in the consumer price index prepared by the United States bureau of labor statistics for urban wage earners and clerical workers (CPI-W: U.S. city average, all items) from the thirty-first day of December immediately preceding the year in which the original benefit started through the thirty-first day of December immediately preceding ~~the effective date of this section~~July 13, 2000.

(2) "Original benefit amount" has the same meaning as in section 3307.6911 of the Revised Code.

(B)(1) Except as provided in division (B)(2) of this section, for each eligible recipient of a benefit payable under section 3307.58, 3307.59, 3307.60, 3307.63, 3307.631, or 3307.66 of the Revised Code, the board shall determine an amount equal to the sum of the following amounts:

(a) An amount equal to eighty-five per cent of the original benefit amount, except that if the recipient is not the individual to whom the original benefit amount was granted, the amount shall equal eighty-five per cent of the product obtained when the original benefit amount is multiplied by the percentage

of the original benefit amount being paid to the recipient;

(b) An amount equal to the product obtained when the amount determined under division (B)(1) of this section is multiplied by the cumulative percentage change in the CPI.

(2) For each eligible recipient of a benefit under section 3307.66 of the Revised Code that is payable by reason of the death of a member who, at the time of death, was receiving a benefit under section 3307.63 or 3307.631 of the Revised Code, the board shall determine all of the following:

(a) The product obtained by multiplying the deceased member's final average salary by the cumulative percentage change in the CPI.

(b) Eighty-five per cent of the product obtained under division (B)(2)(a) of this section.

(c) The amount of the benefit that would be payable under section 3307.66 of the Revised Code if the product obtained under division (B)(2)(b) of this section was used as the deceased member's final average salary.

(C) If the amount determined under division (B) of this section is greater than the annual benefit being paid to the recipient, the board shall recalculate the annual benefit payable on ~~the effective date of this section~~July 13, 2000, so that it equals the amount determined under that division. If the recipient's benefit was recalculated under division (C) of section 3307.6913 of the Revised Code, the board shall use the recalculated benefit in making a determination under this section.

(D) The board shall include the increase in amount paid under this section in an individual's base for purposes of

future increase in any benefit under section 3307.67 of the Revised Code.

(E) The board shall make the recalculations required under this section not later than one hundred eighty days after ~~the effective date of this section~~July 13, 2000. ~~The board may adopt rules to implement this section.~~

Sec. 3307.701. (A) The state teachers retirement board may establish by rule payroll deduction plans for payment of the following:

(1) The cost of restoring service credit under section 3307.71 or 3307.711 of the Revised Code or purchasing any service credit members of the state teachers retirement system are eligible to purchase under this chapter;

(2) Charges for participation in programs established under section 3307.391 of the Revised Code;

(3) Deposits under section 3307.393 of the Revised Code and any charges for participating in the program established under that section.

(B) ~~In addition to any other matter considered relevant by the board, the~~ The rules adopted under this section shall specify all of the following:

(1) The types of service credit that may be paid for through payroll deduction, including the section of the Revised Code that authorizes the purchase of each type of service credit for which payment may be made by payroll deduction;

(2) The procedure for informing the member's employer and the system that the member wishes to use payroll deduction to purchase service credit or pay for participation in programs

established under section 3307.391 of the Revised Code;

(3) The procedure to be followed by the system and employers to determine for each request the amount to be deducted, the number of deductions to be made, and the interval at which deductions will be made. The rules may provide for a minimum amount for each deduction. They may also provide for a maximum number of deductions for the purchase of any type of service credit.

(4) The procedure to be followed by employers in transmitting amounts deducted from the compensation of their employees to the system;

(5) The procedure to be followed by the system in crediting service credit to members who choose to purchase it through payroll deduction;

(6) The time period within which employers are required to transmit amounts deducted from payrolls to the system;

(7) Procedures to be followed by the system and the member's employer for the member to pay in a single payment the balance of the cost of the credit when a member separates from service from the employer administering the member's payroll deduction plan.

(C)(1) If the board establishes a payroll deduction plan under this section, it shall certify to the member's employer, for each member for whom deductions are to be made, the amount of each deduction and the payrolls from which deductions are to be made. The employer shall make the deductions as certified and transmit the amounts deducted in accordance with the rules established by the board under this section.

(2) If an employer does not transmit amounts deducted from

the compensation of an employee to the system within the time period specified in rules adopted under division (B)(6) of this section, the employer shall pay interest on the deducted amount compounded annually at a rate to be determined by the board from the date the amount is deducted to the date it is transmitted to the system.

(D) Rules adopted under this section shall not affect any right to purchase service credit conferred by any other section of the Revised Code, including the right of a member under any such section to purchase only part of the service credit the member is eligible to purchase.

(E) No payroll deduction made pursuant to this section may exceed the amount of a member's net compensation after all other deductions and withholdings required by law.

(F) No payments made to the system under this section shall affect any contribution required by section 3307.26 or 3307.28 of the Revised Code.

Sec. 3307.711. (A) A member of the state teachers retirement system who has at least eighteen months of contributing service credit in the system, the police and firemen's disability and pension fund, public employees retirement system, school employees retirement system, or state highway patrol retirement system, and is a former member of or no longer contributing to the public employees retirement system or school employees retirement system may restore service credit under section 145.31 or 3309.26 of the Revised Code by making payments pursuant to this section through a payroll deduction plan established under section 3307.701 of the Revised Code. A member seeking to restore this service credit shall notify the state teachers retirement system on a form approved by the state

teachers retirement board. After receiving the notice, the state teachers retirement system shall request that the former retirement system calculate under section 145.312 or 3309.262 of the Revised Code the cost to the member to restore service credit for each year or portion of a year of service for which the member seeks to restore the service credit. The amount the former retirement system certifies as the cost of restoring the service credit, plus interest described in division (B) of this section, is the cost to the member of restoring the service credit. On receiving the certification from the former retirement system, the state teachers retirement system shall notify the member of the cost.

(B) For each year or portion of a year of service credit restored under section 145.31 or 3309.26 of the Revised Code, a member shall pay to the state teachers retirement system the amount certified by the former retirement system plus interest at a rate specified by the former retirement system under section 145.312 or 3309.262 of the Revised Code for the period during which deductions are made under section 3307.701 of the Revised Code.

(C) The state teachers retirement board shall at least annually transmit to the former retirement system notice and any payments made to restore service credit under section 145.31 or 3309.26 of the Revised Code. The former retirement system shall restore the service credit for the year or portion of a year for which the payment was made.

~~(D) The board shall adopt rules to implement this section.~~

Sec. 3307.765. (A) As used in this section, "transferred service credit" means service credit purchased or obtained under section 742.21, 742.214, 742.375, 5505.201, 5505.40, or 5505.41

of the Revised Code prior to the date a member commenced the employment covered by the state teachers retirement system for which the member is currently contributing to the system.

(B) A member of the state teachers retirement system who has contributions on deposit with, but is no longer contributing to, a uniform retirement system shall, in computing years of total service, be given full credit for transferred service credit if a transfer to the state teachers retirement system is made under this section. At the request of a member, the uniform system shall transfer to the state teachers retirement system the sum of the following:

(1) An amount equal to the amounts transferred to the uniform system under section 742.21, 742.214, 742.375, 5505.201, 5505.40, or 5505.41 of the Revised Code;

(2) Interest, determined as provided in division (E) of this section, on the amount specified in division (B)(1) of this section for the period from the last day of the year in which the transfer under section 742.21, 742.214, 742.375, 5505.201, 5505.40, or 5505.41 of the Revised Code was made to the date a transfer is made under this section.

(C) A member of the state teachers retirement system with at least eighteen months of contributing service credit with the state teachers retirement system who has received a refund of contributions to a uniform retirement system shall, in computing years of total service, be given full credit for transferred service credit if, for each year of service, the state teachers retirement system receives the sum of the following:

(1) An amount, which shall be paid by the member, equal to the amount refunded by the uniform system to the member for that

year for transferred service credit, with interest on that amount from the date of the refund to the date a payment is made under this section;

(2) Interest, which shall be transferred by the uniform system, on the amount refunded to the member for the period from the last day of the year in which the transfer under section 742.21, 742.214, 742.375, 5505.201, 5505.40, or 5505.41 of the Revised Code was made to the date the refund was made;

(3) If the uniform system retained any portion of the amount transferred under section 742.21, 742.214, 742.375, 5505.201, 5505.40, or 5505.41 of the Revised Code, an amount, which shall be transferred by the uniform system, equal to the amount retained, with interest on that amount for the period from the last day of the year in which the transfer under section 742.21, 742.214, 742.375, 5505.201, 5505.40, or 5505.41 of the Revised Code was made to the date a transfer is made under this section.

On receipt of payment from the member, the state teachers retirement system shall notify the uniform system, which, on receipt of the notice, shall make the transfer required by this division. Interest shall be determined as provided in division (E) of this section.

(D) A member may choose to purchase only part of the credit the member is eligible to purchase under division (C) of this section in any one payment, subject to rules adopted by the state teachers retirement board. A member is ineligible to purchase or obtain service credit under this section for service to be used in the calculation of any retirement benefit currently being paid or payable to the member in the future under any other retirement program or for service credit that

may be purchased or obtained under section 3307.761 of the Revised Code.

(E) Interest charged under this section shall be calculated separately for each year of service credit at the lesser of the actuarial assumption rate for that year of the state teachers retirement system or of the uniform retirement system to which the credit was transferred under section 742.21, 742.214, 742.375, 5505.201, 5505.40, or 5505.41 of the Revised Code. The interest shall be compounded annually.

(F) Any amounts transferred or paid under divisions (B) and (C) of this section that are attributable to contributions made by the member or to amounts paid to purchase service credit shall be credited to the teachers' savings fund created under section 3307.14 of the Revised Code. Any remaining amounts shall be credited to one or more of the funds created under that section as determined by the board.

(G) At the request of the state teachers retirement system, the uniform retirement system shall certify to the state teachers retirement system a copy of the records of the service and contributions of a state teachers retirement system member who seeks service credit under this section. The uniform retirement system shall specify the portions of the amounts transferred that are attributable to employee contributions, employer contributions, and interest.

(H) If a member of the state teachers retirement system who is not a current contributor elects to receive service credit under section 742.214 or 5505.41 of the Revised Code for transferred service credit, as defined in those sections, the system shall transfer to the uniform retirement system, as applicable, the amount specified in division (B) or (C) of

section 742.214 or division (B) or (C) of section 5505.41 of the Revised Code.

~~(I) The board may adopt rules to implement this section.~~

Sec. 3307.77. (A) As used in this section, "employer" means the employer employing a member of the state teachers retirement system at the time the member commences an absence, or is granted a leave described in this section.

(B) Any member of the state teachers retirement system participating in the STRS defined benefit plan or the STRS combined plan who is, or has been, prevented from making contributions under section 3307.26 of the Revised Code because of an absence due to the member's own illness or injury, or who is, or has been, granted a leave for educational, professional, or other purposes pursuant to section 3319.13, 3319.131, or 3345.28 of the Revised Code or for any other reason approved by the state teachers retirement board, may purchase service credit, not to exceed two years for each such period of absence or leave, either by having deductions made in accordance with division (C) of this section or by making the payment required by division (D) of this section.

(C) If the absence or leave begins and ends in the same year, the member may purchase credit for the absence or leave by having the employer deduct and transmit to the system from payrolls in that year employee contributions on the amount certified by the employer as the compensation the member would have received had the member remained employed in the position held when the absence or leave commenced. The deductions may be made even though the minimum compensation provided by law for the member is reduced thereby, unless the amount to be deducted exceeds the compensation to be paid the member from the time

deductions begin until the end of the year, in which case credit may not be purchased under this division. The employer shall pay the system the employer contributions on the compensation amount certified under this division. Employee and employer contributions shall be made at the rates in effect at the time the absence or leave occurred. If the employee or employer rates in effect change during the absence or leave, the contributions for each month of the absence or leave shall be made at the rate in effect for that month.

(D) If the absence or leave does not begin and end in the same year or the member does not purchase the credit under division (C) of this section, a member may purchase credit for the absence or leave by paying to the system the sum of the following for each year of credit purchased:

(1) An amount determined by multiplying the employee rate of contribution in effect at the time the absence or leave commenced by the member's annual compensation for the member's last full year of service prior to the commencement of the absence or leave, or, if the member has not had a full year of service, the compensation the member would have received for the year the absence or leave commenced had the member continued in service for a full year;

(2) Interest compounded annually, at a rate determined by the board, on the amount determined under division (D)(1) of this section from the day following the last day of the year in which the absence or leave terminated to the date of payment;

(3) Interest compounded annually, at a rate determined by the board, on an amount equal to the employer's contribution required by this division from the day following the last day of the year in which the absence or leave terminated to the date of

payment.

The employer shall pay to the system for each year of credit purchased under this division an amount determined by multiplying the employer contribution rate in effect at the time the absence or leave commenced by the member's annual compensation for the member's last full year of service prior to the commencement of the absence or leave, or, if the member has not had a full year of service, the compensation the member would have received for the year the absence or leave commenced had the member continued in service for a full year.

(E) A member who chooses to purchase service credit under division (D) of this section may choose to purchase only part of the credit for which the member is eligible in any one payment.

~~(F) The state teachers retirement board may adopt rules to implement this section.~~

Sec. 3309.04. The general administration and management of the school employees retirement system and making effective Chapter 3309. of the Revised Code are hereby vested in the school employees retirement board which ~~may adopt rules in accordance with section 111.15 of the Revised Code and~~ may authorize its administrative officers, or committees composed of members of said board, to act for the board in accordance with such policies and subject to subsequent approval by the board.

Notice of proposed rules shall be given to interested parties and rules adopted by the board shall be published and otherwise made available. When it files a rule with the joint committee on agency rule review pursuant to section 111.15 of the Revised Code, the board shall submit to the Ohio retirement study council a copy of the full text of the rule, and if

applicable, a copy of the rule summary and fiscal analysis required by division (B) of section 106.024 of the Revised Code.

All rules adopted pursuant to this chapter, prior to August 20, 1976, shall be published and made available to interested parties by January 1, 1977.

Sec. 3309.041. The school employees retirement board shall do all of the following:

(A) In consultation with the Ohio ethics commission, review any existing policy regarding the travel and payment of travel expenses of members and employees of the school employees retirement board and adopt rules in accordance with section ~~3309.04~~ 111.15 of the Revised Code establishing a new or revised policy regarding travel and payment of travel expenses. Not less than sixty days before adopting a new or revised policy, the board shall submit the policy to the Ohio retirement study council for review.

(B) If the board intends to award a bonus to any employee of the board, adopt rules in accordance with section ~~3309.04~~ 111.15 of the Revised Code establishing a policy regarding employee bonuses;

(C) Provide copies of the rules adopted under divisions (A) and (B) of this section to each member of the Ohio retirement study council;

(D) Submit to the Ohio retirement study council a proposed operating budget, including an administrative budget for the board, for the next immediate fiscal year and adopt that budget not earlier than sixty days after it is submitted to the council;

(E) Submit to the council a plan describing how the board

will improve the dissemination of public information pertaining to the board.

Sec. 3309.27. (A) The school employees retirement board may establish by rule payroll deduction plans for payment of the following:

(1) The cost of restoring service credit under section 3309.26 or 3309.261 of the Revised Code or purchasing any service credit members of the school employees retirement system are eligible to purchase under this chapter;

(2) Charges for participation in programs established under section 3309.691 of the Revised Code;

(3) Deposits under section 3309.692 of the Revised Code and any charges for participating in the program established under that section.

(B) ~~In addition to any other matter considered relevant by the board, the~~ The rules adopted under this section shall specify all of the following:

(1) The types of service credit that may be paid for through payroll deduction, including the section of the Revised Code that authorizes the purchase of each type of service credit for which payment may be made by payroll deduction;

(2) The procedure for informing the member's employer and the system that the member wishes to use payroll deduction to purchase service credit or pay for participation in programs established under section 3309.691 of the Revised Code;

(3) The procedure to be followed by the system and employers to determine for each request the amount to be deducted, the number of deductions to be made, and the interval

at which deductions will be made. The rules may provide for a minimum amount for each deduction or a maximum number of deductions for the purchase of any type of service credit.

(4) The procedure to be followed by employers in transmitting amounts deducted from the compensation of their employees to the system;

(5) The procedure to be followed by the system in crediting service credit to members who choose to purchase it through payroll deduction.

(C) If the board establishes a payroll deduction plan under this section, it shall certify to the member's employer, for each member for whom deductions are to be made, the amount of each deduction and the payrolls from which deductions are to be made. The employer shall make the deductions as certified and transmit the amounts deducted in accordance with the rules established by the board under this section.

(D) Rules adopted under this section shall not affect any right to purchase service credit conferred by any other section of the Revised Code, including the right of a member under any such section to purchase only part of the service credit the member is eligible to purchase.

(E) No payroll deduction made pursuant to this section may exceed the amount of a member's net compensation after all other deductions and withholdings required by law.

Sec. 3309.30. For service subsequent to June 30, 1955, the retirement board shall credit a year of service credit to any member employed on a full-time basis for nine or more months of service within a year. For contributing and prior service before July 1, 1955 only eight or more months of service on a full-time

basis within a year will be necessary for a year of service credit. Effective July 1, 1977, full-time service is defined as one hundred twenty or more days of school service during the school year. If less than one hundred twenty days, such service shall be prorated on the basis of one hundred eighty days. ~~The board shall adopt rules as necessary to carry out the intent of this section.~~ The board shall credit not more than one year for all service rendered in any year.

Sec. 3309.301. (A) As used in this section, "paying system" and "transferring system" have the same meanings as in section 3309.35 of the Revised Code.

(B)(1) Except as provided in division (B)(2) of this section, a member of the school employees retirement system with at least eighteen months of contributing service in the system, the public employees retirement system, or the state teachers retirement system who exempted self from membership in one or more of the systems pursuant to section 145.03 or 3309.23 of the Revised Code, or former section 3307.25 or 3309.25 of the Revised Code, or was exempt under section 3307.24 of the Revised Code, may purchase credit for each year or portion of a year of service for which the member was exempted.

(2) A member may not purchase credit under this section for service that was exempted from contribution under section 3309.23 of the Revised Code and subject to the tax on wages imposed by the "Federal Insurance Contributions Act," 68A Stat. 415 (1954), 26 U.S.C.A. 3101, as amended.

(C) Upon receipt of a request from a member eligible to purchase credit under this section and certification of the member's service and compensation from the employer for which the exempt service was performed, the school employees

retirement system shall determine the amount of credit the member is eligible to purchase in accordance with divisions (C)(1) and (2) of this section.

(1) If the credit to be purchased is for service exempted under section 3309.23 or former section 3309.25 of the Revised Code, determine the amount of credit that would have been earned had the service not been exempt.

(2) If the credit to be purchased is for service exempted under section 145.03 or 3307.24, or former section 3307.25 of the Revised Code, request certification from the applicable retirement system that the service was exempt and the amount of service credit that would have been earned had the service not been exempt.

(D) For each year or portion of a year of credit purchased under this section, a member shall pay to the retirement system an amount determined by multiplying the member's compensation for the twelve months of contributing service preceding the month in which the member applies to purchase the credit by a percentage rate established by rule of the school employees retirement board ~~adopted under division (H) of this section~~.

(E) ~~Subject to board rules, a~~ A member may purchase all or part of the credit the member is eligible to purchase under this section in one or more payments. If the member purchases the credit in more than one payment, compound interest at a rate specified by rule of the board shall be charged on the balance remaining after the first payment is made.

(F) Credit purchasable under this section shall not exceed one year of service for any twelve-month period. If the period of service for which credit is purchasable under this section is

concurrent with a period of service that will be used to calculate a retirement benefit from this system, the public employees retirement system, or the state teachers retirement system, the amount of the credit shall be adjusted in accordance with rules adopted by the school employees retirement board.

A member who is also a member of the public employees retirement system or the state teachers retirement system shall purchase credit for any service for which the member exempted self under section 145.03 or 3309.23 of the Revised Code, or former section 3307.25 or 3309.25 of the Revised Code, or was exempt under section 3307.24 of the Revised Code, from the retirement system in which the member has the greatest number of years of service credit. If the member receives benefits under section 3309.35 of the Revised Code, the state retirement system that is the paying system under that section shall receive from the system or systems that are the transferring systems the amounts paid by the member for purchase of credit for exempt service plus interest at the actuarial assumption rate of the transferring system. The interest shall be for the period beginning on the date of the member's last payment for purchase of the credit and ending on the date of the member's retirement.

(G) If a member dies or withdraws from service, any payment made by the member under this section shall be considered as accumulated contributions of the member.

~~(H) The retirement board shall adopt rules to implement this section.~~

Sec. 3309.34. (A)(1)(a) A member of the school employees retirement system is eligible for service retirement before August 1, 2017, if the member:

(i) Has at least five years of total service credit and has attained sixty years of age;

(ii) Has at least thirty years of total service credit at any age;

(iii) Has at least twenty-five years of total service credit and has attained fifty-five years of age.

(b) A member who has at least twenty-five years of total service credit on or before August 1, 2017, is eligible for retirement under division (A)(1)(a)(ii) or (iii) of this section.

(c) A member is eligible for retirement under division (A)(1)(a) of this section if as of August 1, 2017, the member will have less than twenty-five years of total service credit but, not later than that date, pays to the retirement system an amount equal to the additional liability to the system resulting from the member's retirement under this division.

(2)(a) Except as provided in division (A)(1)(c) of this section, a member who on August 1, 2017, has less than twenty-five years of total service credit is eligible for service retirement under this division if the member:

(i) Has earned at least ten years of total service credit and has attained sixty-two years of age;

(ii) Has earned at least twenty-five years of total service credit and has attained sixty years of age;

(iii) Has earned at least thirty years of total service credit and has attained fifty-seven years of age.

(b) The board~~, by rule adopted under division (D) of this section,~~ may adjust the retirement eligibility requirements of

division (A)(2)(a) of this section if the board's actuary, in its evaluation under division (C) of this section, determines that an adjustment is necessary to ensure that the retirement system meets the thirty-year amortization period requirement of section 3309.211 of the Revised Code.

(B) A member may retire by filing an application for retirement with the school employees retirement board on a form provided by the board. The board shall not retire the member sooner than the first day of the month next following the later of:

(1) The last day of employment for which compensation was paid;

(2) The attainment of minimum age and service credit eligibility for service or commuted service retirement.

(C) In each five-year period, the board shall direct its actuary to evaluate the retirement eligibility requirements of this section.

~~(D) The board, in consultation with its actuary, shall adopt rules to implement this section.~~

Sec. 3309.345. (A) This section applies in the case of a person who is or most recently has been employed by an employer in a position that is customarily filled by a vote of members of a board or commission.

(B) Except as otherwise provided in this section, a board or commission that proposes to continue the employment as a reemployed retirant or rehire as a reemployed retirant to the same position an individual described in division (A) of this section shall do both of the following~~ in accordance with rules adopted under division (E) of this section~~:

(1) Not less than sixty days before the employment as a reemployed retirant is to begin, give public notice that the person is or will be retired and is seeking employment with the employer;

(2) Between fifteen and thirty days before the employment as a reemployed retirant is to begin, hold a public meeting on the issue of the person being employed by the employer.

The notice regarding division (B)(1) of this section shall include the time, date, and location at which the public meeting is to take place.

(C) A board or commission that proposes to continue a person's employment or rehire the person as a reemployed retirant to a position that the board or commission has urgent reasons to fill in an expedited manner shall give thirty days notice under division (B)(1) of this section. The board or commission shall include an explanation in the notice of the urgent reasons requiring the position to be filled in an expedited manner.

(D) A board or commission is not required to give notice under division (B)(1) of this section if the person has been retired for at least one year before the person's employment as a reemployed retirant is to begin.

~~(E) The school employees retirement board shall adopt rules as necessary to implement this section.~~

Sec. 3309.363. (A) As used in this section:

(1) "Retirement allowance" means any of the following as appropriate:

(a) An allowance calculated under section 3309.36 of the

Revised Code before any reduction for early retirement or election under section 3309.46 of the Revised Code of a plan of payment;

(b) An allowance calculated under division (A) of section 3309.45 of the Revised Code;

(c) An allowance calculated under division (B)(1)(a) of section 3309.381 of the Revised Code.

(2) "CBBC" means the contribution based benefit cap, which is a limit established by the school employees retirement board on the retirement allowance a member may receive.

(B) Based on the advice of an actuary appointed by the board, the board shall designate a number as the CBBC factor. The board may, from time to time, revise the factor pursuant to advice from an actuary appointed by the board.

(C) Beginning on and after August 1, 2024, before paying a retirement allowance, the board shall make all of the following calculations:

(1) Determine an amount equal to the value of the member's accumulated contributions, including any contributions used to fund a disability benefit under section 3309.40 of the Revised Code and a portion of any amounts paid by an employer under section 3309.33 of the Revised Code, as determined by an actuary appointed by the board;

(2) Determine the amount of a single life annuity that is the actuarial equivalent of the amount determined under division (C)(1) of this section, adjusted for the age of the member at the time of retirement or, when appropriate, the age at the time of the member's death;

(3) Multiply the annuity amount determined under division (C)(2) of this section by the CBBC factor.

(D) The amount determined under division (C)(3) of this section is the member's CBBC. Beginning on and after August 1, 2024, if the retirement allowance the member would receive exceeds the member's CBBC, the board shall reduce the retirement allowance to an amount equal to the member's CBBC.

(E) If a member's retirement allowance is reduced under this section, the reduced retirement allowance is the member's single lifetime allowance for purposes of sections 3309.36, 3309.381, and 3309.45 of the Revised Code.—

~~(F) The board may adopt rules to implement this section.~~

Sec. 3309.374. (A) Until December 31, 2017, the school employees retirement board shall annually increase each allowance, pension, or benefit payable under this chapter by three per cent.

(B) Effective January 1, 2018, the retirement board may annually increase each allowance, pension, or benefit payable under this chapter by the percentage increase, if any, in the consumer price index, not to exceed two and one-half per cent, as determined by the United States bureau of labor statistics (U.S. city average for urban wage earners and clerical workers: "all items 1982-84=100") for the twelve-month period ending on the thirtieth day of June of the immediately preceding calendar year. No increase shall be made for a period in which the consumer price index did not increase.

(C) The first increase is payable to all persons becoming eligible after June 30, 1971, upon such persons receiving an allowance, pension, or benefit for twelve months, except that a

recipient of an allowance, pension, or benefit that commences on or after January 1, 2018, is eligible for an increase under division (B) of this section on and after the number of anniversaries of the allowance, pension, or benefit determined by the retirement board.

The increased amount is payable for the ensuing twelve-month period or until the next increase is granted under this section, whichever is later. Subsequent increases shall be determined from the date of the first increase paid to the former member in the case of an allowance being paid a beneficiary under an option, or from the date of the first increase to the survivor first receiving an allowance or benefit in the case of an allowance or benefit being paid to the subsequent survivors of the former member.

The date of the first increase under this section becomes the anniversary date for any future increases.

(D) The allowance or benefit used in the first calculation of an increase under this section shall remain as the base for all future increases, unless a new base is established. Any increase resulting from payment of a recalculated benefit under Section 3 of Substitute Senate Bill No. 270 of the 123rd general assembly shall be included in the calculation of future increases under this section.

(E) If payment of a portion of a benefit is made to an alternate payee under section 3309.671 of the Revised Code, increases under this section granted while the order is in effect shall be apportioned between the alternate payee and the retirant or disability benefit recipient in the same proportion that the amount being paid to the alternate payee bears to the amount paid to the retirant or disability benefit recipient.

If payment of a portion of a benefit is made to one or more beneficiaries under "plan F" under division (B)(3)(e) of section 3309.46 of the Revised Code, each increase under this section granted while the plan of payment is in effect shall be divided among the designated beneficiaries in accordance with the portion each beneficiary has been allocated.

(F) No allowance, pension, or benefit payable under this chapter shall exceed the limit established by section 415 of the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C. 415, as amended.

(G) Before granting an increase under division (B) of this section, the retirement board may adjust the percentage of any increase if the board's actuary, in its annual actuarial valuation required by section 3309.21 of the Revised Code, or in other evaluations conducted under that section, determines that an adjustment does not materially impair the fiscal integrity of the retirement system or is necessary to preserve the fiscal integrity of the retirement system.

~~(H) The retirement board shall make all rules necessary to carry out this section.~~

Sec. 3309.375. (A) Except as otherwise provided in division (B) of this section, the board of the school employees retirement system shall make available to each retirant or disability benefit recipient receiving a monthly allowance or benefit on or after January 1, 1968, who has attained the age of sixty-five years, and who is not eligible to receive hospital insurance benefits under the federal old age, survivors, and disability insurance program, hospital insurance coverage substantially equivalent to the federal hospital insurance benefits, "Social Security Amendments of 1965," 79 Stat. 291, 42

U.S.C.A. 1395c, as amended. This coverage shall also be made available to the spouse, widow, or widower of such retirant or disability benefit recipient provided such spouse, widow, or widower has attained age sixty-five and is not eligible to receive hospital insurance benefits under the federal old age, survivors, and disability insurance program. The widow or widower of a retirant or disability benefit recipient shall be eligible for such coverage only if ~~he or she~~the widow or widower is the recipient of a monthly allowance or benefit from this system. Not less than twenty-five per cent of the cost for such coverage shall be paid from the appropriate funds of the school employees retirement system and the remainder by the recipient of the allowance or benefit.

The cost of such coverage, paid from the funds of the system, shall be included in the employer's rate provided by sections 3309.49 and 3309.51 of the Revised Code. The retirement board ~~is authorized to make all necessary rules pursuant to the purpose and intent of this section, and~~ shall contract for such coverage as provided in section 3309.69 of the Revised Code.

Notwithstanding sections 3309.49 and 3309.51 of the Revised Code, the employer's contribution rate shall not be increased until July 1, 1969, or later to reflect the increased costs created by this section.

(B) The board need not make the hospital insurance coverage described in division (A) of this section available to any person for whom it is prohibited by section 3309.69 of the Revised Code from paying or reimbursing the cost of such insurance.

Sec. 3309.3712. The school employees retirement board may establish and maintain a qualified governmental excess benefit

arrangement that meets the requirements of division (m) of section 415 of the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 415, as amended, and any regulations adopted thereunder. If established, the arrangement shall be a separate portion of the school employees retirement system and be maintained solely for the purpose of providing to retired members that part of a benefit otherwise payable under this chapter that exceeds the limits established by section 415 of the "Internal Revenue Code of 1986," as amended.

Members participating in an arrangement established under this section shall not be permitted to elect to defer compensation to the arrangement. Contributions to and benefits paid under an arrangement shall not be payable from a trust that is part of the system unless the trust is maintained solely for the purpose of providing such benefits.

~~The board shall adopt rules to administer an arrangement established under this section.~~

Sec. 3309.39. (A) The school employees retirement system shall provide disability coverage to each member who has at least five years of total service credit.

Not later than October 16, 1992, the school employees retirement board shall give each person who is a member on July 29, 1992, the opportunity to elect disability coverage either under section 3309.40 of the Revised Code or under section 3309.401 of the Revised Code. The board shall mail notice of the election, accompanied by an explanation of the coverage under each of the Revised Code sections and a form on which the election is to be made, to each member at the member's last known address. The board shall also provide the explanation and form to any member at the member's request.

Regardless of whether the member actually receives notice of the right to make an election, a member who fails to file a valid election under this section shall be considered to have elected disability coverage under section 3309.40 of the Revised Code. To be valid, an election must be made on the form provided by the board, signed by the member, and filed with the board not later than one hundred eighty days after the date the notice was mailed, or, in the case of a form provided at the request of a member, a date specified by rule of the board. Once made, an election is irrevocable, but if the member ceases to be a member of the system, the election is void. If a person who makes an election under this section also makes an election under section 145.35 or 3307.62 of the Revised Code, the election made for the system that pays a disability benefit to that person shall govern the benefit.

Disability coverage shall be provided under section 3309.401 of the Revised Code for persons who become members after July 29, 1992, and for members who elect under this division to be covered under section 3309.401 of the Revised Code.

The board may adopt rules governing elections made under this division.

(B)(1) Application for a disability benefit may be made by a member, by a person acting in the member's behalf, or by the member's employer, if the member meets all of the following conditions:

(a) Has at least five years of total service credit;

(b) Has disability coverage under section 3309.40 or 3309.401 of the Revised Code;

(c) Is not receiving a disability benefit under this chapter or Chapter 145., 742., 3305., 3307., or 5505. of the Revised Code, or the Cincinnati retirement system;

(d) Is not applying for the disability benefit based on a disabling condition that the system determines was caused by commission of either of the following:

(i) A felony the member was convicted of, pled guilty to, or was found not guilty of by reason of insanity;

(ii) An act for which the member was adjudicated a delinquent child, that if committed by an adult, would be a felony.

(2) The application for a disability benefit shall be made on a form provided by the board. The benefit payable to any member who is approved for a disability benefit shall become effective on the first day of the month next following the later of the following:

(a) The last day for which compensation was paid;

(b) The date on which the member's most recent application for a disability benefit was filed.

(C) Medical examination of a member who has applied for a disability benefit shall be conducted by a competent disinterested physician or physicians selected by the board to determine whether the member is mentally or physically incapacitated for the performance of the member's last assigned primary duty as an employee by a disabling condition either permanent or presumed to be permanent for twelve continuous months following the filing of an application. Such disability must have occurred before termination of the member's contributing service and since last becoming a member or have

increased since last becoming a member to such extent as to make the disability permanent or presumed to be permanent for twelve continuous months following the filing of an application.

(D) Application for a disability benefit must be made within two years from the date the member's contributing service terminated, unless the board determines that the member's medical records demonstrate conclusively that at the time the two-year period expired, the member was physically or mentally incapacitated for duty as an employee and unable to make application. Application may not be made by any person receiving a service retirement allowance or commuted service retirement allowance under section 3309.36 or 3309.381 or former section 3309.38 of the Revised Code or any person who, pursuant to section 3309.42 of the Revised Code, has been paid the accumulated contributions standing to the credit of the person's individual account in the employees' savings fund.

(E) If the physician or physicians determine that the member qualifies for a disability benefit, the board concurs with the determination, and the member agrees to any recommended medical treatment and vocational rehabilitation as specified in divisions (F) and (G) of this section, the member shall receive a disability benefit under section 3309.40 or 3309.401 of the Revised Code. The action of the board shall be final.

(F) The board shall adopt rules requiring a disability benefit recipient, as a condition of continuing to receive a disability benefit, to agree in writing to obtain any medical treatment recommended by the board's physician and submit medical reports regarding the treatment. If the board determines that a disability benefit recipient is not obtaining the medical treatment or the board does not receive a required medical

report, the disability benefit shall be suspended until the treatment is obtained, the report is received by the board, or the board's physician certifies that the treatment is no longer helpful or advisable. Should the recipient's failure to obtain treatment or submit a medical report continue for one year, the recipient's right to the disability benefit shall be terminated as of the effective date of the original suspension.

~~(G)(1)~~(G) A disability benefit recipient shall obtain any vocational rehabilitation recommended by the board's physician or other consultant and submit reports regarding the rehabilitation. If the board determines that a recipient is not obtaining the rehabilitation or the board does not receive a required report, the disability benefit shall be suspended until the rehabilitation is obtained, the report is received by the board, or the board's physician or consultant certifies that rehabilitation is no longer helpful or advisable. If the recipient's failure to obtain rehabilitation or submit a required report continues for one year, the recipient's right to the disability benefit shall be terminated as of the effective date of the original suspension.

~~(2) The board shall adopt rules to implement this division.~~

(H) In the event an employer files an application for a disability benefit as a result of a member having been separated from service because the member is considered to be mentally or physically incapacitated for the performance of the member's last assigned primary duty as an employee, and the physician or physicians selected by the board report to the board that the member is physically and mentally capable of performing service similar to that from which the member was separated, and the

board concurs in such report, then the board shall so certify to the employer and the employer shall restore the member to the member's previous position and salary or to a similar position and salary.

Sec. 3309.392. (A) A recipient of a disability benefit granted under this chapter on or after January 7, 2013, but before ~~the effective date of this amendment~~ April 6, 2017, who is enrolled in health care coverage under section 3309.69 of the Revised Code shall apply for social security disability insurance benefit payments under 42 U.S.C. 423 if the recipient meets the requirements of divisions (a)(1)(A), (B), and (C) of that section.

(B) A recipient of a disability benefit granted under this chapter on or after ~~the effective date of this amendment~~ April 6, 2017, who is enrolled in health care coverage under section 3309.69 of the Revised Code shall apply for both of the following:

(1) Social security disability insurance benefit payments under 42 U.S.C. 423 if the recipient meets the requirements of divisions (a)(1)(A), (B), and (C) of that section;

(2) Hospital insurance benefits under 42 U.S.C. 426(b), if both of the following are the case:

(a) The recipient had medicare qualified government employment, as defined in 42 U.S.C. 410(p).

(b) The recipient would have met the requirements of divisions (a)(1)(A), (B), and (C) of 42 U.S.C. 423 if the medicare qualified government employment was treated as employment under 42 U.S.C. 410(a).

(C) Unless the school employees retirement system

determines that good cause exists to exempt the recipient from the requirements of this section, a recipient who is subject to division (A) or (B) of this section shall file the applications required by those divisions as follows:

(1) For a recipient who on ~~the effective date of this amendment~~ April 6, 2017, is enrolled in health care coverage under section 3309.69 of the Revised Code, not later than one hundred eighty days after ~~the effective date of this amendment~~ April 6, 2017;

(2) For a recipient who enrolls in health care coverage under section 3309.69 of the Revised Code on or after ~~the effective date of this amendment~~ April 6, 2017, not later than ninety days after enrolling.

(D) The recipient shall file a copy of each completed application and a copy of the social security administration's acknowledgement of receipt of the application with the retirement system. The system shall accept the copy and acknowledgement as evidence of the recipient's application.

The recipient shall file with the system a copy of the social security administration's final action on the recipient's application for social security disability insurance benefit payments or hospital insurance benefits, as applicable.

(E)(1) Unless an exemption is granted under division (C) of this section:

(a) A recipient subject to division (A) or (B) of this section who fails without just cause to apply for social security disability insurance benefit payments or to comply with division (D) of this section shall have the recipient's disability benefit suspended until the recipient applies for the

payments and complies with division (D) of this section.

(b) A recipient subject to division (B) of this section who fails without just cause to apply for hospital insurance benefits or to comply with division (D) of this section shall have the recipient's disability benefit suspended until the recipient applies for the benefits and complies with division (D) of this section.

(2) A recipient subject to division (B) of this section whose application for hospital insurance benefits is approved by the social security administration shall enroll in coverage for those benefits. A recipient who fails to enroll in coverage for hospital insurance benefits is not eligible for health care coverage under section 3309.69 of the Revised Code until the recipient enrolls in the coverage for hospital insurance benefits.

~~(F) The school employees retirement board may adopt rules as it considers necessary to implement this section.~~

Sec. 3309.472. For one year after ~~the effective date of this section~~September 9, 1988, a member who resigned due to pregnancy prior to ~~the effective date of this section~~September 9, 1988 may purchase service credit for a period following the resignation during which she did not make contributions under section 3309.47 of the Revised Code, if she meets both of the following conditions:

(A) She has earned a minimum of one year of service credit subsequent to the date of her return to employment as a contributor to the retirement system;

(B) She returned to employment as a contributor not later than the first day of classes of the third school year following

the date of her resignation.

Service credit purchased by a member under this section may not exceed the lesser of two years or an amount equal to the period from the effective date of her resignation to the date of her return to employment as a contributor, except that service credit may be purchased for more than one period of absence due to pregnancy, but the total service credit purchased may not exceed two years. The member must submit evidence satisfactory to the school employees retirement board documenting that her resignation was due to pregnancy and that she meets the requirement of division (B) of this section.

For each year of service credit purchased under this section:

(1) The member shall pay to the retirement system for credit to her accumulated account an amount equal to her retirement contributions for full-time employment for the first year of service subsequent to her return to employment as a contributor to the retirement system, plus compound interest thereon, at a rate established by the retirement board, from the date of the member's return to employment as a contributor to the date of payment;

(2) The member's employer at the time of resignation shall pay an amount certified by the retirement system, which shall be an amount equal to the employer contribution for full-time employment for the member's first year of service subsequent to her return to employment as a contributor, plus compound interest thereon, at a rate established by the retirement board, from the date of the member's return to employment as a contributor to the date of payment.

A member may purchase all or part of the credit for which she is eligible in one or more payments. ~~The retirement board may adopt rules to implement this section.~~

Sec. 3309.473. (A) Except as provided in division (D) of this section, a member of the school employees retirement system who resigned due to pregnancy or adoption of a child may purchase service credit for a period following the resignation during which the member did not make contributions under section 3309.47 of the Revised Code, if the member meets both of the following conditions:

(1) The member has earned a minimum of one year of service credit subsequent to the date of the member's return to employment as a contributor to the system.

(2) The member returned to employment as a contributor not later than the first day of classes of the third school year following the date of resignation.

Service credit purchased under this section may not exceed the lesser of two years or an amount equal to the period from the effective date of the resignation to the date of return to employment as a contributor. Service credit may be purchased for more than one period of resignation due to pregnancy or adoption of a child, but the total service credit purchased may not exceed two years. The member must submit evidence satisfactory to the school employees retirement board documenting that the resignation was due to pregnancy or adoption of a child and that the member meets the requirement in division (A)(1) of this section.

(B) For each year of service credit purchased under this section:

(1) The member shall pay to the system for credit to the member's accumulated account an amount equal to the member's contributions for full-time employment for the first year of service subsequent to the member's return to employment as a contributor, plus compound interest thereon at a rate established by the board, from the date of the member's return to employment as a contributor to the date of payment.

(2) The member's employer at the time of resignation shall pay an amount certified by the system, which shall be an amount equal to the employer contribution for full-time employment for the member's first year of service subsequent to the member's return to employment as a contributor, plus compound interest thereon at a rate established by the board, from the date of the member's return to employment as a contributor to the date of payment.

(C) A member may purchase all or part of the credit for which the member is eligible in one or more payments. Service credit purchased under this section shall be included in the member's total service credit.

(D) A member who has purchased service credit under section 3309.472 of the Revised Code for a period of absence may not purchase credit under this section for the same period of absence.

~~(E) The board may adopt rules to implement this section.~~

Sec. 3309.474. (A) As used in this section, "state retirement system" means the public employees retirement system, Ohio police and fire pension fund, state teachers retirement system, school employees retirement system, or state highway patrol retirement system.

(B) A state retirement system member who while a member of the school employees retirement system was out of service due to a leave of absence approved by the member's employer may purchase from the school employees retirement system service credit for any period during the leave for which contributions were not made under section 3309.47 of the Revised Code.

For purposes of this section, a period of leave commences on the first day for which employee and employer contributions were not made to the system and ends on the earlier of the termination of the leave or the member's return to contributing service.

(C)(1) For each year of service purchased, the member shall pay to the school employees retirement system for credit to the member's accumulated account with that system an amount equal to the sum of the following:

(a) An amount determined by multiplying the compensation the member would have received during the leave by the employee contribution rate in effect at that time;

(b) An amount determined by multiplying the compensation the member would have received during the leave by the employer contribution rate in effect at that time;

(c) Compound interest at a rate determined by the school employees retirement board from the first day of the year following the date the leave commenced to the date of payment.

(2) If the employee or employer contribution rate changed during the leave, contributions for each month of the leave shall be made at the rate in effect for that month.

(D) Service credit purchased under this section for any period of leave shall not exceed two years. Credit may be

purchased for more than one period of leave, but the total number of years purchased shall not exceed the lesser of five years or the member's total accumulated number of years of service as a contributor to the school employees retirement system. The member may choose to purchase only part of such credit in any one payment~~, subject to board rules~~.

(E) Service credit purchased under this section shall be considered the equivalent of Ohio service credit.

~~(F) The board may adopt rules under section 3309.04 of the Revised Code to implement this section.~~

Sec. 3309.69. (A) The school employees retirement board may establish a program to provide medical, hospital, surgical, prescription, or other health care coverage, benefits, reimbursement, or any combination thereof, to eligible individuals or dependents.

Any program established under this section shall be designed and administered by the board. In establishing a program, the board may do any of the following:

(1) Enter into an agreement with persons or government agencies authorized to do business in the state for issuance of a policy or contract of health, medical, hospital, prescription, surgical, or other health care benefits, or any combination thereof;

(2) Provide for self-insurance of risk or level of risk and provide through the self-insurance method specific benefits as authorized by the rules of the board;

(3) Provide reimbursements or subsidies to eligible participants;

(4) Make disbursements;

(5) Determine levels of coverage and costs for the program;

(6) Take any other action it considers necessary to establish and administer the program.

(B) If it establishes a health care program, the board shall establish eligibility criteria and any other requirements for participation. To be eligible, an individual must meet the criteria established by the board and be one or more of the following:

(1) A former member receiving benefits pursuant to section 3309.34, 3309.35, 3309.36, or 3309.381 or former section 3309.38 of the Revised Code;

(2) A disability benefit recipient receiving a disability benefit pursuant to section 3309.35, 3309.39, 3309.40, or 3309.401 of the Revised Code;

(3) A beneficiary receiving monthly benefits pursuant to section 3309.45 of the Revised Code;

(4) The beneficiary of a former member who is receiving monthly benefits pursuant to section 3309.46 of the Revised Code;

(5) A dependent, as determined under rules adopted by the board, of an individual described in divisions (B)(1) to (4) of this section.

(C) The cost paid from the funds of the system for coverage under this section shall be included in the employer contribution under sections 3309.49 and 3309.491 of the Revised Code.

(D)(1) The board may require payment of a premium for participation in the health care program. Participation is deemed consent for the deduction of premiums from any pension, benefit, or annuity provided under this chapter to an eligible participant.

(2) An individual who fails to pay any required premium or receives any coverage or payment to which the individual is not entitled shall pay or repay any amount due the system. If an individual fails to pay or repay an amount due, the system may withhold the amount from any pension, benefit, annuity, or payment due the individual or the individual's beneficiary under this chapter or collect the amount in any other manner provided by law.

(E) A health care program participant who is eligible for coverage under medicare part B, "Supplementary Medical Insurance Benefits for the Aged and Disabled," 42 U.S.C. 1395j, as amended, shall enroll for that coverage. The board shall, beginning the month following receipt of satisfactory evidence of the payment for coverage, make a monthly payment to the participant in an amount determined by the board for such coverage that is not less than forty-five dollars and fifty cents, except that the board shall make no payment to a participant who is not eligible for coverage under medicare part B or pay an amount that exceeds the amount paid by the recipient for the coverage.

(F) The board shall establish by rule requirements for the coordination of any coverage, payment, or benefit provided under this section or section 3309.375 of the Revised Code with any similar coverage, payment, or benefit made available to the same individual by the public employees retirement system, Ohio

police and fire pension fund, state teachers retirement system, or state highway patrol retirement system.

(G) ~~The board shall make all other necessary rules pursuant to the purpose and intent of this section.~~

~~(H)~~ This section does not require the board to establish, maintain, offer, or continue any health care program. This section does not require the board to provide or continue access to any health care program, or any level of coverage or costs provided under the program, if the board establishes or maintains a program under this section.

Sec. 3309.692. As used in this section, "SERS defined benefit plan" means the plan established under sections 3309.18 to 3309.70 of the Revised Code and "SERS defined contribution plan" means the plan established under section 3309.81 of the Revised Code.

The SERS defined benefit plan or a SERS defined contribution plan may include a program under which a member participating in the plan or a member's employer is permitted to make additional deposits for the purpose of providing funds for the payment of health, medical, hospital, surgical, dental, or vision care expenses, including insurance premiums, deductible amounts, or copayments. The program may be a voluntary employees' beneficiary association, as described in section 501(c)(9) of the Internal Revenue Code, 26 U.S.C. 501(c)(9), as amended; an account described in section 401(h) of the Internal Revenue Code, 26 U.S.C. 401(h), as amended; a medical savings account; or a similar type of program under which an individual may accumulate funds for the purpose of paying such expenses. To implement the program, the school employees retirement board may enter into agreements with insurance companies or other entities

authorized to conduct business in this state.

~~If the SERS defined benefit plan or a SERS defined contribution plan includes a program described in this section, the board shall adopt rules to administer the program.~~

Sec. 3309.731. (A) As used in this section, "transferred service credit" means service credit purchased or obtained under section 742.21, 742.214, 742.375, 5505.201, 5505.40, or 5505.41 of the Revised Code prior to the date a member commenced the employment covered by the school employees retirement system for which the member is currently contributing to the system.

(B) A member of the school employees retirement system who has contributions on deposit with, but is no longer contributing to, a uniform retirement system shall, in computing years of service, be given full credit for transferred service credit if a transfer to the school employees retirement system is made under this section. At the request of a member, the uniform system shall transfer to the school employees retirement system the sum of the following:

(1) An amount equal to the amounts transferred to the uniform system under section 742.21, 742.214, 742.375, 5505.201, 5505.40, or 5505.41 of the Revised Code;

(2) Interest, determined as provided in division (E) of this section, on the amount specified in division (B)(1) of this section for the period from the last day of the year in which the transfer under section 742.21, 742.214, 742.375, 5505.201, 5505.40, or 5505.41 of the Revised Code was made to the date a transfer is made under this section.

(C) A member of the school employees retirement system with at least eighteen months of contributing service credit

with the school employees retirement system who has received a refund of contributions to a uniform retirement system shall, in computing years of service, be given full credit for transferred service credit if, for each year of service, the school employees retirement system receives the sum of the following:

(1) An amount, which shall be paid by the member, equal to the amount refunded by the uniform system to the member for that year for transferred service credit, with interest on that amount from the date of the refund to the date a payment is made under this section;

(2) Interest, which shall be transferred by the uniform system, on the amount refunded to the member for the period from the last day of the year in which the transfer under section 742.21, 742.214, 742.375, 5505.201, 5505.40, or 5505.41 of the Revised Code was made to the date the refund was made;

(3) If the uniform system retained any portion of the amount transferred under section 742.21, 742.214, 742.375, 5505.201, 5505.40, or 5505.41 of the Revised Code, an amount, which shall be transferred by the uniform system, equal to the amount retained, with interest on that amount for the period from the last day of the year in which the transfer under section 742.21, 742.214, 742.375, 5505.201, 5505.40, or 5505.41 of the Revised Code was made to the date a transfer is made under this section.

On receipt of payment from the member, the school employees retirement system shall notify the uniform system, which, on receipt of the notice, shall make the transfer required by this division. Interest shall be determined as provided in division (E) of this section.

(D) Service credit purchased or obtained under this section shall be considered the equivalent of Ohio service credit. A member may choose to purchase only part of the credit the member is eligible to purchase under division (C) of this section in any one payment~~, subject to rules adopted by the school employees retirement board~~. A member is ineligible to purchase or obtain service credit under this section for service to be used in the calculation of any retirement benefit currently being paid or payable to the member in the future under any other retirement program or for service credit that may be purchased or obtained under section 3309.73 of the Revised Code.

(E) Interest charged under this section shall be calculated separately for each year of service credit at the lesser of the actuarial assumption rate for that year of the school employees retirement system or of the uniform retirement system to which the credit was transferred under section 742.21, 742.214, 742.375, 5505.201, 5505.40, or 5505.41 of the Revised Code. The interest shall be compounded annually.

(F) Any amounts transferred or paid under divisions (B) and (C) of this section that are attributable to contributions made by the member or to amounts paid to purchase service credit shall be credited to the employees' savings fund created under section 3309.47 of the Revised Code. Any remaining amounts shall be credited to one or more of the funds created under that section as determined by the board.

(G) At the request of the school employees retirement system, the uniform retirement system shall certify to the school employees retirement system a copy of the records of the service and contributions of a school employees retirement

system member who seeks service credit under this section. The uniform retirement system shall specify the portions of the amounts transferred that are attributable to employee contributions, employer contributions, and interest.

(H) If a member of the school employees retirement system who is not a current contributor elects to receive service credit under section 742.214 or 5505.41 of the Revised Code for transferred service credit, as defined in those sections, the system shall transfer to the uniform retirement system, as applicable, the amount specified in division (B) or (C) of section 742.214 or division (B) or (C) of section 5505.41 of the Revised Code.

~~(I) The board may adopt rules to implement this section.~~

Sec. 3309.81. The school employees retirement board may establish one or more plans consisting of benefit options that provide for an individual account for each participating member and under which benefits are based solely on the amounts that have accumulated in the account. The plans may include options under which a member participating in a plan may receive definitely determinable benefits.

Each plan established under this section shall meet the requirements of sections 3309.81 to 3309.98 of the Revised Code~~, and any rules adopted in accordance with section 3309.80 of the Revised Code~~. It may include life insurance, annuities, variable annuities, regulated investment trusts, pooled investment funds, or other forms of investment.

The board may administer the plans, enter into contracts with other entities to administer the plans, or both.

Sec. 3310.031. (A) The department of education and

workforce shall adopt rules under ~~section 3310.17~~ Chapter 119. of the Revised Code establishing procedures for granting educational choice scholarships to eligible students attending a nonpublic school at the time the director of education and workforce grants the school a charter under section 3301.16 of the Revised Code. The procedures shall include ~~at least~~ both of the following:

(1) Provisions for extending the application period for scholarships for the following school year, if necessary due to the timing of the award of the nonpublic school's charter, in order for students enrolled in the school at the time the charter is granted to apply for scholarships for the following school year;

(2) Provisions for notifying the resident districts of the nonpublic school's students that the nonpublic school has been granted a charter and that educational choice scholarships may be awarded to the school's students for the following school year.

(B) A student who is enrolled in a nonpublic school at the time the school's charter is granted is an eligible student if the student satisfies any of the following conditions:

(1) At the end of the last school year before the student enrolled in the nonpublic school, the student was enrolled in a school building operated by the student's resident district or in a community school established under Chapter 3314. of the Revised Code and, for the current or following school year, the student otherwise would be assigned under section 3319.01 of the Revised Code to a school building described in division (A)(1) of section 3310.03 of the Revised Code.

(2) The student was not enrolled in any public or other nonpublic school before the student enrolled in the nonpublic school and, for the current or following school year, otherwise would be assigned under section 3319.01 of the Revised Code to a school building described in division (A)(1) of section 3310.03 of the Revised Code.

(3) At the end of the last school year before the student enrolled in the nonpublic school, the student was enrolled in a school building operated by the student's resident district and, during that school year, the building met the conditions described in division (A)(1) of section 3310.03 of the Revised Code.

(4) At the end of the last school year before the student enrolled in the nonpublic school, the student was enrolled in a community school established under Chapter 3314. of the Revised Code but otherwise would have been assigned under section 3319.01 of the Revised Code to a school building that, during that school year, met the conditions described in division (A)(1) of section 3310.03 of the Revised Code.

Sec. 3310.17. ~~(A) The department of education and workforce shall adopt rules in accordance with Chapter 119. of the Revised Code prescribing procedures for the administration of the educational choice scholarship pilot program.~~

~~(B)~~ The department of education and workforce shall not require chartered nonpublic schools to comply with any education laws or rules or other requirements that are not specified in sections 3310.01 to 3310.17 of the Revised Code ~~or in rules necessary for the administration of the program, adopted under division (A) of this section,~~ and that otherwise would not apply to a chartered nonpublic school.

Sec. 3310.41. (A) As used in this section:

(1) "Alternative public provider" means either of the following providers that agrees to enroll a child in the provider's special education program to implement the child's individualized education program or an education plan developed by the school district under division (L) of this section and to which the child's parent owes fees for the services provided to the child:

(a) A school district that is not the school district in which the child is entitled to attend school;

(b) A public entity other than a school district.

(2) "Eligible applicant" means any of the following:

(a) Either of the natural or adoptive parents of a qualified special education child, except as otherwise specified in this division.

When the marriage of the natural or adoptive parents of the child has been terminated by a divorce, dissolution of marriage, or annulment, or when the natural or adoptive parents of the child are living separate and apart under a legal separation decree, and a court has issued an order allocating the parental rights and responsibilities with respect to the child, "eligible applicant" means the residential parent as designated by the court. If the court issues a shared parenting decree, "eligible applicant" means either parent. "Eligible applicant" does not mean a parent whose custodial rights have been terminated.

(b) The custodian of a qualified special education child, when a court has granted temporary, legal, or permanent custody of the child to an individual other than either of the natural

or adoptive parents of the child or to a government agency;

(c) The guardian of a qualified special education child, when a court has appointed a guardian for the child;

(d) The grandparent of a qualified special education child, when the grandparent is the child's attorney in fact under a power of attorney executed under sections 3109.51 to 3109.62 of the Revised Code or when the grandparent has executed a caretaker authorization affidavit under sections 3109.65 to 3109.73 of the Revised Code;

(e) The surrogate parent appointed for a qualified special education child pursuant to division (B) of section 3323.05 and section 3323.051 of the Revised Code;

(f) A qualified special education child, if the child does not have a custodian or guardian and the child is at least eighteen years of age and less than twenty-two years of age.

(3) "Entitled to attend school" means entitled to attend school in a school district under section 3313.64 or 3313.65 of the Revised Code.

(4) "Formula ADM" has the same meaning as in section 3317.02 of the Revised Code.

(5) "Preschool child with a disability" and "individualized education program" have the same meanings as in section 3323.01 of the Revised Code.

(6) "Qualified special education child" is a child who is at least three years of age and less than twenty-two years of age and who either was enrolled in the school district in which the child is entitled to attend school in any grade from preschool through twelve in the school year prior to the year in

which a scholarship under this section is sought for the child or is eligible to enter school in any grade preschool through twelve or is less than twenty-two years of age in the school district in which the child is entitled to attend school in the school year in which a scholarship under this section is sought for the child and for whom any of the following conditions apply:

(a) The school district in which the child is entitled to attend school has identified the child as autistic. A child who has been identified as having a "pervasive developmental disorder - not otherwise specified (PPD-NOS)" shall be considered to be an autistic child for purposes of this section.

(b) The school district in which the child is entitled to attend school has developed an individualized education program under Chapter 3323. of the Revised Code for the child that includes services related to autism.

(c) The child has been diagnosed as autistic by a physician or psychologist.

(d) All of the following apply:

(i) The child is enrolled in a chartered or nonchartered nonpublic school, is home educated in accordance with section 3321.042 of the Revised Code, or is a student older than compulsory school age and less than twenty-two years of age and received a home education in accordance with section 3321.042 of the Revised Code and has not received a diploma under section 3313.6110 of the Revised Code.

(ii) The child has an individualized education program developed under Chapter 3323. of the Revised Code that includes services related to autism.

(iii) The child is still eligible to receive transition services under the child's individualized education program.

(7) "Registered private provider" means a nonpublic school or other nonpublic entity that has been approved by the department of education and workforce to participate in the program established under this section.

(8) "Special education program" means a school or facility that provides special education and related services to children with disabilities.

(B) There is hereby established the autism scholarship program. Under the program, the department shall pay a scholarship under section 3317.022 of the Revised Code to an eligible applicant upon application of that eligible applicant pursuant to procedures and deadlines established by rule of the department. Each scholarship shall be used only to pay tuition for the child on whose behalf the scholarship is awarded to attend a special education program or programs that implements the child's individualized education program or education plan and that is operated by an alternative public provider or by a registered private provider, and to pay for other services agreed to by the provider and the eligible applicant that are not included in the individualized education program or education plan but are associated with educating the child. Upon agreement with the eligible applicant, the alternative public provider or the registered private provider may modify the services provided to the child. The purpose of the scholarship is to permit the eligible applicant the choice to send the child to a special education program or programs, instead of the one operated by or for the school district in which the child is entitled to attend school, to receive the services prescribed in

the child's individualized education program or education plan once the individualized education program or education plan is finalized and any other services agreed to by the provider and the eligible applicant. The services provided under the scholarship shall include an educational component or services designed to assist the child to benefit from the child's education.

At the discretion of the eligible applicant, multiple alternative public providers or registered private providers may be contracted to provide services to implement an individualized education program or education plan as the eligible applicant and providers determine are necessary and associated with educating the qualified special education child. A qualified special education child shall not be limited to receiving services from a single provider for any services as identified in the individualized education program or education plan, including a single type of service.

(C) Services, including intervention services, educational services, academic services, tutoring services, aide services, and other related special education services, provided through the program established under this section may be provided virtually by any of the following:

(1) An educational aide or assistant who holds a valid permit issued under section 3319.088 of the Revised Code;

(2) An instructional assistant who holds a valid permit issued under section 3310.43 of the Revised Code;

(3) A qualified, credentialed provider in accordance with standards established by the department;

(4) A teacher or substitute teacher licensed by the state

board of education.

(D) A scholarship under this section shall not be awarded to an eligible applicant while the child's individualized education program is being developed by the school district in which the child is entitled to attend school, or while any administrative or judicial mediation or proceedings with respect to the content of the child's individualized education program are pending. A scholarship under this section shall not be used for a child to attend a public special education program that operates under a contract, compact, or other bilateral agreement between the school district in which the child is entitled to attend school and another school district or other public provider, or for a child to attend a community school established under Chapter 3314. of the Revised Code. However, nothing in this section or in any rule adopted by the department shall prohibit an eligible applicant whose child attends a public special education program under a contract, compact, or other bilateral agreement, or an eligible applicant whose child attends a community school, from applying for and accepting a scholarship under this section so that the eligible applicant may withdraw the child from that program or community school and use the scholarship for the child to attend a special education program for which the eligible applicant is required to pay for services for the child.

(E) Except for development of the child's individualized education program or education plan, the school district in which a qualified special education child is entitled to attend school and the child's school district of residence, as defined in section 3323.01 of the Revised Code, if different, are not obligated to provide the child with a free appropriate public education under Chapter 3323. of the Revised Code for as long as

the child continues to attend the special education program operated by either an alternative public provider or a registered private provider for which a scholarship is awarded under the autism scholarship program. If at any time, the eligible applicant for the child decides no longer to accept scholarship payments and enrolls the child in the special education program of the school district in which the child is entitled to attend school, that district shall provide the child with a free appropriate public education under Chapter 3323. of the Revised Code.

(F) A child attending a special education program with a scholarship under this section shall continue to be entitled to transportation to and from that program in the manner prescribed by law.

(G) As prescribed in division (A)(2)(h) of section 3317.03 of the Revised Code, a child who is not a preschool child with a disability for whom a scholarship is awarded under this section shall be counted in the formula ADM of the district in which the child is entitled to attend school and not in the formula ADM of any other school district.

(H) A scholarship shall not be paid under section 3317.022 of the Revised Code to an eligible applicant for payment of tuition owed to a nonpublic entity unless that entity is a registered private provider. The department shall approve entities that meet the standards established by rule of the department for the program established under this section.

(I) The department shall adopt rules under Chapter 119. of the Revised Code prescribing ~~procedures necessary to implement this section, including, but not limited to,~~ procedures and deadlines for eligible applicants to apply for scholarships,

standards for registered private providers, and procedures for approval of entities as registered private providers.

The rules also shall specify that intervention services, including virtual services, under the autism scholarship program may be provided by a qualified, credentialed provider, including an educator or substitute teacher licensed by the state board of education, and shall additionally include~~, but not be limited to,~~ all of the following:

(1) A behavior analyst certified by a nationally recognized organization that certifies behavior analysts;

(2) A psychologist licensed to practice in this state under Chapter 4732. of the Revised Code;

(3) An independent school psychologist or school psychologist licensed to practice in this state under Chapter 4732. of the Revised Code;

(4) Any person employed by a licensed psychologist, licensed independent school psychologist, or licensed school psychologist, while carrying out specific tasks, under the licensee's supervision, as an extension of the licensee's legal and ethical authority as specified under Chapter 4732. of the Revised Code who is ascribed as "psychology trainee," "psychology assistant," "psychology intern," or other appropriate term that clearly implies their supervised or training status;

(5) Unlicensed persons holding a doctoral degree in psychology or special education from a program approved by the department;

(6) A "registered behavior technician" as described under rule 5123-9-41 of the Administrative Code working under the

supervision and following the intervention plan of a certified Ohio behavior analyst or a behavior analyst certified by a nationally recognized organization that certifies behavior analysts;

(7) A "certified Ohio behavior analyst" under Chapter 4783. of the Revised Code;

(8) An occupational therapist or physical therapist licensed to practice in this state under Chapter 4755. of the Revised Code;

(9) A speech-language pathologist licensed to practice in this state under Chapter 4753. of the Revised Code;

(10) An intervention specialist who holds a valid license issued by the state board;

(11) A literacy intervention specialist certified through pathways recognized by the Ohio dyslexia committee established by section 3323.25 of the Revised Code. To the extent that certification for any of the following positions is approved by the Ohio dyslexia committee under section 3323.25 of the Revised Code, literary intervention specialists may include:

(a) A structured literacy dyslexia interventionist;

(b) A structured literacy dyslexia specialist;

(c) A certified academic language practitioner;

(d) A certified academic language therapist.

(12) An educational aide or assistant with a valid permit issued under section 3319.088 of the Revised Code;

(13) An instructional assistant with a valid permit issued in accordance with section 3310.43 of the Revised Code~~;~~

~~(14) Any other qualified individual as determined by the department~~.

Supervision of a qualified, credentialed provider may be conducted virtually.

(J) For billing purposes under the autism scholarship program, services provided by a teacher or substitute teacher licensed by the state board of education shall be classified as academic services and shall not be classified as aide services. The department shall use this differentiation to simplify monthly audit procedures.

(K) The department shall provide reasonable notice to all eligible applicants receiving a scholarship under the autism scholarship program, alternative public providers, and registered private providers of any amendment to a rule governing, or change in the administration of, the autism scholarship program.

(L) If a child qualifies for the autism scholarship program pursuant to a diagnosis under division (A)(6)(c) of this section and does not have an individualized education program that includes services related to autism, the school district in which the child is entitled to attend school shall develop an education plan for the child.

(M) Not later than the thirtieth day of June each year, each alternative public provider and registered private provider enrolling students receiving autism scholarships shall submit to the department, in a form and manner prescribed by the department, the tuition rates charged by the provider for the following school year.

(N) The department shall not require an eligible applicant

who applies for or receives a scholarship under this section to complete any kind of income verification regarding the student's family income.

(O) The department shall maintain a list of each registered private provider and the location of that provider on its publicly accessible web site.

Sec. 3310.64. The department of education and workforce shall adopt rules in accordance with Chapter 119. of the Revised Code prescribing procedures ~~necessary~~ to implement sections 3310.51 to 3310.63 of the Revised Code including~~, but not limited to,~~ procedures for parents to apply for scholarships, standards for registered private providers, and procedures for registration of private providers.

The rules also shall specify that intervention services, including virtual services, under the Jon Peterson special needs scholarship program may be provided by a qualified, credentialed provider, including an educator or substitute teacher licensed by the state board of education, and shall additionally include~~, but not be limited to,~~ the credentialed professionals listed in division (C) of section 3310.58 of the Revised Code.

The rules also shall specify that supervision of a qualified, credentialed provider may be conducted virtually.

Sec. 3313.377. (A) As used in this section:

(1) "Energy conservation measure" has the same meaning as in section 3313.372 of the Revised Code.

(2) "Energy saving measure" has the same meaning as in section 3313.373 of the Revised Code.

(B) The Ohio facilities construction commission may issue

a loan from funds in the school energy performance contracting loan fund created in section 3313.378 of the Revised Code to a board of education of a city, exempted village, local, or joint vocational school district that applies for a loan under section 3313.372 or 3313.373 of the Revised Code.

(C) Nothing in this section prohibits a board of education that receives a loan under this section from utilizing any other energy efficiency program.

(D) The terms of a loan issued under this section shall be as follows:

(1) Two per cent annual interest on the loan;

(2) The full loan amount, plus interest, shall be repaid in not more than ten years from the issuance of the loan;

(3) Repayment on the loan begins six months after the installation of the energy conservation measures is complete or the implementation of energy savings measures is completed;

(4) Any other provision considered appropriate by the commission.

(E) All repayment amounts for any loans issued under this section shall be made to the commission. The commission shall deposit all repayment amounts received in the school energy performance contracting loan fund created in section 3313.378 of the Revised Code.

(F) If the commission enters into an agreement with a board for a loan under this section, the commission shall promptly direct the treasurer of state to remit money from the school energy performance contracting loan fund to the board as provided in the terms of the agreement.

~~(G) The commission shall adopt rules to implement this section, including a loan application.~~

Sec. 3313.616. (A) Notwithstanding the requirements of sections 3313.61, 3313.611, and 3313.612 of the Revised Code, the board of education of any city, exempted village, or local school district or the governing authority of any chartered nonpublic school may grant a high school diploma to any veteran of World War II, the Korean conflict, or the Vietnam conflict who is a resident of this state or who was previously enrolled in any high school in this state if all of the following apply:

(1) The veteran either:

(a) Left a public or nonpublic school located in any state prior to graduation in order to serve in the armed forces of the United States;

(b) Left a public or nonpublic school located in any state prior to graduation due to family circumstances and subsequently entered the armed forces of the United States.

(2) The veteran received an honorable discharge from the armed forces of the United States.

(3) The veteran has not been granted a diploma as provided in section 3313.61 or 3313.612 of the Revised Code, a diploma of adult education as provided in section 3313.611 of the Revised Code, or a diploma under this section.

(B) Notwithstanding the requirements of sections 3313.61, 3313.611, and 3313.612 of the Revised Code, the board of education of any city, exempted village, or local school district or the governing authority of any chartered nonpublic school may grant a high school diploma to any woman who left high school during World War II, the Korean conflict, or the

Vietnam conflict and who is a resident of this state or was previously enrolled in any high school in this state, if both of the following apply:

(1) The woman either:

(a) Left a public or nonpublic school located in any state prior to graduation in order to join the workforce to support her family or to join the war effort;

(b) Left a public or nonpublic school located in any state prior to graduation due to family circumstances and subsequently joined the workforce or war effort.

(2) The woman has not been granted a diploma as provided in section 3313.61 or 3313.612 of the Revised Code, a diploma of adult education as provided in section 3313.611 of the Revised Code, or a diploma under this section.

(C) If a person who would otherwise qualify for a diploma under this section is deceased, the board of education of any school district or the governing authority of any chartered nonpublic school may award such diploma to the person posthumously and may present that diploma to a living relative of the person.

(D) The department of veterans services, in accordance with section 111.15 of the Revised Code, and with the advice and consent of the veterans advisory committee established under division (J) of section 5902.02 of the Revised Code, shall develop and adopt rules ~~to implement this section. Such rules shall include, but not be limited to, rules~~ establishing procedures for application and verification of eligible persons for a diploma under this section.

Sec. 3313.6111. (A) The department of education and

workforce shall establish the state seal of biliteracy, which may be attached or affixed to the high school transcript of a student enrolled in a public or chartered nonpublic school. The state seal of biliteracy shall demonstrate the attainment of a high level of proficiency by a graduate of a public or chartered nonpublic high school in one or more languages in addition to English, sufficient for meaningful use in college and a career. The purpose of the state seal of biliteracy shall be to:

(1) Encourage students to study languages;

(2) Certify the attainment of biliteracy;

(3) Provide employers with a method of identifying individuals with language and biliteracy skills;

(4) Provide institutions of higher education with an additional method to recognize applicants for admission;

(5) Prepare students with twenty-first century skills;

(6) Recognize the value of foreign language and native language instruction in public schools; and

(7) Strengthen inter-group relationships, affirm the value of diversity, and honor the multiple cultures and languages of a community.

(B)(1) A school district, community school established under Chapter 3314. of the Revised Code, STEM school established under Chapter 3326. of the Revised Code, college-preparatory boarding school established under Chapter 3328. of the Revised Code, or chartered nonpublic school may attach or affix the state seal of biliteracy to the transcript of a student enrolled in the school who meets the requirements prescribed under division (C)(1) of this section. A district or school shall not

be required to attach or affix the state seal of biliteracy on the transcript of a student enrolled in the school.

(2) Each school district, community school, STEM school, college-preparatory boarding school, and chartered nonpublic school shall maintain appropriate records to identify students who have completed the requirements for earning a state seal of biliteracy as prescribed under division (C)(1) of this section, and if the district or school has a policy of attaching or affixing the state seal of biliteracy to student transcripts, the district or school shall make the appropriate designation on the transcript of a student who completes the requirements.

(C) The department shall do the following:

(1) Establish the requirements and criteria for earning a state seal of biliteracy, including assessments of foreign language and English proficiency~~.~~;

(2) Prepare and deliver to participating school districts, community schools, STEM schools, college-preparatory boarding schools, and chartered nonpublic schools an appropriate mechanism for assigning a state seal of biliteracy on a student's transcript indicating that the student has been assigned the seal;

(3) Provide any other information it considers necessary for school districts, community schools, STEM schools, college-preparatory boarding schools, and chartered nonpublic schools to participate in the assigning of a state seal of biliteracy~~;~~

~~(4) Adopt rules in accordance with Chapter 119. of the Revised Code to implement the provisions of this section~~.

(D) A student shall not be charged a fee to be assigned a state seal of biliteracy on their transcript. A student may be

required to pay a fee to demonstrate proficiency in a language, including the cost of a standardized test to determine proficiency in a language.

(E) As used in this section, "foreign language" refers to any language other than English, including modern languages, Latin, American sign language, native American languages, and native languages.

Sec. 3313.902. (A) As used in this section:

(1) "Approved industry credential or certificate" means a credential or certificate that is approved by the chancellor of higher education.

(2) "Approved institution" means an eligible institution that has been approved to participate in the adult diploma pilot program under this section.

(3) "Approved program of study" means a program of study offered by an approved institution that satisfies the requirements of division (B) of this section.

(4) An eligible student's "career pathway training program amount" means the following:

(a) If the student is enrolled in a tier one career pathway training program, $4,800;

(b) If the student is enrolled in a tier two career pathway training program, $3,200;

(c) If the student is enrolled in a tier three career pathway training program, $1,600.

(5) "Eligible institution" means any of the following:

(a) A community college established under Chapter 3354. of

the Revised Code;

(b) A technical college established under Chapter 3357. of the Revised Code;

(c) A state community college established under Chapter 3358. of the Revised Code;

(d) An Ohio technical center recognized by the chancellor that provides post-secondary workforce education.

(6) "Eligible student" means an individual who is at least eighteen years of age and has not received a high school diploma or a certificate of high school equivalence, as defined in section 4109.06 of the Revised Code.

(7) A "tier one career pathway training program" is a career pathway training program that requires more than six hundred hours of technical training, as determined by the department of education and workforce.

(8) A "tier two career pathway training program" is a career pathway training program that requires more than three hundred hours of technical training but less than six hundred hours of technical training, as determined by the department.

(9) A "tier three career pathway training program" is a career pathway training program that requires three hundred hours or less of technical training, as determined by the department.

(10) An eligible student's "work readiness training amount" means the following:

(a) If the student's grade level upon initial enrollment in an approved program of study at an approved institution is below the ninth grade, ~~as determined in accordance with rules~~

~~adopted under division (E) of this section,~~ $1,500.

(b) If the student's grade level upon initial enrollment in an approved program of study at an approved institution is at or above the ninth grade, ~~as determined in accordance with rules adopted under division (E) of this section,~~ $750.

(B) The adult diploma pilot program is hereby established to permit an eligible institution to obtain approval from the department of education and workforce and the chancellor to develop and offer a program of study that allows an eligible student to obtain a high school diploma. A program shall be eligible for this approval if it satisfies all of the following requirements:

(1) The program allows an eligible student to complete the requirements for obtaining a high school diploma that are specified in rules adopted under division (E) of this section while also completing requirements for an approved industry credential or certificate.

(2) The program includes career advising and outreach.

(3) The program includes opportunities for students to receive a competency-based education.

(C) Notwithstanding sections 3313.61, 3313.611, 3313.613, 3313.614, 3313.618, and 3313.619 of the Revised Code, the department shall grant a high school diploma to each eligible student who enrolls in an approved program of study at an approved institution and completes the requirements for obtaining a high school diploma that are specified in rules adopted under division (E) of this section.

(D)(1) The department shall calculate the following amount for each eligible student enrolled in each approved

institution's approved program of study:

(The student's career pathway training program amount + the student's work readiness training amount) X 1.2

(2) Except as provided in division (D)(4) of this section, the department shall pay the amount calculated for an eligible student under division (D)(1) of this section to the approved institution in which the student is enrolled in the following manner:

(a) Twenty-five per cent of the amount calculated under division (D)(1) of this section shall be paid to the approved institution after the student successfully completes the first third of the approved program of study, as determined by the department;

(b) Twenty-five per cent of the amount calculated under division (D)(1) of this section shall be paid to the approved institution after the student successfully completes the second third of the approved program of study, as determined by the department;

(c) Fifty per cent of the amount calculated under division (D)(1) of this section shall be paid to the approved institution after the student successfully completes the final third of the approved program of study, as determined by the department.

(3) Of the amount paid to an approved institution under division (D)(2) of this section, the institution may use the amount that is in addition to the student's career pathway training amount and the student's work readiness training amount for the associated services of the approved program of study. These services include counseling, advising, assessment, and other services as determined or required by the department.

(4) If the department and the chancellor determine that it is appropriate for an entity other than the department to make full or partial payments for an eligible student under division (D)(2) of this section, that entity shall make those payments and the department shall not make those payments.

(E) The director of education and workforce, in consultation with the chancellor, shall adopt the following rules for the implementation of the adult diploma pilot program~~, including all of the following~~:

(1) The requirements for applying for program approval;

(2) The requirements for obtaining a high school diploma through the program, including the requirement to obtain a passing score on an assessment that is appropriate for the career pathway training program that is being completed by the eligible student, and the date on which these requirements take effect;

(3) The assessment or assessments that may be used to complete the assessment requirement for each career pathway training program under division (E)(2) of this section and the score that must be obtained on each assessment in order to pass the assessment;

(4) Guidelines regarding the funding of the program under division (D) of this section, including a method of funding for students who transfer from one approved institution to another approved institution prior to completing an approved program of study;

(5) Circumstances under which an eligible student may be charged for tuition, supplies, or associated fees while enrolled in an approved institution's approved program of study;

(6) A requirement that an eligible student may not be charged for tuition, supplies, or associated fees while enrolled in an approved institution's approved program of study except in the circumstances described under division (E)(5) of this section;

(7) The payment of federal funds that are to be used by approved programs of study at approved institutions.

Sec. 3317.072. (A) The transportation collaboration fund is hereby created in the state treasury for fiscal years 2022 and 2023. The fund shall consist of money appropriated for this purpose by the general assembly. The department of education and workforce shall use money in the fund for grants awarded under this section.

(B)(1) For fiscal years 2022 and 2023, the department shall award transportation collaboration grants each fiscal year to city, local, and exempted village school districts for efforts that lead to shared resource management, routing consolidation, regional collaboration, or other activities that have the potential to reduce transportation operating costs.

(2) The department shall determine the amount of each grant awarded, but no grant shall exceed $10,000 for any fiscal year.

(3) The department shall adopt rules regarding all of the following:

(a) The process for city, local, and exempted village school districts to submit applications for grants awarded under this section, including the deadline for those applications to be submitted;

(b) The application form for grants awarded under this

section;

(c) The requirements and process for grant recipients to be eligible to renew their grants in future fiscal years~~;~~

~~(d) Any other rules necessary to implement the provisions of this section~~.

Sec. 3318.60. (A) As used in this section and section 3318.61 of the Revised Code:

(1) "Acquisition of classroom facilities" means constructing, reconstructing, repairing, or making additions to classroom facilities.

(2) "Ohio facilities construction commission" and "classroom facilities" have the same meanings as in section 3318.01 of the Revised Code.

(B) There is hereby established the college-preparatory boarding school facilities program. Under the program, the Ohio facilities construction commission shall provide assistance to the boards of trustees of college-preparatory boarding schools established under Chapter 3328. of the Revised Code for the acquisition of classroom facilities.

(C) The program shall comply with sections 3318.01 to 3318.20 of the Revised Code, except as follows:

(1) The commission, in consultation with the board of trustees of a college-preparatory boarding school, shall determine the basic project cost based on all campus facilities needed for the school's programs and operations and shall take into account any unique spaces or square footages needed for such facilities when calculating the basic project cost. Regardless of the inclusion of nonclassroom facilities in the

calculation of the basic project cost, state funds provided under the program shall be used only to pay for the acquisition of classroom facilities that do not exceed the construction and design standards established by the commission.

(2) To be eligible for assistance under the program, the board of trustees of a college-preparatory boarding school shall secure at least twenty million dollars of private money to satisfy its share of the basic project cost. Funds provided by the board may be used for any type of facility.

(3) A college-preparatory boarding school shall not be included in the ranking required by section 3318.011 of the Revised Code. The commission shall initiate procedures for the school's project when the contract required by section 3328.12 of the Revised Code has been executed.

(4) No requirement related to the issuance of bonds or securities or the levying of taxes by a school district shall apply to a college-preparatory boarding school or its board of trustees.

(5) The agreement entered into by the commission with the board of trustees of a college-preparatory boarding school under section 3318.08 of the Revised Code shall provide for termination of the contract and release of the funds encumbered at the time of the project's conditional approval, if the board fails to secure the amount specified in division (C)(2) of this section within such period after the execution of the agreement as may be fixed by the commission.

~~(D) Within the ninety-day period immediately following September 29, 2011, the commission shall adopt rules necessary for the implementation and administration of the program.~~

Sec. 3323.02. As used in this section, "IDEIA" means the "Individuals with Disabilities Education Improvement Act of 2004," Pub. L. No. 108-446.

It is the purpose of this chapter to ensure that all children with disabilities residing in this state who are at least three years of age and less than twenty-two years of age, including children with disabilities who have been suspended or expelled from school, have available to them a free appropriate public education. No school district, county board of developmental disabilities, or other educational agency shall receive state or federal funds for special education and related services unless those services for children with disabilities are provided in accordance with IDEIA and related provisions of the Code of Federal Regulations, the provisions of this chapter, rules and standards adopted by the department of education and workforce, and any procedures or guidelines issued by the director of education and workforce. Any options or discretion provided to the state by IDEIA may be exercised in state law or in rules or standards adopted by the department of education and workforce.

~~The department of education and workforce shall establish rules or standards for the provision of special education and related services for all children with disabilities who are at least three years of age and less than twenty-two years of age residing in the state, regardless of the severity of their disabilities, including children with disabilities who have been suspended or expelled from school. The department of education and workforce shall consult with the department of children and youth on rules or standards regarding the provision of special education and related services for children with disabilities from three to five years of age. The state law and the rules or~~

~~standards of the department of education and workforce may impose requirements that are not required by IDEIA or related provisions of the Code of Federal Regulations. The school district of residence is responsible, in all instances, for ensuring that the requirements of Part B of IDEIA are met for every eligible child in its jurisdiction, regardless of whether services are provided by another school district, other educational agency, or other agency, department, or entity, unless IDEIA or related provisions of the Code of Federal Regulations, another section of this chapter, or a rule adopted by the department of education and workforce specifies that another school district, other educational agency, or other agency, department, or entity is responsible for ensuring compliance with Part B of IDEIA.~~

~~The department of children and youth shall, as appropriate, incorporate the department of education and workforce's rules or standards for providing special education and related services for children with disabilities into the licensing requirements for preschool programs under sections 3301.52 to 3301.59 of the Revised Code.~~

Notwithstanding division (A)(4) of section 3301.53 of the Revised Code and any rules adopted pursuant to that section and division (A) of section 3313.646 of the Revised Code, a board of education of a school district may provide special education and related services for preschool children with disabilities in accordance with this chapter and section 3301.52, divisions (A)(1) to (3) and (A)(5) and (6) of section 3301.53, and sections 3301.54 to 3301.59 of the Revised Code.

The department of education and workforce may require any state or local agency to provide documentation that special

education and related services for children with disabilities provided by the agency are in compliance with the requirements of this chapter.

Not later than the first day of February of each year the department of education and workforce shall furnish the chairpersons of the education committees of the house of representatives and the senate with a report on the status of implementation of special education and related services for children with disabilities required by this chapter. The report shall include but shall not be limited to the following items: the most recent available figures on the number of children identified as children with disabilities and the number of identified children receiving special education and related services. The information contained in these reports shall be public information.

Sec. 3323.08. (A) Each school district shall submit a plan to the department of education and workforce that provides assurances that the school district will provide for the education of children with disabilities within its jurisdiction and has in effect policies, procedures, and programs that are consistent with the policies and procedures adopted by the department in accordance with section 612 of the "Individuals with Disabilities Education Improvement Act of 2004," 20 U.S.C. 1412, and that meet the conditions applicable to school districts under section 613 of that act, 20 U.S.C. 1413.

Each district's plan shall do all of the following:

(1) Provide, as specified in section 3323.11 of the Revised Code and in accordance with standards established by the department, for an organizational structure and necessary and qualified staffing and supervision for the identification of and

provision of special education and related services for children with disabilities;

(2) Provide, as specified by section 3323.03 of the Revised Code and in accordance with standards established by the department, for the identification, location, and evaluation of all children with disabilities residing in the district, including children with disabilities who are homeless children or are wards of the state and children with disabilities attending private schools and who are in need of special education and related services. A practical method shall be developed and implemented to determine which children with disabilities are currently receiving needed special education and related services.

(3) Provide, as specified by section 3323.07 of the Revised Code and standards established by the department, for the establishment and maintenance of special education and related services for children with disabilities who are at least three years of age and less than twenty-two years of age, including children with disabilities who have been suspended or expelled from school.

(4) Provide, as specified by section 3323.04 of the Revised Code and in accordance with standards adopted by the department, for an individualized education program for each child with a disability who is at least three years of age and less than twenty-two years of age residing within the district;

(5) Provide, as specified by section 3323.02 of the Revised Code~~ and in accordance with standards established by the department~~, for special education and related services and a free appropriate public education for every child with a disability who is at least three years of age and less than

twenty-two years of age, including children with disabilities who have been suspended or expelled from school;

(6) Provide procedural safeguards and prior written notice as required under section 3323.05 of the Revised Code and the standards established by the department;

(7) Outline the steps that have been or are being taken to comply with standards established by the department.

(B)(1) A school district may arrange, by a cooperative agreement or contract with one or more school districts or with a cooperative education or joint vocational school district or an educational service center, to provide for the identification, location, and evaluation of children with disabilities, and to provide special education and related services for such children that meet the standards established by the department. A school district may arrange, by a cooperative agreement or contract, for the provision of related services for children with disabilities that meet the standards established by the department.

(2) A school district shall arrange by interagency agreement with one or more school districts or with a cooperative education or joint vocational school district or an educational service center or other providers of early learning services to provide for the identification, location, evaluation of children with disabilities of ages birth through five years of age and for the transition of children with disabilities at age three in accordance with the standards established by the department. A school district may arrange by interagency agreement with providers of early learning services to provide special education and related services for such children that meet the standards established by the department.

(3) If at the time an individualized education program is developed for a child a school district is not providing special education and related services required by that individualized education program, the school district may arrange by contract with a nonpublic entity for the provision of the special education and related services, provided the special education and related services meet the standards for special education and related services established by the department and is provided within the state.

(4) Any cooperative agreement or contract under division (B)(1) or (2) of this section involving a local school district shall be approved by the governing board of the educational service center which serves that district.

(C) No plan of a local school district shall be submitted to the department until it has been approved by the superintendent of the educational service center which serves that district.

(D) Upon approval of a school district's plan by the department, the district shall immediately certify students for state funds under section 3317.03 of the Revised Code to implement and maintain such plan. The district shall, in accordance with guidelines adopted by the department, identify problems relating to the provision of qualified personnel and adequate facilities, and indicate the extent to which the cost of programs required under the plan will exceed anticipated state reimbursement. Each school district shall immediately implement the identification, location, and evaluation of children with disabilities in accordance with this chapter, and shall implement those parts of the plan involving placement and provision of special education and related services.

Sec. 3324.11. No rule adopted by the director of education and workforce pursuant to this chapter~~, section 3301.07 of the Revised Code,~~ or any other provision of the Revised Code shall permit a school district to report that it has provided services to a student identified as gifted unless those services are paid for by the district. Nothing in this section shall prohibit a district from requiring a student to pay the costs of advanced placement or international baccalaureate examinations.

Sec. 3328.12. The department of education and workforce shall enter into a contract with the operator of each college-preparatory boarding school established under this chapter. The contract shall stipulate the following:

(A) The school's board of trustees shall oversee the acquisition of a facility for the school.

(B) The operator shall operate the school in accordance with the terms of the proposal accepted by the department under section 3328.11 of the Revised Code, including the plan for increasing the grade levels offered by the school.

(C) The school shall comply with the provisions of this chapter.

(D) The school shall comply with any other provisions of law specified in the contract~~ and the rules adopted by the department under section 3328.50 of the Revised Code~~.

(E) The school shall comply with the bylaws adopted by the board of trustees under section 3328.13 of the Revised Code.

(F) The school shall meet the academic goals and other performance standards specified in the contract.

(G) The school shall have a fiscal officer who meets

standards established for the purposes of this division by the department.

(H) In accordance with procedures specified in the contract, the department shall monitor the operation, programs, and facilities of the school, including conducting on-site visits of the school.

(I) The department may take actions, as specified in the contract, to resolve issues of noncompliance by the school of the provisions of this chapter, the contract, the bylaws adopted by the board of trustees, or rules adopted by the department. Such specified actions shall include procedures for notice of noncompliance and an appeal process.

(J) The department or the operator may terminate the contract in accordance with the procedures specified in the contract, which shall include at least a requirement that the party seeking termination give prior notice of the intent to terminate the contract and a requirement that the party receiving such notice be granted an opportunity to redress any grievances cited in the notice prior to the termination.

(K) If the school closes for any reason, the school's board of trustees shall execute the closing in the manner specified in the contract.

Sec. 3328.13. The board of trustees of each college-preparatory boarding school established under this chapter shall adopt bylaws for the oversight and operation of the school that are consistent with the provisions of this chapter~~, the rules adopted under section 3328.50 of the Revised Code,~~ and the contract between the operator and the department of education and workforce. The bylaws shall include procedures for the

appointment of future members of the school's board of trustees upon expiration of the terms of the initial members, which procedures shall comply with section 3328.15 of the Revised Code. The bylaws also shall include standards for the admission of students to the school and their dismissal from the school. The bylaws shall be subject to the approval of the department.

Sec. 3332.031. The state board of career colleges and schools shall:

(A) ~~Adopt rules under Chapter 119. of the Revised Code necessary to carry out its duties and responsibilities under this chapter;~~

~~(B)~~ Establish minimum standards for the registration and operation of private career schools including but not necessarily limited to standards to ensure school financial stability;

~~(C)~~(B) Issue certificates of registration to private career schools pursuant to division (A) of section 3332.05 of the Revised Code;

~~(D)~~(C) Suspend or revoke the certificate of registration of schools pursuant to sections 3332.09 and 3332.091 of the Revised Code;

~~(E)~~(D) Establish minimum standards for certificate, diploma, and degree programs offered by schools;

~~(F)~~(E) Issue program authorization pursuant to divisions (B) and (C) of section 3332.05 of the Revised Code;

~~(G)~~(F) Suspend or revoke program authorization for schools pursuant to sections 3332.09 and 3332.091 of the Revised Code;

~~(H)~~(G) Establish minimum standards, including but not

necessarily limited to a code of ethics, for agents employed by schools registered under this chapter to reasonably ensure that such agents provide adequate, ethical, and accurate information to prospective students;

~~(I)~~ (H) Grant permits to agents pursuant to sections 3332.10 and 3332.11 of the Revised Code;

~~(J)~~ (I) Suspend or revoke an agent's permit pursuant to section 3123.47 or 3332.12 of the Revised Code;

~~(K)~~ (J) Monitor recruitment and admissions practices of schools holding certificates of registration to ensure compliance with this chapter and the rules of the board;

~~(L)(1)~~ (K)(1) Adopt rules requiring all schools to provide all applicant students, prior to their signing enrollment agreements, written information concerning the school's graduation and placement rates for each of the preceding three years and any other information the board deems pertinent.

(2) Adopt rules requiring all schools to provide any student or applicant student, prior to the signing of any financial aid, grant, or loan application, written information concerning the obligations of a student obtaining such financial aid, grant, or loan.

(3) Upon request, a school shall furnish the board with a copy of all information required by this division. The board shall monitor schools to ensure their compliance with this division.

~~(M)~~ (L) Adopt a rule requiring all schools to include, in the enrollment agreement, notice that any problems the student is having with the school, or complaints the student has about the school, may be directed to the board, which notice shall

include the telephone number of the executive director of the board;

~~(N)~~ (M) Report annually to the governor and the general assembly on the activities of the board and private career schools, and make legislative recommendations when necessary to enable the board to better serve the student population and the schools registered under this chapter;

~~(O)~~ (N) Adopt a rule requiring a uniform tuition refund policy for all schools subject to this chapter. In adopting the rule, the board shall consider the tuition refund policies effectuated by state-supported colleges and universities. Each school subject to this chapter shall furnish to each prospective student, prior to the signing of an enrollment agreement, a copy of the tuition refund policy.

~~(P)~~ (O) Adopt a rule establishing minimum standards for all faculty and instructional staff in all instructional programs at a school. In the case of full-time faculty members employed for degree programs, such standards shall include all of the following:

(1) A prohibition against employing on or after July 1, 1993, any new full-time faculty member to teach the general study portion of any degree program, unless the person holds a master's degree in the subject matter discipline or holds a master's degree in education with proficiency in the subject matter discipline demonstrated in accordance with the standards adopted by the board.

(2) Except as provided under the standards adopted pursuant to division ~~(P)(3)~~ (O)(3) of this section, a prohibition against employing or reemploying on or after July 1, 1998, any

full-time faculty member to teach the general study portion of any degree program, unless the person holds a master's degree in the subject matter discipline or holds a master's degree in education with proficiency in the subject matter discipline demonstrated in accordance with the standards adopted by the board.

(3) Standards under which the board, upon written request submitted to the board prior to July 1, 1994, by any school, may exempt the school from the prohibition adopted pursuant to division ~~(P)(2)~~ (O)(2) of this section with regard to any individual full-time faculty member employed by the school who has demonstrated outstanding teaching performance in the general study portion of any degree program at the school for a period of at least six years prior to July 1, 1993.

(4) Definitions of "full-time faculty member," "new faculty member," and any other term the board considers necessary to define.

~~(Q)~~ (P) Adopt a rule prohibiting a school or branch campus thereof from claiming accreditation from an accrediting agency in any of its advertising, recruiting, or promotional materials unless the agency is recognized as an accrediting agency by the United States department of education.

Sec. 3332.09. (A) The state board of career colleges and schools may, except as provided in division (B) of this section, limit, suspend, revoke, or refuse to issue or renew a certificate of registration or program authorization or may impose a penalty pursuant to section 3332.091 of the Revised Code for any one or combination of the following causes:

(1) Violation of any provision of sections 3332.01 to

3332.09 of the Revised Code, the board's minimum standards, or any rule made by the board;

(2) Furnishing of false, misleading, deceptive, altered, or incomplete information or documents to the board;

(3) The holding of a certificate of registration by a person who has pleaded guilty or has been found guilty of a felony or has pleaded guilty or been found guilty of a crime involving moral turpitude;

(4) The signing of an application or the holding of a certificate of registration by a person who is addicted to the use of any controlled substance, or who is found to be mentally incompetent;

(5) Violation of any commitment made in an application for a certificate of registration or program authorization;

(6) Presenting to prospective students, either at the time of solicitation or enrollment, or through advertising, mail circulars, or phone solicitation, misleading, deceptive, false, or fraudulent information relating to any program, employment opportunity, or opportunities for enrollment in accredited institutions of higher education after entering or completing programs offered by the holder of a certificate of registration;

(7) Failure to provide or maintain premises or equipment for offering programs in a safe and sanitary condition;

(8) Refusal by an agent to display the agent's permit upon demand of a prospective student or other interested person;

(9) Failure to maintain financial resources adequate for the satisfactory conduct of programs as presented in the plan of operation or to retain a sufficient number and qualified staff

of instruction, except that nothing in this chapter requires an instructor to be licensed by the state board of education or to hold any type of post-high school degree;

(10) Offering training or programs other than those presented in the application, except that schools may offer special courses adapted to the needs of individual students when the special courses are in the subject field specified in the application;

(11) Discrimination in the acceptance of students upon the basis of race, color, religion, sex, or national origin;

(12) Accepting the services of an agent not holding a valid permit issued under section 3332.10 or 3332.11 of the Revised Code;

(13) The use of monetary or other valuable consideration by the school's agents or representatives to induce prospective students to enroll in the school, or the practice of awarding monetary or other valuable considerations without board approval to students in exchange for procuring the enrollment of others;

(14) Failure to provide at the request of the board, any information, records, or files pertaining to the operation of the school or recruitment and enrollment of students.

(B) The board shall not refuse to issue a certificate of registration to an applicant because the applicant was found guilty of or pleaded guilty to an offense unless the refusal is in accordance with section 9.79 of the Revised Code.

(C) If the board modifies or adopts additional minimum standards ~~or rules~~ pursuant to section 3332.031 of the Revised Code, all schools and agents shall have sixty days from the effective date of the modifications or additional standards ~~or~~

~~rules~~ to comply with such modifications or additions.

Sec. 3333.04. The chancellor of higher education shall:

(A) Make studies of state policy in the field of higher education and formulate a master plan for higher education for the state, considering the needs of the people, the needs of the state, and the role of individual public and private institutions within the state in fulfilling these needs;

(B)(1) Report annually to the governor and the general assembly on the findings from the chancellor's studies and the master plan for higher education for the state;

(2) Report at least semiannually to the general assembly and the governor the enrollment numbers at each state-assisted institution of higher education.

(C) Approve or disapprove the establishment of new branches or academic centers of state colleges and universities;

(D) Approve or disapprove the establishment of state technical colleges or any other state institution of higher education;

(E) Recommend the nature of the programs, undergraduate, graduate, professional, state-financed research, and public services which should be offered by the state colleges, universities, and other state-assisted institutions of higher education in order to utilize to the best advantage their facilities and personnel;

(F) Recommend to the state colleges, universities, and other state-assisted institutions of higher education graduate or professional programs, including, but not limited to, doctor of philosophy, doctor of education, and juris doctor programs,

that could be eliminated because they constitute unnecessary duplication, as shall be determined using the process developed pursuant to this division, or for other good and sufficient cause. Prior to recommending a program for elimination, the chancellor shall hold at least one public hearing on the matter to determine whether the program should be recommended for elimination. The chancellor shall provide notice of each hearing within a reasonable amount of time prior to its scheduled date.

For purposes of determining the amounts of any state instructional subsidies paid to state colleges, universities, and other state-assisted institutions of higher education, the chancellor may exclude students enrolled in any program that the chancellor has recommended for elimination pursuant to this division except that the chancellor shall not exclude any such student who enrolled in the program prior to the date on which the chancellor initially commences to exclude students under this division.

The chancellor and state colleges, universities, and other state-assisted institutions of higher education shall jointly develop a process for determining which existing graduate or professional programs constitute unnecessary duplication.

(G) Recommend to the state colleges, universities, and other state-assisted institutions of higher education programs which should be added to their present programs;

(H) Conduct studies for the state colleges, universities, and other state-assisted institutions of higher education to assist them in making the best and most efficient use of their existing facilities and personnel;

(I) Make recommendations to the governor and general

assembly concerning the development of state-financed capital plans for higher education; the establishment of new state colleges, universities, and other state-assisted institutions of higher education; and the establishment of new programs at the existing state colleges, universities, and other institutions of higher education;

(J) Review the appropriation requests of the public community colleges and the state colleges and universities and submit to the office of budget and management and to the chairpersons of the finance committees of the house of representatives and of the senate the chancellor's recommendations in regard to the biennial higher education appropriation for the state, including appropriations for the individual state colleges and universities and public community colleges. For the purpose of determining the amounts of instructional subsidies to be paid to state-assisted colleges and universities, the chancellor shall define "full-time equivalent student" by program per academic year. The definition may take into account the establishment of minimum enrollment levels in technical education programs below which support allowances will not be paid. Except as otherwise provided in this section, the chancellor shall make no change in the definition of "full-time equivalent student" in effect on November 15, 1981, which would increase or decrease the number of subsidy-eligible full-time equivalent students, without first submitting a fiscal impact statement to the president of the senate, the speaker of the house of representatives, the legislative service commission, and the director of budget and management. The chancellor shall work in close cooperation with the director of budget and management in this respect and in all other matters concerning the expenditures of appropriated funds

by state colleges, universities, and other institutions of higher education.

(K) Seek the cooperation and advice of the officers and trustees of both public and private colleges, universities, and other institutions of higher education in the state in performing the chancellor's duties and making the chancellor's plans, studies, and recommendations;

(L) Appoint advisory committees consisting of persons associated with public or private secondary schools, members of the state board of education, or personnel of the department of education and workforce;

(M) Appoint advisory committees consisting of college and university personnel, or other persons knowledgeable in the field of higher education, or both, in order to obtain their advice and assistance in defining and suggesting solutions for the problems and needs of higher education in this state;

(N) Approve or disapprove all new degrees and new degree programs at all state colleges, universities, and other state-assisted institutions of higher education.

When considering approval of a new degree or degree program for a state institution of higher education, as defined in section 3345.011 of the Revised Code, the chancellor shall take into account the extent to which the degree or degree program aligns with the state's workforce development priorities.

(O) Adopt ~~such rules as are necessary to carry out the chancellor's duties and responsibilities. The rules shall prescribe~~ procedures for the chancellor to follow when taking actions associated with the chancellor's duties and

responsibilities and shall indicate which types of actions are subject to those procedures. The procedures adopted under this division shall be in addition to any other procedures prescribed by law for such actions. However, if any other provision of the Revised Code ~~or rule adopted by the chancellor~~ prescribes different procedures for such an action, the procedures adopted under this division shall not apply to that action to the extent they conflict with the procedures otherwise prescribed by law. The procedures adopted under this division shall include at least the following:

(1) Provision for public notice of the proposed action;

(2) An opportunity for public comment on the proposed action, which may include a public hearing on the action by the chancellor;

(3) Methods for parties that may be affected by the proposed action to submit comments during the public comment period;

(4) Written publication of the final action taken by the chancellor and the chancellor's rationale for the action;

(5) A timeline for the process described in divisions (O)(1) to (4) of this section.

(P) Make recommendations to the governor and the general assembly regarding the design and funding of the student financial aid programs specified in sections 3333.122, 3333.21 to 3333.26, and 5910.02 of the Revised Code;

(Q) Participate in education-related state or federal programs on behalf of the state and assume responsibility for the administration of such programs in accordance with applicable state or federal law;

(R) Adopt rules for student financial aid programs as required by sections 3333.122, 3333.21 to 3333.26, 3333.28, and 5910.02 of the Revised Code, and perform any other administrative functions assigned to the chancellor by those sections;

(S) Conduct enrollment audits of state-supported institutions of higher education;

(T) Appoint consortia of college and university personnel to advise or participate in the development and operation of statewide collaborative efforts, including the Ohio supercomputer center, the Ohio academic resources network, OhioLink, and the Ohio learning network. For each consortium, the chancellor shall designate a college or university to serve as that consortium's fiscal agent, financial officer, and employer. Any funds appropriated for the consortia shall be distributed to the fiscal agents for the operation of the consortia. The chancellor may restructure existing consortia, appointed under this division, in accordance with procedures adopted under divisions (O)(1) to (5) of this section.

A consortium shall follow the rules of the college or university that serves as its fiscal agent, except that when making a purchase with appropriated funds of any product that includes semiconductors, a consortium shall conduct the purchase in accordance with rules adopted by the director of administrative services under division (B) of section 125.09 of the Revised Code for giving preference to Buy Ohio products.

(U) ~~Adopt rules establishing advisory duties and responsibilities of the department of higher education not otherwise prescribed by law;~~

~~(V)~~ Respond to requests for information about higher education from members of the general assembly and direct staff to conduct research or analysis as needed for this purpose.

Notwithstanding any provision of law to the contrary, and to reduce duplicative reporting, the chancellor may use data or information submitted to the higher education information system and other public data exchanges, as determined appropriate, to fulfill reporting requirements, provided the information is materially consistent.

Sec. 3333.052. (A) The chancellor of higher education, with the assistance of the department of job and family services, shall establish the community college acceleration program to enhance financial, academic, and personal support services to students in need of support from local social service agencies. The program shall identify the services and resources available to assist eligible students enrolled in a community college established under Chapter 3354., a state community college established under Chapter 3358., a technical college established under Chapter 3357., or a university branch campus established under Chapter 3355. of the Revised Code.

(B) The chancellor shall adopt rules to ~~administer the program. The rules shall~~ specify the types of services provided by the program, which may include any of the following:

(1) Comprehensive and personalized advisement;

(2) Career counseling;

(3) Tutoring;

(4) Tuition waivers;

(5) Financial assistance to defray the costs of

transportation and textbooks.

Sec. 3333.073. The chancellor of higher education may require a state institution of higher education, as defined in section 3345.011 of the Revised Code, to conduct a viability analysis of any program offered at that institution and submit the findings of the analysis to the chancellor, if the chancellor determines that the program has a low completion rate, low enrollment rate, or meets other criteria determined relevant by the chancellor. ~~The chancellor may adopt rules to implement this section.~~

Sec. 3333.125. (A) As used in this section:

(1) "Eligible student" means an individual who satisfies all of the following:

(a) The individual is an Ohio resident.

(b) The individual is enrolled in an eligible school.

(c) The individual has passed a drug test.

(d) The individual does not have more than three moving violations in two consecutive years. If an individual who the eligible school has determined is an eligible student has three moving violations in two consecutive years while participating in the program, the individual shall no longer be considered eligible for continued participation in the program.

(e) The individual has not plead guilty to or been convicted of operating a vehicle under the influence of alcohol or a drug of abuse under section 4511.19 of the Revised Code in the past twelve months. If an individual who the eligible school has determined is an eligible student pleads guilty to or is convicted of operating a vehicle under the influence of alcohol

or a drug of abuse while participating in the program, the individual shall no longer be considered eligible for continued participation in the program.

(f) The individual meets any additional eligibility criteria established under rules adopted by the chancellor, in consultation with the director of public safety, under division (F) of this section.

(2) "Eligible school" means either of the following:

(a) A commercial driver training school certified by the director of public safety as holding a license issued pursuant to section 4508.03 or 4508.09 of the Revised Code, rules adopted under either of those sections, and other necessary standards and procedures as determined by the director;

(b) A program exempted from licensure by the director of public safety under section 4508.07 of the Revised Code but approved to be a commercial driver training school by the chancellor and the director for purposes of the student aid program at any of the following:

(i) A state institution of higher education, as defined in section 3345.011 of the Revised Code;

(ii) A career college or school in this state that holds a certificate of registration from the state board of career colleges and schools under Chapter 3332. of the Revised Code;

(iii) A private, nonprofit institution in this state that holds a certificate of authorization pursuant to Chapter 1713. of the Revised Code;

(iv) A private institution exempt from regulation under Chapter 3332. of the Revised Code as prescribed in section

3333.046 of the Revised Code, if the program has a certificate of authorization pursuant to Chapter 1713. of the Revised Code;

(v) A career-technical center, joint vocational school district, comprehensive career-technical center, or compact career-technical center offering adult training.

No commercial driver training school that charges employers recruiting fees shall be certified under this division.

(3) "Employed in this state" means either of the following:

(a) An individual is employed as a truck driver by an entity that has a valid mailing address in the state.

(b) An individual is self-employed as a truck driver using a valid mailing address in the state.

(4) "Moving violation" has the same meaning as in section 4510.01 of the Revised Code.

(B) The commercial truck driver student aid program is hereby established. Under the program, the chancellor of higher education shall make awards to eligible schools. Schools that receive such awards shall distribute to an eligible student who commits to reside in and be employed in this state for a minimum of one year upon completion of a commercial driver training program a combination of a grant and a loan in the amounts prescribed by the chancellor under division (D) of this section to pay for the costs of a commercial driver training program at an eligible school.

(C) There is hereby established in the state treasury the commercial truck driver student aid fund, which shall consist of

funds appropriated by the general assembly for purposes of this section and funds received as repayment for loans awarded under this section.

The fund shall be used by the chancellor for grants and loans made under this section and for expenses of creating and administering the program.

(D)(1) The chancellor shall determine the grant and loan amount awarded to an eligible student.

Except as provided in division (D)(2) of this section, the chancellor also shall award a loan to an eligible student in the same amount as the grant. A loan for an eligible student's program costs under this section shall not exceed ten thousand dollars. The total amount of a grant and a loan awarded to an eligible student under this section shall not exceed the cost of tuition and related expenses for an eligible school's commercial driver training program.

(2) If, for any academic year, the amounts available for support of the program are inadequate to provide grants and loans to all eligible students who apply for participation or are participating in the program, the chancellor shall proportionately reduce the amount of each grant and loan to be awarded for the academic year.

(E)(1) The chancellor shall be responsible for making deposits and withdrawals and maintaining records pertaining to the student aid program.

(2) Each eligible student who accepts a grant or loan under division (B) of this section shall sign a promissory note payable to the state in the event the student fails to do either of the following:

(a) Satisfy the residency and employment requirement under that division;

(b) Complete the commercial driver training program in which the student was enrolled.

(3) The amount payable under the note shall be the amount of the grant or loan accepted by the student plus interest accrued annually beginning either one calendar year after the student completes a commercial driver training program or immediately after the student disenrolls from, or does not complete, a commercial driver training program. The chancellor shall determine the interest rate and period of repayment under the note. The chancellor may consult with the attorney general and the treasurer of state when determining the interest rate and period of repayment.

(4) The note shall stipulate that the obligation to make payments under the note is canceled once either of the following applies to the student:

(a) The student completes a commercial driver training program and meets the residency and employment requirement under division (B) of this section.

(b) The student dies or becomes totally and permanently disabled.

(F) The chancellor, in consultation with the director of public safety, shall adopt rules, in accordance with Chapter 119. of the Revised Code, ~~necessary for the operation of the program, including rules~~ for all of the following:

(1) Terms and conditions for loans under the program;

(2) Requirements for certification of commercial driver

training schools;

(3) Additional eligibility criteria that the chancellor determines necessary for individuals participating in the program.

Sec. 3333.126. (A) As used in this section, "eligible student" means a student to whom all of the following apply:

(1) The student receives an Ohio college opportunity grant under section 3333.122 of the Revised Code.

(2) The student has completed at least two years of a bachelor's degree program.

(3) The student is making progress toward completing the student's bachelor's degree program.

(B) In addition to the Ohio college opportunity grant a student is awarded under section 3333.122 of the Revised Code, the chancellor shall award an eligible student with a supplemental grant. Funding for this supplemental grant shall be paid for from funds appropriated for grants awarded under section 3333.122 of the Revised Code. Supplemental grants awarded under this section shall be subject to the same requirements as a grant awarded under section 3333.122 of the Revised Code, including divisions (D)(1) and (E) of that section.

The chancellor shall award supplemental grants under this section only if the chancellor determines that sufficient funds remain for that purpose after the chancellor awards grants under section 3333.122 of the Revised Code.

(C) The chancellor shall adopt rules to ~~implement this section. The rules shall include~~ establish a method to calculate

supplemental grant amounts.

Sec. 3333.127. (A) As used in this section:

(1) "Cost of attendance" has the same meaning as in 20 U.S.C. 10871l.

(2) "Eligible student" means a student to whom all of the following apply:

(a) The student is a resident of this state under rules adopted by the chancellor of higher education under section 3333.31 of the Revised Code.

(b) The student has not attained a bachelor's degree from a qualifying institution or an institution of higher education in another state prior to applying for a grant under this section.

(c) The student, while in good standing, disenrolled from a qualifying institution and did not transfer to a qualifying institution or an institution of higher education in another state in the two semesters or eight months immediately following the student's disenrollment. For the purposes of this division, "good standing" includes being in good academic standing and not having a record of disciplinary issues, including being suspended or expelled from the qualifying institution.

Qualifying institutions that do not use a semester calendar shall use eight months as the metric for determining a student's disenrollment period.

(d) Subject to division (A)(2)(c) of this section, the student enrolls in a qualifying institution within five years of disenrolling from the qualifying institution.

(e) The student is not enrolled in the college credit plus

program established under Chapter 3365. of the Revised Code.

(f) The student meets any other eligibility criteria determined necessary by the chancellor.

(3) "Qualifying institution" means any of the following:

(a) A state institution of higher education, as defined in section 3345.011 of the Revised Code;

(b) A private nonprofit institution of higher education that holds a certificate of authorization pursuant to Chapter 1713. of the Revised Code;

(c) An institution with a certificate of registration from the state board of career colleges and schools under Chapter 3332. of the Revised Code;

(d) A private institution exempt from regulation under Chapter 3332. of the Revised Code as prescribed in section 3333.046 of the Revised Code;

(e) An Ohio technical center, as defined in section 3333.94 of the Revised Code.

(B) The chancellor shall establish the second chance grant program. Under the program, the chancellor shall award a one-time grant of not more than three thousand dollars to each eligible student approved to participate in the program.

(C) Eligible students shall apply to participate in the program in a form and manner prescribed by the chancellor. The chancellor shall approve each applicant who is enrolled in a qualifying institution and who has a cost of attendance remaining for the academic year in which the application is approved after all other financial aid for which that applicant qualifies has been applied to the applicant's account at the

institution. The chancellor shall approve applications in the order in which they are received.

(D) The chancellor shall pay grants to the qualifying institution in which a participant is enrolled in the academic year in which the participant's application is approved. The qualifying institution shall apply the grant to a participant's cost of attendance for that academic year. If any amount of the grant remains after it is applied to the participant's cost of attendance for that year, the qualifying institution shall apply that remaining amount to the participant's cost of attendance for any other academic year in which the student is enrolled in the institution. The qualifying institution shall return to the chancellor any grant amount remaining after a participant graduates or disenrolls from the institution.

(E) In each academic year, the chancellor shall submit to the general assembly, in accordance with section 101.68 of the Revised Code, a report that contains all of the following:

(1) The number of eligible students participating in the program who received a grant in that academic year;

(2) The qualifying institutions from which the participants disenrolled, as described in division (A)(2)(c) of this section;

(3) The types of academic programs in which the participants were enrolled prior to disenrolling from qualifying institutions;

(4) The types of academic programs in which participants were enrolled when they received grants under the program;

(5) Information regarding how the grants were used;

(6) If the participant completed a degree program with the grant.

(F) The second chance grant program fund is hereby created in the state treasury, to consist of such amounts designated for the purposes of the fund by the general assembly. The fund shall be administered by the chancellor and shall be used to pay grants under the program established under this section. The fund also may be used by the chancellor to implement and administer the second chance grant program.

~~(G) The chancellor shall adopt rules to administer the program.~~

Sec. 3333.13. As used in sections 3333.13 to ~~3333.137~~ 3333.136 of the Revised Code, "employed as a service attorney" means any of the following:

(A) An attorney who works a minimum of thirty-five hours per week for a minimum of forty-five weeks each service year and who is employed by any of the following:

(1) The state public defender;

(2) The prosecuting attorney of a county;

(3) A county public defender commission;

(4) A joint county public defender commission to represent indigent persons.

(B) Counsel appointed by the court or selected by an indigent person under division (E) of section 120.16 or division (E) of section 120.26 of the Revised Code, who works in an area designated as an underserved community under section 3333.132 of the Revised Code for a minimum of five hundred twenty hours each service year.

(C) An attorney engaged in the private practice of law, who practices civil law, and who works in an area designated as an underserved community under section 3333.132 of the Revised Code for a minimum of five hundred twenty hours each service year.

Sec. 3333.136. The chancellor of higher education may accept gifts of money from any source for the implementation and administration of sections 3333.13 to ~~3333.137~~ 3333.136 of the Revised Code. The chancellor shall pay all gifts accepted under this section into the state treasury to the credit of the underserved community fund, which is hereby created.

The chancellor shall pay all damages collected under division (B)(3) of section 3333.135 of the Revised Code into the state treasury to the credit of the rural practice incentive fund, which is hereby created.

The chancellor shall use the underserved community fund and the rural practice incentive fund for the implementation and administration of sections 3333.13 to ~~3333.137~~ 3333.136 of the Revised Code.

Sec. 3333.168. (A) As used in this section:

(1) "Community college" means a community college established under Chapter 3354., a technical college established under Chapter 3357., or a state community college established under Chapter 3358. of the Revised Code.

(2) "Dual enrollment" means concurrent enrollment by an individual at both a state university and a community college.

(3) "Guaranteed pathway" means an articulation or transfer agreement included in the initiative established under this section that a state university and community college enter into

in accordance with the policies and procedures adopted under section 3333.16 of the Revised Code.

(4) "Joint academic programming" means a structured pathway curriculum agreement that permits an individual to attain a specific degree that has been jointly developed by at least one community college and at least one state university.

(5) "State university" has the same meaning as in section 3345.011 of the Revised Code.

(B) Pursuant to section 3333.16 of the Revised Code, the chancellor of higher education shall establish the Ohio guaranteed transfer pathways initiative. Each state university shall participate in the initiative. Under the initiative, a student shall be permitted to do both of the following:

(1) Complete an associate's degree at a community college and transfer those credits to a state university to continue making progress toward a bachelor's degree;

(2) Transfer credits from a community college to a state university, regardless of the geographic proximity between the college and university.

(C) Each state university shall enter into agreements with multiple community colleges to establish both joint academic programming and dual enrollment opportunities to assist students in completing their degrees in a timely and cost-effective manner.

(D) Each community college and state university annually shall report to the Ohio articulation and transfer network oversight board established by the chancellor the number of guaranteed pathways and joint academic programming or dual enrollment opportunities the college or university offers. The

oversight board shall compile that reported information and provide a summary of it to the chancellor. That summary shall include both of the following:

(1) Confirmation that each community college and state university is in compliance with the requirements prescribed under this section;

(2) Any recommendations necessary to enhance and strengthen the guaranteed pathways and joint academic programming or dual enrollment opportunities offered by community colleges and state universities.

~~(E) The chancellor shall adopt rules to implement this section.~~

Sec. 3333.28. (A) The chancellor of higher education shall establish the nurse education assistance program, the purpose of which shall be to make loans to students enrolled in prelicensure nurse education programs at institutions approved by the board of nursing under section 4723.06 of the Revised Code and postlicensure nurse education programs approved by the chancellor under section 3333.04 of the Revised Code or offered by an institution holding a certificate of authorization issued under Chapter 1713. of the Revised Code. The board of nursing shall assist the chancellor in administering the program.

(B) There is hereby created in the state treasury the nurse education assistance fund, which shall consist of all money transferred to it pursuant to section 4743.05 of the Revised Code. The fund shall be used by the chancellor for loans made under division (A) of this section and for expenses of administering the loan program.

(C) Between July 1, 2005, and January 1, 2012, the

chancellor shall distribute money in the nurse education assistance fund in the following manner:

(1)(a) Fifty per cent of available funds shall be awarded as loans to registered nurses enrolled in postlicensure nurse education programs described in division (A) of this section. To be eligible for a loan, the applicant shall provide the chancellor with a letter of intent to practice as a faculty member at a prelicensure or postlicensure program for nursing in this state upon completion of the applicant's academic program.

(b) If the borrower of a loan under division (C)(1)(a) of this section secures employment as a faculty member of an approved nursing education program in this state within six months following graduation from an approved nurse education program, the chancellor may forgive the principal and interest of the student's loans received under division (C)(1)(a) of this section at a rate of twenty-five per cent per year, for a maximum of four years, for each year in which the borrower is so employed. A deferment of the service obligation, and other conditions regarding the forgiveness of loans may be granted as provided by the rules adopted under division (D)(7) of this section.

(c) Loans awarded under division (C)(1)(a) of this section shall be awarded on the basis of the student's expected family contribution, with preference given to those applicants with the lowest expected family contribution. However, the chancellor may consider other factors the chancellor determines relevant in ranking the applications.

(d) Each loan awarded to a student under division (C)(1)(a) of this section shall be not less than five thousand dollars per year.

(2) Twenty-five per cent of available funds shall be awarded to students enrolled in prelicensure nurse education programs for registered nurses, as defined in section 4723.01 of the Revised Code.

(3) Twenty-five per cent of available funds shall be awarded to students enrolled in nurse education programs as determined by the chancellor, with preference given to programs aimed at increasing enrollment in an area of need.

After January 1, 2012, the chancellor shall determine the manner in which to distribute loans under this section.

(D) Subject to the requirements specified in division (C) of this section, the chancellor shall adopt rules in accordance with Chapter 119. of the Revised Code establishing:

(1) Eligibility criteria for receipt of a loan;

(2) Loan application procedures;

(3) The amounts in which loans may be made and the total amount that may be loaned to an individual;

(4) The total amount of loans that can be made each year;

(5) The percentage of the money in the fund that must remain in the fund at all times as a fund balance;

(6) Interest and principal repayment schedules;

(7) Conditions under which a portion of principal and interest obligations incurred by an individual under the program will be forgiven;

(8) Conditions under which all or a portion of the principal and interest obligations incurred by an individual who is deployed on active duty outside of the state or who is the

spouse of a person deployed on active duty outside of the state may be deferred or forgiven.

(9) Ways that the program may be used to encourage individuals who are members of minority groups to enter the nursing profession~~;~~

~~(10) Any other matters incidental to the operation of the program~~.

(E) The obligation to repay a portion of the principal and interest on a loan made under this section shall be forgiven if the recipient of the loan meets the criteria for forgiveness established by division (C)(1)(b) of this section, in the case of loans awarded under division (C)(1)(a) of this section, or by the chancellor under the rule adopted under division (D)(7) of this section, in the case of other loans awarded under this section.

(F) The obligation to repay all or a portion of the principal and interest on a loan made under this section may be deferred or forgiven if the recipient of the loan meets the criteria for deferment or forgiveness established by the chancellor under the rule adopted under division (D)(8) of this section.

(G) The receipt of a loan under this section shall not affect a student's eligibility for assistance, or the amount of that assistance, granted under section 3333.122, 3333.22, 3333.26, 5910.03, 5910.032, or 5919.34 of the Revised Code, but the rules of the chancellor may provide for taking assistance received under those sections into consideration when determining a student's eligibility for a loan under this section.

(H) As used in this section, "active duty" means active duty pursuant to an executive order of the president of the United States, an act of the congress of the United States, or section 5919.29 or 5923.21 of the Revised Code.

Sec. 3333.37. As used in sections 3333.37 to 3333.375 of the Revised Code, the following words and terms have the following meanings unless the context indicates a different meaning or intent:

(A) "Cost of attendance" means all costs of a student incurred in connection with a program of study at an eligible institution, as determined by the institution, including tuition; instructional fees; room and board; books, computers, and supplies; and other related fees, charges, and expenses.

(B) "Eligible institution" means one of the following:

(1) A state-assisted post-secondary educational institution within the state;

(2) A nonprofit institution of higher education within the state that holds a certificate of authorization issued under Chapter 1713. of the Revised Code, that is accredited by the appropriate regional and, when appropriate, professional accrediting associations within whose jurisdiction it falls, is authorized to grant a bachelor's degree or higher, and satisfies other conditions ~~as set forth in the policy guidelines~~;

(3) A private institution exempt from regulation under Chapter 3332. of the Revised Code as prescribed in section 3333.046 of the Revised Code.

(C) "Eligible student" means either of the following:

(1) An undergraduate student who meets all of the

following:

(a) Is a resident of this state;

(b) Has graduated from any Ohio secondary school for which the director of education and workforce prescribes minimum standards in accordance with section 3301.07 of the Revised Code;

(c) Is attending and in good standing, or has been accepted for attendance, at any eligible institution as a full-time student to pursue a bachelor's degree.

(2) A graduate student who is a resident of this state, and is attending and in good standing, or has been accepted for attendance, at any eligible institution.

(D) "Fellowship" or "fellowship program" means the Ohio priority needs fellowship created by sections 3333.37 to 3333.375 of the Revised Code.

(E) "Full-time student" has the meaning as defined by rule of the chancellor of higher education.

(F) "Ohio outstanding scholar" means a student who is the recipient of a scholarship under sections 3333.37 to 3333.375 of the Revised Code.

(G) ~~"Policy guidelines" means the rules adopted by the chancellor pursuant to section 3333.374 of the Revised Code.~~

~~(H)~~ "Priority needs fellow" means a student who is the recipient of a fellowship under sections 3333.37 to 3333.375 of the Revised Code.

~~(I)~~ (H) "Priority needs field of study" means those academic majors and disciplines as determined by the chancellor

that support the purposes and intent of sections 3333.37 to 3333.375 of the Revised Code as described in section 3333.371 of the Revised Code.

~~(J)~~ (I) "Scholarship" or "scholarship program" means the Ohio outstanding scholarship created by sections 3333.37 to 3333.375 of the Revised Code.

Sec. 3333.391. (A) As used in this section and in section 3333.392 of the Revised Code:

(1) "Academic year" shall be as defined by the chancellor of higher education.

(2) "Hard-to-staff school" and "hard-to-staff subject" shall be as defined by the department of education and workforce.

(3) "Parent" means the parent, guardian, or custodian of a qualified student.

(4) "Qualified service" means teaching at a qualifying school.

(5) "Qualifying school" means a hard-to-staff school district building or a school district building that has a persistently low performance rating, as determined jointly by the chancellor and the department of education and workforce, under section 3302.03 of the Revised Code at the time the recipient becomes employed by the district.

(B) If the chancellor of higher education determines that sufficient funds are available from general revenue fund appropriations made to the department of higher education or to the chancellor, the chancellor and the department of education and workforce jointly may develop and agree on a plan for the

Ohio teaching fellows program to promote and encourage high school seniors to enter and remain in the teaching profession. Upon agreement of such a plan, the chancellor shall establish and administer the program in conjunction with the department of education and workforce and with the cooperation of teacher training institutions. Under the program, the chancellor annually shall provide scholarships to students who commit to teaching in a qualifying school for a minimum of four years upon graduation from a teacher training program at a state institution of higher education or an Ohio nonprofit institution of higher education that has a certificate of authorization under Chapter 1713. of the Revised Code. The scholarships shall be for up to four years at the undergraduate level at an amount determined by the chancellor based on state appropriations.

(C) The chancellor shall adopt a competitive process for awarding scholarships under the teaching fellows program, which shall include minimum grade point average and scores on national standardized tests for college admission. The process shall also give additional consideration to all of the following:

(1) A person who has participated in the program described in division (A) of section 3333.39 of the Revised Code;

(2) A person who plans to specialize in teaching students with special needs;

(3) A person who plans to teach in the disciplines of science, technology, engineering, or mathematics.

The chancellor shall require that all applicants to the teaching fellows program shall file a statement of service status in compliance with section 3345.32 of the Revised Code, if applicable, and that all applicants have not been convicted

of, plead guilty to, or adjudicated a delinquent child for any violation listed in section 3333.38 of the Revised Code.

(D) Teaching fellows shall complete the four-year teaching commitment within not more than seven years after graduating from the teacher training program. Failure to fulfill the commitment shall convert the scholarship into a loan to be repaid under section 3333.392 of the Revised Code.

~~(E) The chancellor shall adopt rules in accordance with Chapter 119. of the Revised Code to administer this section and section 3333.392 of the Revised Code.~~

Sec. 3333.61. The chancellor of higher education shall establish and administer the choose Ohio first scholarship program. Under the program, the chancellor, subject to approval by the controlling board, shall make awards to state universities or colleges for programs and initiatives that recruit students and provide work-based learning opportunities in the fields of science, including health professions, technology, engineering, and mathematics to state universities or colleges, in order to enhance regional educational and economic strengths and meet the needs of the state's regional economies. Awards may be granted for programs and initiatives to be implemented by a state university or college alone or in collaboration with other state institutions of higher education, nonpublic Ohio universities and colleges, or other public or private Ohio entities. If the chancellor makes an award to a program or initiative that is intended to be implemented by a state university or college in collaboration with other state institutions of higher education or nonpublic Ohio universities or colleges, the chancellor may provide that some portion of the award be received directly by the collaborating universities or

colleges consistent with all terms of the choose Ohio first scholarship program.

The choose Ohio first scholarship program shall assign a number of scholarships to state universities and colleges to recruit Ohio residents as undergraduate or graduate students in the fields of science, technology, engineering, and mathematics, or in science, technology, engineering, or mathematics, education. The chancellor also may assign a number of choose Ohio first scholarships to state universities and colleges to recruit Ohio residents to enroll in certificate programs in the fields of science, technology, engineering, and mathematics. Choose Ohio first scholarships shall be awarded to each participating eligible student as a grant to the state university or college the student is attending and shall be reflected on the student's tuition bill. Choose Ohio first scholarships are student-centered grants from the state to students to use to attend a university or college and are not grants from the state to universities or colleges.

Notwithstanding any other provision of this section or sections 3333.62 to 3333.69 of the Revised Code, a nonpublic four-year Ohio institution of higher education may submit a proposal for choose Ohio first scholarships. If the chancellor awards a nonpublic institution scholarships, the nonpublic institution shall comply with all requirements of this section~~,~~ and sections 3333.62 to 3333.69 of the Revised Code~~, and the rules adopted under this section that apply to state universities or colleges awarded choose Ohio first scholarships.~~

~~The chancellor shall adopt rules in accordance with Chapter 119. of the Revised Code to administer the program~~.

Sec. 3333.70. (A) The chancellor of higher education shall

establish and administer the Ohio higher education innovation grant program to promote educational excellence and economic efficiency throughout the state in order to stabilize or reduce student tuition rates at institutions of higher education. Under the program, the chancellor shall award grants to state institutions of higher education, as defined in section 3345.011 of the Revised Code, and private nonprofit institutions for innovative projects that incorporate academic achievement and economic efficiencies. State institutions of higher education and private nonprofit institutions may apply for grants and initiate collaboration with other institutions of higher education, either public or private, on such projects.

(B) The chancellor shall adopt rules to ~~administer the program including, but not limited to, requirements~~ require that each grant application provides for all of the following:

(1) A system by which to measure academic achievement and reductions in expenditures, both in funding and administration;

(2) Demonstration of how the project will be sustained beyond the grant period and continue to provide substantial value and lasting impact;

(3) Proof of commitment from all parties responsible for the implementation of the project;

(4) Implementation of an ongoing evaluation process and improvement plans, as necessary.

(C) As used in this section, "private nonprofit institution" means a nonprofit institution in this state that has a certificate of authorization pursuant to Chapter 1713. of the Revised Code.

Sec. 3333.72. The chancellor of higher education shall

establish and administer the Ohio co-op/internship program to promote and encourage cooperative education programs or internship programs at Ohio institutions of higher education for the purpose of recruiting Ohio students to stay in the state, and recruiting Ohio residents who left Ohio to attend out-of-state institutions of higher education back to Ohio institutions of higher education, to participate in high quality academic programs that use cooperative education programs or significant internship programs, in order to support the growth of Ohio's businesses by providing businesses with Ohio's most talented students and providing Ohio graduates with job opportunities with Ohio's growing companies.

The chancellor, subject to approval by the controlling board, shall make awards to state institutions of higher education for new or existing programs and initiatives meeting the goals of the Ohio co-op/internship program. Awards may be granted for programs and initiatives to be implemented by a state institution of higher education alone or in collaboration with other state institutions of higher education or nonpublic Ohio universities and colleges. If the chancellor makes an award to a program or initiative that is intended to be implemented by a state institution of higher education in collaboration with other state institutions of higher education or nonpublic Ohio universities or colleges, the chancellor may provide that some portion of the award be received directly by the collaborating universities or colleges consistent with all terms of the Ohio co-op/internship program.

The Ohio co-op/internship program shall support the creation and maintenance of high quality academic programs that utilize an intensive cooperative education or internship program for students at state institutions of higher education, or

assign a number of scholarships to institutions to recruit Ohio residents as students in a high quality academic program, or both. If scholarships are included in an award to an institution of higher education, the scholarships shall be awarded to each participating eligible student as a grant to the state institution of higher education the student is attending and shall be reflected on the student's tuition bill.

Notwithstanding any other provision of this section or sections 3333.73 to 3333.79 of the Revised Code, an Ohio four-year nonpublic university or college may submit a proposal as lead applicant or co-lead applicant for an award under the Ohio co-op/internship program if the proposal is to be implemented in collaboration with a state institution of higher education. If the chancellor grants a nonpublic university or college an award, the nonpublic university or college shall comply with all requirements of this section~~,~~ and sections 3333.73 to 3333.79 of the Revised Code~~, and the rules adopted under this section that apply to state institutions of higher education that receive awards under the program.~~

~~The chancellor shall adopt rules in accordance with Chapter 119. of the Revised Code to administer the Ohio co-op/internship program~~.

Sec. 3333.88. Nothing in sections 3333.81 to ~~3333.87~~ 3333.86 of the Revised Code, or in rules implementing those sections, shall prohibit a school district, community school, STEM school, or college or university from offering an interactive distance learning course or other distance learning course using a computer-based method through any means other than the clearinghouse established and maintained under those sections.

Sec. 3333.90. (A) The chancellor of higher education shall establish a course and program sharing network that enables members of the university system of Ohio and adult career centers to share curricula for existing courses and academic programs with one another. The purpose of the network shall be to increase course availability across the state and to avoid unnecessary course duplication through the sharing of existing curricula.

(B) ~~The chancellor shall adopt rules to administer the course and program sharing network established under this section.~~

~~(C)~~ As used in this section, "member of the university system of Ohio" has the same meaning as in section 3345.011 of the Revised Code.

Sec. 3345.024. (A) Beginning in the academic year that follows~~ the effective date of this section~~ July 21, 2022, each state institution of higher education, as defined in section 3345.011 of the Revised Code, annually shall prepare and post on its publicly accessible web site a report that includes at least all of the following information, to the extent practicable:

(1) An itemized list of the estimated or actual charges of the instructional fees, general fees, special purpose fees, service charges, fines, and other fees or surcharges applicable to enrolled students;

(2) The estimated or actual average cost of attendance;

(3) Student degree completion rates;

(4) Post-graduation student debt rates;

(5) Post-graduation student loan default rates;

(6) Post-graduation employment rates of students.

(B) Each state institution of higher education annually shall submit to the chancellor of higher education, in a form and manner prescribed by the chancellor, the report prescribed under division (A) of this section. The chancellor shall post each report on the chancellor's web site.

~~(C) The chancellor may adopt rules to implement this section.~~

Sec. 3345.27. (A) Each state university or college shall permit any person who is sixty years of age or older and who has resided in the state for at least one year to attend its courses and classes without charging that person a tuition or matriculation fee, provided the attendance is on a noncredit basis, is in courses where classroom space is available, and is approved by the instructors of the courses involved. The university or college may require payment of special fees, including any laboratory fees, if the fees are required of all students taking a course. Each university or college shall issue rules for determining the availability of classroom space and may issue ~~such other rules as it considers necessary to implement this section, including~~ rules exempting from the requirements of this section courses or classes for which special course or training prerequisites apply, in which physical demands upon students are inappropriate for imposition upon persons sixty years of age or older, or in which the number of participating regular students is insufficient to cover the university's or college's course-related expenses. A university or college also may extend to persons attending its courses and classes under this section any other student rights or privileges it considers appropriate.

(B) A state university or college may permit a person to attend its courses and classes and to receive credit for a course taken under the conditions set forth in division (A) of this section if that person's family income is less than two hundred per cent of the federal poverty guideline, as revised annually by the United States secretary of health and human services in accordance with section 673 of the "Community Services Block Grant Act," 95 Stat. 511 (1981) 42 U.S.C.A. 9902, as amended, for a family size equal to the size of the family of the person whose income is being determined. However, a person receiving credit for attending courses or classes under this division may be charged a tuition or matriculation fee in an amount no greater than the amount of any part-time student instructional grant awarded to that person by the state university or college in its discretion.

(C) For the purposes of this section, "state university or college" means any of the following:

(1) State universities referred to in section 3345.011 of the Revised Code;

(2) Community colleges created pursuant to Chapter 3354. of the Revised Code;

(3) University branches created pursuant to Chapter 3355. of the Revised Code;

(4) Technical colleges created pursuant to Chapter 3357. of the Revised Code;

(5) State community colleges created pursuant to Chapter 3358. of the Revised Code;

(6) Municipal educational institutions serving as affiliated units pursuant to section 3349.31 of the Revised

Code.

Sec. 3345.28. The board of trustees of any state university, medical university, technical college, state community college, community college, or the board of trustees or managing authority of any university branch may establish and administer a faculty improvement program, under which any full-time faculty member with at least seven academic years of teaching service at the college, university, or branch may be granted professional leave for a period not to exceed one academic year to engage in further education, research, or any other purpose approved by the board. A board of trustees or managing authority that establishes such a program shall, by rule, adopt a definition of "academic years of teaching service" and of "full-time faculty member."

No such board or authority shall pay any faculty member for or during a period of professional leave any salary exceeding the amount that would have been paid to such faculty member for performing the faculty member's regular duties during the period of the leave. No faculty member shall, by virtue of being on professional leave, suffer a reduction or termination of the faculty member's regular employee retirement or insurance benefits or of any other benefit or privilege being received as a faculty member at the college, university, or branch where the faculty member is employed. Whenever such a benefit would be reduced because of a reduction in the faculty member's salary during the period of professional leave, the faculty member shall be given a chance to have the benefit increased to its normal level, in accordance with rules adopted by the board of trustees or the managing authority. A faculty member who has been granted professional leave shall complete another seven years of service at the college, university, or branch at which

the faculty member is employed before becoming eligible for another grant of professional leave at that college, university, or branch. Professional leave taken as part of a faculty improvement program established under this section shall not be deemed to be in lieu of released time or assigned duty in connection with a specific research, scholarly, or creative program.

Boards of trustees and managing authorities may accept moneys from any person, political subdivision, or the federal government to support a faculty improvement program~~, and may establish such additional rules as are necessary to establish and administer it~~.

Each grant of professional leave shall be in accordance with a professional improvement policy for professional leaves that has been approved by the board of trustees or the managing authority. No professional leave shall be granted that requires a compensating addition to the permanent faculty or staff of the college, university, or branch. No professional leave shall be approved unless a specific plan for the professional improvement of the faculty member while on leave has been submitted to and accepted by the president of the university, college, or branch. At the completion of the leave, the faculty member shall submit to the president a report detailing the attainments of the faculty member under this professional improvement plan.

Sec. 3345.31. The boards of trustees of a state university, the board of trustees of the northeast Ohio medical university, the board of trustees of a technical college or community college district, and the board of control of the Ohio agricultural research and development center may establish compensation plans, including schedules of hourly rates, for the

compensation of all employees ~~and may establish rules or policies for the administration of their respective compensation plans~~.

The provisions of this section do not apply to employees for whom the state employment relations board establishes appropriate bargaining units pursuant to section 4117.06 of the Revised Code.

Sec. 3345.351. (A) As used in this section, "state university" has the same meaning as in section 3345.011 of the Revised Code.

(B) Beginning two years after the ~~effective date of this section~~March 2, 2021, and every two years thereafter, each state university shall review the university's student records to identify any student to whom all of the following apply:

(1) The student disenrolled from the state university within the five years immediately prior to the first review under this section. For each subsequent review under this section, the student disenrolled within two years immediately prior to that review.

(2) The student has been disenrolled for four or more semesters, including summer sessions.

(3) The student did not complete a bachelor's degree.

(4) The student has a grade point average of 2.0 or higher on a 4.0 scale.

(5) The student completed at least forty-five credit hours.

(C) Each state university shall determine if each student identified in the review is eligible or close to being eligible

for an associate degree from that university. If a student identified in the review is determined to be eligible or close to being eligible for an associate degree, the state university shall inform the student of such potential eligibility using the most recent contact information the university has on file.

(D) Each state university shall report the findings of each review conducted under this section to the chancellor of higher education.

~~(E) The chancellor shall adopt rules as necessary to implement this section.~~

Sec. 3345.481. (A) As used in this section:

(1) "Eligible student" means an undergraduate student enrolled in a bachelor's degree program at a state institution of higher education.

(2) "Final two academic years" means the last two academic years of full-time study that a bachelor's degree program is typically designed to require, as determined by the chancellor of higher education.

(3) "Requisite course" means a course that is necessary to complete an eligible student's bachelor's degree program, but that is not a general elective.

(4) "State institution of higher education" has the same meaning as in section 3345.011 of the Revised Code.

(B) The board of trustees of a state institution of higher education shall provide an eligible student with an accommodation prescribed under division (C) of this section if that student was unable to register for a requisite course in one of the student's final two academic years and all of the

following apply:

(1) The eligible student has not completed the requisite course prior to that academic year.

(2) The eligible student was enrolled full time, as defined by the chancellor, in that academic year.

(3) The eligible student was unable to register for the requisite course in that academic year because of either of the following:

(a) The course was not offered by the state institution of higher education.

(b) Circumstances beyond the eligible student's control made registration for the course unfeasible, as determined by the chancellor.

(4) The eligible student successfully paid all general and instructional fees and did not receive a refund for the courses for which the student registered in that academic year at the start of that year.

(5) The eligible student did not enroll in the maximum amount of credit hours in that academic year, as determined by the state institution of higher education.

(C) A board of trustees shall offer an eligible student described in division (B) of this section one of the following accommodations:

(1) The board of trustees shall waive the eligible student's general and instructional fees for the requisite course if the student successfully registers for that course in the next academic year in which the course is offered. However, a waiver of fees shall not grant an eligible student guaranteed

or priority registration for that course.

(2) The board of trustees shall reimburse the eligible student for any general and instructional fees the student paid in order to register for a course equivalent to the requisite course that is offered by an institution of higher education with a similar accreditation. To qualify for a reimbursement, the student must have registered for the equivalent course in the academic year in which the student was unable to register for the requisite course.

(3) The board of trustees shall permit the eligible student to complete an independent study that meets specified guidelines in lieu of the requisite course in order to meet the requirements of the student's bachelor's degree program.

~~(D) The chancellor shall establish rules to implement this section.~~

Sec. 3345.57. (A) As used in this section, "state institution of higher education" has the same meaning as in section 3345.011 of the Revised Code.

(B) A state institution of higher education may establish a program under which an employee of the institution may donate that employee's accrued but unused paid leave to another employee of the institution who has no accrued but unused paid leave and who has a critical need for it because of circumstances such as a serious illness or the serious illness of a member of the employee's immediate family. If a state institution of higher education establishes a leave donation program under this section, the institution shall adopt rules in accordance with section 111.15 of the Revised Code to ~~provide for the administration of the program. These rules shall~~

~~include, but not be limited to, provisions that~~ identify the circumstances under which leave may be donated and that specify the amount, types, and value of leave that may be donated.

Sec. 3349.03. The board of directors of a municipal university, college, or other educational institution, as to all matters not otherwise provided by law, has all the authority, power, and control vested in or belonging to such municipal corporation as to the sale, lease, management, and control of the estate, property, and funds, given, transferred, covenanted, or pledged to such municipal corporation for the trusts and purposes relating thereto and the government, conduct, and control of such institution. The board may, unless prohibited by the terms of the trust under which such estate or property is held, sell, or lease perpetually or for any less period and with or without a privilege of purchase at a fixed price, any part or the whole of any such estate or property, and on sale, or on an election to purchase under a lease containing a privilege to purchase, may convey or transfer such estate or property. If any lease with a privilege of purchase at a fixed price has previously been executed and delivered by the board, or any board preceding it in office, for any part or the whole of any such estate or property, such board shall, on an election to purchase under the lease, convey such premises.

All instruments affecting real estate shall be executed on behalf of the board by such of its officers as it designates by resolution, authorizing the execution of such instrument, and all deeds so executed shall convey all the title of the board and of such municipal corporation in and to the real estate so conveyed.

The board may:

(A) Appoint a clerk and all agents proper and necessary for the care and administration of the trust property and the collection of the income, rents, and profits thereof;

(B) Appoint the president, secretaries, professors, tutors, instructors, agents, and servants, necessary and proper for such institution and fix their compensation;

(C) Provide all the necessary buildings, books, apparatus, means, and appliances;

(D) Pass such bylaws~~, rules, and regulations~~ concerning the president, secretaries, professors, tutors, instructors, agents, and servants, and the admission, government, and tuition of students as are wise and proper;

(E) Delegate and commit the admission, government, management, and control of the students, courses of studies, discipline, and other internal affairs of such institution, by suitable bylaws, to a faculty which the board appoints from among the professors.

Sec. 3352.07. The board of trustees of Wright ~~State University~~state university, in cooperation with Central ~~State University~~state university, shall create, organize, and provide for and maintain a ~~College~~college of ~~Professional Psychology~~professional psychology. The board, in cooperation with the board of trustees of Central ~~State University~~state university, may negotiate for and receive conveyances and transfers of real and personal property for use by the college and may make and enter into all contracts and agreements necessary or incidental to the college's operation. The board of trustees of Wright ~~State University~~state university may grant the degree of doctor of psychology after approval by the board

of regents ~~processes, prescribe rules for the effective operation of the program,~~ and exercise such other powers as are ~~necesary~~necessary for the efficient ~~managment~~management of the college.

The general assembly shall support the ~~College~~college of ~~Professional Psychology~~professional psychology of Wright ~~State University~~state university by such sums and in such manner as it may provide, but the college may accept funds from other sources.

Sec. 3365.034. (A) Notwithstanding anything to the contrary in the Revised Code, a student who is eligible to participate in the college credit plus program under section 3365.03 or 3365.033 of the Revised Code may participate in the program during the summer term of a public or participating private college or an eligible out-of-state college participating in the program.

Unless otherwise specified, if a student participates in the college credit plus program under this section, all requirements of the program shall apply.

(B)(1) In order for a public secondary school student to participate under this section, the student shall meet the criteria in division (A)(1) of section 3365.03 of the Revised Code, except that the student or the student's parent shall inform the principal, or equivalent, of the student's school by the date designated by rule of the chancellor of higher education, pursuant to division (E) of this section, of the student's intent to participate in the program during the summer term.

(2) In order for a nonpublic secondary school student, a

nonchartered nonpublic secondary school student, or a home-educated student to participate under this section, the student shall meet the applicable criteria in division (A)(2) of section 3365.03 of the Revised Code, except that the parent or guardian of a nonchartered nonpublic secondary school student or a home-educated student shall notify the department of education and workforce by the date designated by rule of the chancellor of higher education, pursuant to division (E) of this section, of the student's intent to participate in the program during the summer term.

(C) If a participant under this section elects to have the college reimbursed under section 3365.07 of the Revised Code for courses taken under the program, the department shall reimburse the college in the same manner as for students who participate during the school year in accordance with that section, except that the department shall make the applicable payments each September, or as soon as possible thereafter.

(D) Notwithstanding section 3327.01 of the Revised Code, the participant or the participant's parent or guardian shall be responsible for any transportation related to participation in the program during the summer term.

(E) The chancellor of higher education, in accordance with Chapter 119. of the Revised Code and in consultation with the department of education and workforce, shall adopt rules ~~for the administration of this section. The rules shall include~~ prescribing the dates by which the student or student's parent must provide notification of the student's intent to participate in the program during the summer term.

Sec. 3375.01. A state library board is hereby created to be composed of five members to be appointed by the director of

education and workforce. One member shall be appointed each year for a term of five years. No one is eligible to membership on the state library board who is or has been for a year previous to appointment a member of the state board of education. A member of the state library board shall not during the member's term of office be a member of the board of library trustees for any library in any subdivision in the state. Before entering on official duties, each member shall subscribe to the official oath of office. All vacancies on the state library board shall be filled by the director by appointment for the unexpired term. The members shall receive no compensation, but shall be paid their actual and necessary expenses incurred in the performance of their duties or in the conduct of authorized board business, within or without the state.

At its regular meeting next prior to the beginning of each fiscal biennium, the state library board shall elect a president and vice-president each of whom shall serve for two years or until a successor is elected and qualified.

The state library board is responsible for the state library of Ohio and a statewide program of development and coordination of library services, and its powers include the following:

(A) Maintain the state library, holding custody of books, periodicals, pamphlets, films, recordings, papers, and other materials and equipment. The board may purchase or procure from an insurance company licensed to do business in this state policies of insurance insuring the members of the board and the officers, employees, and agents of the state library against liability on account of damage or injury to persons or property resulting from any act or omission of the board members,

officers, employees, and agents of the state library in their official capacity.

(B) Accept, receive, administer, and expend, in accordance with the terms thereof, any moneys, materials, or other aid granted, appropriated, or made available to it for library purposes, by the United States, or any of its agencies, or by any other source, public or private;

(C) Administer such funds as the general assembly may make available to it for the improvement of public library services, interlibrary cooperation, or for other library purposes;

(D) Contract with other agencies, organizations, libraries, library schools, boards of education, universities, public and private, within or without the state, for library services, facilities, research, or any allied or related purpose;

(E) In accordance with Chapter 119. of the Revised Code, approve, disapprove, or modify resolutions for establishment of county district libraries, and approve, disapprove, or modify resolutions to determine the boundaries of such districts, along county lines or otherwise, and approve, disapprove, or modify resolutions to redefine boundaries, along county lines or otherwise, where questions subsequently arise as a result of school district consolidations;

(F) Upon consolidation of two or more school districts and in accordance with Chapter 119. of the Revised Code, define and adjust the boundaries of the new public library district resulting from such consolidation and resolve any disputes or questions pertaining to the boundaries, organization, and operation of the new library district;

(G) Upon application of one or more boards of library trustees and in accordance with Chapter 119. of the Revised Code, define, amend, and adjust the boundaries of the library districts making such application and the boundaries of adjacent library districts;

(H) Upon application of one or more boards of library trustees, or upon the state library board's own initiative, and in accordance with Chapter 119. of the Revised Code, define, amend, and adjust the boundaries of overlapping library districts to eliminate areas of overlap;

(I) Upon application of any private corporation or library association maintaining a free public library prior to September 4, 1947, and in accordance with Chapter 119. of the Revised Code, define, amend, and adjust the boundaries of a library district for the private corporation or library association for the sole purpose of preventing or eliminating areas of overlap with other library districts in relation to tax levies described in sections 5705.19, 5705.191, and 5705.21 of the Revised Code that are or may be levied in support of the private corporation or library association;

(J) Certify its actions relating to boundaries authorized in this section, to boards of election, taxing authorities, the boards of trustees of libraries affected, and other appropriate bodies;

(K) Encourage and assist the efforts of libraries and local governments to develop mutual and cooperative solutions to library service problems;

(L) Recommend to the governor and to the general assembly such changes in the law as will strengthen and improve library

services and operations;

(M) ~~In accordance with Chapter 119. of the Revised Code, adopt such rules as are necessary for the carrying out of any function imposed on it by law, and provide such rules as are necessary for its government and the government of its employees. The board may delegate~~ Delegate to the state librarian the management and administration of any function imposed on it by law.

Sec. 3375.04. The state library shall be under the control and management of the state library board. ~~The board shall make and publish such rules and regulations for the operation and management of the library and for the use and location of the books and other property thereof as it deems necessary.~~ The board may establish such divisions and departments within the library as it deems necessary, and shall determine the number of the employees therein.

Sec. 3379.04. The Ohio arts council may:

(A) Within the limits of available funds, employ and fix the compensation of a staff director and such other personnel as will facilitate the work of the council. The staff director shall serve at the pleasure of the council, and other employees shall serve at the pleasure of the director.

(B) Establish and appoint members to advisory committees to advise and assist it in the performance of its functions, and it may, within the limits of available funds, contract with such consultants as may facilitate its work.

(C) ~~Adopt such rules as are necessary for administration of Chapter 3379. of the Revised Code.~~

~~(D)~~ Award and administer grants to carry out the purposes

of this chapter.

Sec. 3517.10. (A) Except as otherwise provided in this division, every campaign committee, political action committee, legislative campaign fund, political party, and political contributing entity that made or received a contribution or made an expenditure in connection with the nomination or election of any candidate or in connection with any ballot issue or question at any election held or to be held in this state shall file, on a form prescribed under this section or by electronic means of transmission as provided in this section and section 3517.106 of the Revised Code, a full, true, and itemized statement, made under penalty of election falsification, setting forth in detail the contributions and expenditures, not later than four p.m. of the following dates:

(1) The twelfth day before the election to reflect contributions received and expenditures made from the close of business on the last day reflected in the last previously filed statement, if any, to the close of business on the twentieth day before the election;

(2) The thirty-eighth day after the election to reflect the contributions received and expenditures made from the close of business on the last day reflected in the last previously filed statement, if any, to the close of business on the seventh day before the filing of the statement;

(3) The last business day of January of every year to reflect the contributions received and expenditures made from the close of business on the last day reflected in the last previously filed statement, if any, to the close of business on the last day of December of the previous year;

(4) The last business day of July of every year to reflect the contributions received and expenditures made from the close of business on the last day reflected in the last previously filed statement, if any, to the close of business on the last day of June of that year.

A campaign committee shall only be required to file the statements prescribed under divisions (A)(1) and (2) of this section in connection with the nomination or election of the committee's candidate.

The statement required under division (A)(1) of this section shall not be required of any campaign committee, political action committee, legislative campaign fund, political party, or political contributing entity that has received contributions of less than one thousand dollars and has made expenditures of less than one thousand dollars at the close of business on the twentieth day before the election. Those contributions and expenditures shall be reported in the statement required under division (A)(2) of this section.

If an election to select candidates to appear on the general election ballot is held within sixty days before a general election, the campaign committee of a successful candidate in the earlier election may file the statement required by division (A)(1) of this section for the general election instead of the statement required by division (A)(2) of this section for the earlier election if the pregeneral election statement reflects the status of contributions and expenditures for the period twenty days before the earlier election to twenty days before the general election.

If a person becomes a candidate less than twenty days before an election, the candidate's campaign committee is not

required to file the statement required by division (A)(1) of this section.

No statement under division (A)(3) of this section shall be required for any year in which a campaign committee, political action committee, legislative campaign fund, political party, or political contributing entity is required to file a postgeneral election statement under division (A)(2) of this section. However, a statement under division (A)(3) of this section may be filed, at the option of the campaign committee, political action committee, legislative campaign fund, political party, or political contributing entity.

No campaign committee of a candidate for the office of chief justice or justice of the supreme court, and no campaign committee of a candidate for the office of judge of any court in this state, shall be required to file a statement under division (A)(4) of this section.

Except as otherwise provided in this paragraph and in the next paragraph of this section, the only campaign committees required to file a statement under division (A)(4) of this section are the campaign committee of a statewide candidate and the campaign committee of a candidate for county office. The campaign committee of a candidate for any other nonjudicial office is required to file a statement under division (A)(4) of this section if that campaign committee receives, during that period, contributions exceeding ten thousand dollars.

No statement under division (A)(4) of this section shall be required of a campaign committee, a political action committee, a legislative campaign fund, a political party, or a political contributing entity for any year in which the campaign committee, political action committee, legislative campaign

fund, political party, or political contributing entity is required to file a postprimary election statement under division (A)(2) of this section. However, a statement under division (A)(4) of this section may be filed at the option of the campaign committee, political action committee, legislative campaign fund, political party, or political contributing entity.

No statement under division (A)(3) or (4) of this section shall be required if the campaign committee, political action committee, legislative campaign fund, political party, or political contributing entity has no contributions that it has received and no expenditures that it has made since the last date reflected in its last previously filed statement. However, the campaign committee, political action committee, legislative campaign fund, political party, or political contributing entity shall file a statement to that effect, on a form prescribed under this section and made under penalty of election falsification, on the date required in division (A)(3) or (4) of this section, as applicable.

The campaign committee of a statewide candidate shall file a monthly statement of contributions received during each of the months of July, August, and September in the year of the general election in which the candidate seeks office. The campaign committee of a statewide candidate shall file the monthly statement not later than three business days after the last day of the month covered by the statement. During the period beginning on the nineteenth day before the general election in which a statewide candidate seeks election to office and extending through the day of that general election, each time the campaign committee of the joint candidates for the offices of governor and lieutenant governor or of a candidate for the office of secretary of state, auditor of state, treasurer of

state, or attorney general receives a contribution from a contributor that causes the aggregate amount of contributions received from that contributor during that period to equal or exceed ten thousand dollars and each time the campaign committee of a candidate for the office of chief justice or justice of the supreme court receives a contribution from a contributor that causes the aggregate amount of contributions received from that contributor during that period to exceed ten thousand dollars, the campaign committee shall file a two-business-day statement reflecting that contribution. Contributions reported on a two-business-day statement required to be filed by a campaign committee of a statewide candidate in a primary election shall also be included in the postprimary election statement required to be filed by that campaign committee under division (A)(2) of this section. A two-business-day statement required by this paragraph shall be filed not later than two business days after receipt of the contribution. The statements required by this paragraph shall be filed in addition to any other statements required by this section.

Subject to the secretary of state having implemented, tested, and verified the successful operation of any system the secretary of state prescribes pursuant to divisions (C)(6)(b) and (D)(6) of this section and division (F)(1) of section 3517.106 of the Revised Code for the filing of campaign finance statements by electronic means of transmission, a campaign committee of a statewide candidate shall file a two-business-day statement under the preceding paragraph by electronic means of transmission if the campaign committee is required to file a pre-election, postelection, or monthly statement of contributions and expenditures by electronic means of transmission under this section or section 3517.106 of the

Revised Code.

If a campaign committee or political action committee has no balance on hand and no outstanding obligations and desires to terminate itself, it shall file a statement to that effect, on a form prescribed under this section and made under penalty of election falsification, with the official with whom it files a statement under division (A) of this section after filing a final statement of contributions and a final statement of expenditures, if contributions have been received or expenditures made since the period reflected in its last previously filed statement.

(B) Except as otherwise provided in division (C)(7) of this section, each statement required by division (A) of this section shall contain the following information:

(1) The full name and address of each campaign committee, political action committee, legislative campaign fund, political party, or political contributing entity, including any treasurer of the committee, fund, party, or entity, filing a contribution and expenditure statement;

(2)(a) In the case of a campaign committee, the candidate's full name and address;

(b) In the case of a political action committee, the registration number assigned to the committee under division (D)(1) of this section.

(3) The date of the election and whether it was or will be a general, primary, or special election;

(4) A statement of contributions received, which shall include the following information:

(a) The month, day, and year of the contribution;

(b)(i) The full name and address of each person, political party, campaign committee, legislative campaign fund, political action committee, or political contributing entity from whom contributions are received and the registration number assigned to the political action committee under division (D)(1) of this section. The requirement of filing the full address does not apply to any statement filed by a state or local committee of a political party, to a finance committee of such committee, or to a committee recognized by a state or local committee as its fund-raising auxiliary. Notwithstanding division (F) of this section, the requirement of filing the full address shall be considered as being met if the address filed is the same address the contributor provided under division (E)(1) of this section.

(ii) If a political action committee, political contributing entity, legislative campaign fund, or political party that is required to file campaign finance statements by electronic means of transmission under section 3517.106 of the Revised Code or a campaign committee of a statewide candidate or candidate for the office of member of the general assembly receives a contribution from an individual that exceeds one hundred dollars, the name of the individual's current employer, if any, or, if the individual is self-employed, the individual's occupation and the name of the individual's business, if any;

(iii) If a campaign committee of a statewide candidate or candidate for the office of member of the general assembly receives a contribution transmitted pursuant to section 3599.031 of the Revised Code from amounts deducted from the wages and salaries of two or more employees that exceeds in the aggregate one hundred dollars during any one filing period under division

(A)(1), (2), (3), or (4) of this section, the full name of the employees' employer and the full name of the labor organization of which the employees are members, if any.

(c) A description of the contribution received, if other than money;

(d) The value in dollars and cents of the contribution;

(e) A separately itemized account of all contributions and expenditures regardless of the amount, except a receipt of a contribution from a person in the sum of twenty-five dollars or less at one social or fund-raising activity and a receipt of a contribution transmitted pursuant to section 3599.031 of the Revised Code from amounts deducted from the wages and salaries of employees if the contribution from the amount deducted from the wages and salary of any one employee is twenty-five dollars or less aggregated in a calendar year. An account of the total contributions from each social or fund-raising activity shall include a description of and the value of each in-kind contribution received at that activity from any person who made one or more such contributions whose aggregate value exceeded two hundred fifty dollars and shall be listed separately, together with the expenses incurred and paid in connection with that activity. A campaign committee, political action committee, legislative campaign fund, political party, or political contributing entity shall keep records of contributions from each person in the amount of twenty-five dollars or less at one social or fund-raising activity and contributions from amounts deducted under section 3599.031 of the Revised Code from the wages and salary of each employee in the amount of twenty-five dollars or less aggregated in a calendar year. No continuing association that is recognized by a state or local committee of

a political party as an auxiliary of the party and that makes a contribution from funds derived solely from regular dues paid by members of the auxiliary shall be required to list the name or address of any members who paid those dues.

Contributions that are other income shall be itemized separately from all other contributions. The information required under division (B)(4) of this section shall be provided for all other income itemized. As used in this paragraph, "other income" means a loan, investment income, or interest income.

(f) In the case of a campaign committee of a state elected officer, if a person doing business with the state elected officer in the officer's official capacity makes a contribution to the campaign committee of that officer, the information required under division (B)(4) of this section in regard to that contribution, which shall be filed together with and considered a part of the committee's statement of contributions as required under division (A) of this section but shall be filed on a separate form provided by the secretary of state. As used in this division:

(i) "State elected officer" has the same meaning as in section 3517.092 of the Revised Code.

(ii) "Person doing business" means a person or an officer of an entity who enters into one or more contracts with a state elected officer or anyone authorized to enter into contracts on behalf of that officer to receive payments for goods or services, if the payments total, in the aggregate, more than five thousand dollars during a calendar year.

(5) A statement of expenditures which shall include the following information:

(a) The month, day, and year of the expenditure;

(b) The full name and address of each person, political party, campaign committee, legislative campaign fund, political action committee, or political contributing entity to whom the expenditure was made and the registration number assigned to the political action committee under division (D)(1) of this section;

(c) The object or purpose for which the expenditure was made;

(d) The amount of each expenditure.

(C)(1) The statement of contributions and expenditures shall be signed by the person completing the form. If a statement of contributions and expenditures is filed by electronic means of transmission pursuant to this section or section 3517.106 of the Revised Code, the electronic signature of the person who executes the statement and transmits the statement by electronic means of transmission, as provided in division (F) of section 3517.106 of the Revised Code, shall be attached to or associated with the statement and shall be binding on all persons and for all purposes under the campaign finance reporting law as if the signature had been handwritten in ink on a printed form.

(2) The person filing the statement, under penalty of election falsification, shall include with it a list of each anonymous contribution, the circumstances under which it was received, and the reason it cannot be attributed to a specific donor.

(3) Each statement of a campaign committee of a candidate who holds public office shall contain a designation of each

contributor who is an employee in any unit or department under the candidate's direct supervision and control. In a space provided in the statement, the person filing the statement shall affirm that each such contribution was voluntarily made.

(4) A campaign committee that did not receive contributions or make expenditures in connection with the nomination or election of its candidate shall file a statement to that effect, on a form prescribed under this section and made under penalty of election falsification, on the date required in division (A)(2) of this section.

(5) The campaign committee of any person who attempts to become a candidate and who, for any reason, does not become certified in accordance with Title XXXV of the Revised Code for placement on the official ballot of a primary, general, or special election to be held in this state, and who, at any time prior to or after an election, receives contributions or makes expenditures, or has given consent for another to receive contributions or make expenditures, for the purpose of bringing about the person's nomination or election to public office, shall file the statement or statements prescribed by this section and a termination statement, if applicable. Division (C)(5) of this section does not apply to any person with respect to an election to the offices of member of a county or state central committee, presidential elector, or delegate to a national convention or conference of a political party.

(6)(a) The statements required to be filed under this section shall specify the balance in the hands of the campaign committee, political action committee, legislative campaign fund, political party, or political contributing entity and the disposition intended to be made of that balance.

(b) The secretary of state shall prescribe the form for all statements required to be filed under this section and shall furnish the forms to the boards of elections in the several counties. The boards of elections shall supply printed copies of those forms without charge. The secretary of state shall prescribe the appropriate methodology, protocol, and data file structure for statements required or permitted to be filed by electronic means of transmission to the secretary of state or a board of elections under division (A) of this section, division (E) of section 3517.106, division (D) of section 3517.1011, division (B) of section 3517.1012, division (C) of section 3517.1013, and divisions (D) and (I) of section 3517.1014 of the Revised Code. Subject to division (A) of this section, division (E) of section 3517.106, division (D) of section 3517.1011, division (B) of section 3517.1012, division (C) of section 3517.1013, and divisions (D) and (I) of section 3517.1014 of the Revised Code, the statements required to be stored on computer by the secretary of state under division (B) of section 3517.106 of the Revised Code shall be filed in whatever format the secretary of state considers necessary to enable the secretary of state to store the information contained in the statements on computer. Any such format shall be of a type and nature that is readily available to whoever is required to file the statements in that format.

(c) The secretary of state shall assess the need for training regarding the filing of campaign finance statements by electronic means of transmission and regarding associated technologies for candidates, campaign committees, political action committees, legislative campaign funds, political parties, or political contributing entities, for individuals, partnerships, or other entities, for persons making

disbursements to pay the direct costs of producing or airing electioneering communications, or for treasurers of transition funds, required or permitted to file statements by electronic means of transmission under this section or section 3517.105, 3517.106, 3517.1011, 3517.1012, 3517.1013, or 3517.1014 of the Revised Code. If, in the opinion of the secretary of state, training in these areas is necessary, the secretary of state shall arrange for the provision of voluntary training programs for candidates, campaign committees, political action committees, legislative campaign funds, political parties, or political contributing entities, for individuals, partnerships, and other entities, for persons making disbursements to pay the direct costs of producing or airing electioneering communications, or for treasurers of transition funds, as appropriate.

(7) Each monthly statement and each two-business-day statement required by division (A) of this section shall contain the information required by divisions (B)(1) to (4), (C)(2), and, if appropriate, (C)(3) of this section. Each statement shall be signed as required by division (C)(1) of this section.

(D)(1)(a) Prior to receiving a contribution or making an expenditure, every campaign committee, political action committee, legislative campaign fund, political party, or political contributing entity shall appoint a treasurer and shall file, on a form prescribed by the secretary of state, a designation of that appointment, including the full name and address of the treasurer and of the campaign committee, political action committee, legislative campaign fund, political party, or political contributing entity. That designation shall be filed with the official with whom the campaign committee, political action committee, legislative campaign fund, political

party, or political contributing entity is required to file statements under section 3517.11 of the Revised Code. The name of a campaign committee shall include at least the last name of the campaign committee's candidate. If two or more candidates are the beneficiaries of a single campaign committee under division (B) of section 3517.081 of the Revised Code, the name of the campaign committee shall include at least the last name of each candidate who is a beneficiary of that campaign committee. The secretary of state shall assign a registration number to each political action committee that files a designation of the appointment of a treasurer under this division if the political action committee is required by division (A)(1) of section 3517.11 of the Revised Code to file the statements prescribed by this section with the secretary of state.

(b) The secretary of state shall not accept for filing a designation of treasurer of a political action committee or political contributing entity if, in the opinion of the secretary of state, the name of the political action committee or political contributing entity would lead a reasonable person to believe that the political action committee or political contributing entity acts on behalf of or represents a county political party, unless the designation is accompanied by a written statement, signed by the chairperson of the county political party's executive committee, granting the political action committee or political contributing entity permission to act on behalf of or represent the county political party.

(2) The treasurer appointed under division (D)(1) of this section shall keep a strict account of all contributions, from whom received and the purpose for which they were disbursed.

(3)(a) Except as otherwise provided in section 3517.108 of the Revised Code, a campaign committee shall deposit all monetary contributions received by the committee into an account separate from a personal or business account of the candidate or campaign committee.

(b) A political action committee shall deposit all monetary contributions received by the committee into an account separate from all other funds.

(c) A state or county political party may establish a state candidate fund that is separate from all other funds. A state or county political party may deposit into its state candidate fund any amounts of monetary contributions that are made to or accepted by the political party subject to the applicable limitations, if any, prescribed in section 3517.102 of the Revised Code. A state or county political party shall deposit all other monetary contributions received by the party into one or more accounts that are separate from its state candidate fund.

(d) Each state political party shall have only one legislative campaign fund for each house of the general assembly. Each such fund shall be separate from any other funds or accounts of that state party. A legislative campaign fund is authorized to receive contributions and make expenditures for the primary purpose of furthering the election of candidates who are members of that political party to the house of the general assembly with which that legislative campaign fund is associated. Each legislative campaign fund shall be administered and controlled in a manner designated by the caucus. As used in this division, "caucus" has the same meaning as in section 3517.01 of the Revised Code and includes, as an ex officio

member, the chairperson of the state political party with which the caucus is associated or that chairperson's designee.

(4) Every expenditure in excess of twenty-five dollars shall be vouched for by a receipted bill, stating the purpose of the expenditure, that shall be filed with the statement of expenditures. A canceled check with a notation of the purpose of the expenditure is a receipted bill for purposes of division (D)(4) of this section.

(5) The secretary of state or the board of elections, as the case may be, shall issue a receipt for each statement filed under this section and shall preserve a copy of the receipt for a period of at least six years. All statements filed under this section shall be open to public inspection in the office where they are filed and shall be carefully preserved for a period of at least six years after the year in which they are filed.

(6) The secretary of state, by rule adopted pursuant to ~~section 3517.23~~ Chapter 119. of the Revised Code, shall prescribe both of the following:

(a) The manner of immediately acknowledging, with date and time received, and preserving the receipt of statements that are transmitted by electronic means of transmission to the secretary of state or a board of elections pursuant to this section or section 3517.106, 3517.1011, 3517.1012, 3517.1013, or 3517.1014 of the Revised Code;

(b) The manner of preserving the contribution and expenditure, contribution and disbursement, deposit and disbursement, gift and disbursement, or donation and disbursement information in the statements described in division (D)(6)(a) of this section. The secretary of state shall preserve

the contribution and expenditure, contribution and disbursement, deposit and disbursement, gift and disbursement, or donation and disbursement information in those statements for at least ten years after the year in which they are filed by electronic means of transmission.

(7)(a) The secretary of state, pursuant to division (G) of section 3517.106 of the Revised Code, shall make available online to the public through the internet the contribution and expenditure, contribution and disbursement, deposit and disbursement, gift and disbursement, or donation and disbursement information in all of the following documents:

(i) All statements, all addenda, amendments, or other corrections to statements, and all amended statements filed with the secretary of state by electronic or other means of transmission under this section, division (B)(2)(b) or (C)(2)(b) of section 3517.105, or section 3517.106, 3517.1011, 3517.1012, 3517.1013, 3517.1014, or 3517.11 of the Revised Code;

(ii) All statements filed with a board of elections by electronic means of transmission, and all addenda, amendments, corrections, and amended versions of those statements, filed with the board under this section, division (B)(2)(b) or (C)(2)(b) of section 3517.105, or section 3517.106, 3517.1012, or 3517.11 of the Revised Code.

(b) The secretary of state may remove the information from the internet after a reasonable period of time.

(E)(1) Any person, political party, campaign committee, legislative campaign fund, political action committee, or political contributing entity that makes a contribution in connection with the nomination or election of any candidate or

in connection with any ballot issue or question at any election held or to be held in this state shall provide its full name and address to the recipient of the contribution at the time the contribution is made. The political action committee also shall provide the registration number assigned to the committee under division (D)(1) of this section to the recipient of the contribution at the time the contribution is made.

(2) Any individual who makes a contribution that exceeds one hundred dollars to a political action committee, political contributing entity, legislative campaign fund, or political party or to a campaign committee of a statewide candidate or candidate for the office of member of the general assembly shall provide the name of the individual's current employer, if any, or, if the individual is self-employed, the individual's occupation and the name of the individual's business, if any, to the recipient of the contribution at the time the contribution is made. Sections 3599.39 and 3599.40 of the Revised Code do not apply to division (E)(2) of this section.

(3) If a campaign committee shows that it has exercised its best efforts to obtain, maintain, and submit the information required under divisions (B)(4)(b)(ii) and (iii) of this section, that committee is considered to have met the requirements of those divisions. A campaign committee shall not be considered to have exercised its best efforts unless, in connection with written solicitations, it regularly includes a written request for the information required under division (B)(4)(b)(ii) of this section from the contributor or the information required under division (B)(4)(b)(iii) of this section from whoever transmits the contribution.

(4) Any check that a political action committee uses to

make a contribution or an expenditure shall contain the full name and address of the committee and the registration number assigned to the committee under division (D)(1) of this section.

(F) As used in this section:

(1)(a) Except as otherwise provided in division (F)(1) of this section, "address" means all of the following if they exist: apartment number, street, road, or highway name and number, rural delivery route number, city or village, state, and zip code as used in a person's post-office address, but not post-office box.

(b) Except as otherwise provided in division (F)(1) of this section, if an address is required in this section, a post-office box and office, room, or suite number may be included in addition to, but not in lieu of, an apartment, street, road, or highway name and number.

(c) If an address is required in this section, a campaign committee, political action committee, legislative campaign fund, political party, or political contributing entity may use the business or residence address of its treasurer or deputy treasurer. The post-office box number of the campaign committee, political action committee, legislative campaign fund, political party, or political contributing entity may be used in addition to that address.

(d) For the sole purpose of a campaign committee's reporting of contributions on a statement of contributions received under division (B)(4) of this section, "address" has one of the following meanings at the option of the campaign committee:

(i) The same meaning as in division (F)(1)(a) of this

section;

(ii) All of the following, if they exist: the contributor's post-office box number and city or village, state, and zip code as used in the contributor's post-office address.

(e) As used with regard to the reporting under this section of any expenditure, "address" means all of the following if they exist: apartment number, street, road, or highway name and number, rural delivery route number, city or village, state, and zip code as used in a person's post-office address, or post-office box. If an address concerning any expenditure is required in this section, a campaign committee, political action committee, legislative campaign fund, political party, or political contributing entity may use the business or residence address of its treasurer or deputy treasurer or its post-office box number.

(2) "Statewide candidate" means the joint candidates for the offices of governor and lieutenant governor or a candidate for the office of secretary of state, auditor of state, treasurer of state, attorney general, chief justice of the supreme court, or justice of the supreme court.

(3) "Candidate for county office" means a candidate for the office of county auditor, county treasurer, clerk of the court of common pleas, judge of the court of common pleas, sheriff, county recorder, county engineer, county commissioner, prosecuting attorney, or coroner.

(G) An independent expenditure shall be reported whenever and in the same manner that an expenditure is required to be reported under this section and shall be reported pursuant to division (B)(2)(a) or (C)(2)(a) of section 3517.105 of the

Revised Code.

(H)(1) Except as otherwise provided in division (H)(2) of this section, if, during the combined pre-election and postelection reporting periods for an election, a campaign committee has received contributions of five hundred dollars or less and has made expenditures in the total amount of five hundred dollars or less, it may file a statement to that effect, under penalty of election falsification, in lieu of the statement required by division (A)(2) of this section. The statement shall indicate the total amount of contributions received and the total amount of expenditures made during those combined reporting periods.

(2) In the case of a successful candidate at a primary election, if either the total contributions received by or the total expenditures made by the candidate's campaign committee during the preprimary, postprimary, pregeneral, and postgeneral election periods combined equal more than five hundred dollars, the campaign committee may file the statement under division (H)(1) of this section only for the primary election. The first statement that the campaign committee files in regard to the general election shall reflect all contributions received and all expenditures made during the preprimary and postprimary election periods.

(3) Divisions (H)(1) and (2) of this section do not apply if a campaign committee receives contributions or makes expenditures prior to the first day of January of the year of the election at which the candidate seeks nomination or election to office or if the campaign committee does not file a termination statement with its postprimary election statement in the case of an unsuccessful primary election candidate or with

its postgeneral election statement in the case of other candidates.

(I) In the case of a contribution made by a partner of a partnership or an owner or a member of another unincorporated business from any funds of the partnership or other unincorporated business, all of the following apply:

(1) The recipient of the contribution shall report the contribution by listing both the partnership or other unincorporated business and the name of the partner, owner, or member making the contribution.

(2) In reporting the contribution, the recipient of the contribution shall be entitled to conclusively rely upon the information provided by the partnership or other unincorporated business, provided that the information includes one of the following:

(a) The name of each partner, owner, or member as of the date of the contribution or contributions, and a statement that the total contributions are to be allocated equally among all of the partners, owners, or members; or

(b) The name of each partner, owner, or member as of the date of the contribution or contributions who is participating in the contribution or contributions, and a statement that the contribution or contributions are to be allocated to those individuals in accordance with the information provided by the partnership or other unincorporated business to the recipient of the contribution.

(3) For purposes of section 3517.102 of the Revised Code, the contribution shall be considered to have been made by the partner, owner, or member reported under division (I)(1) of this

section.

(4) No contribution from a partner of a partnership or an owner or a member of another unincorporated business shall be accepted from any funds of the partnership or other unincorporated business unless the recipient reports the contribution under division (I)(1) of this section together with the information provided under division (I)(2) of this section.

(5) No partnership or other unincorporated business shall make a contribution or contributions solely in the name of the partnership or other unincorporated business.

(6) As used in division (I) of this section, "partnership or other unincorporated business" includes, but is not limited to, a cooperative, a sole proprietorship, a general partnership, a limited partnership, a limited partnership association, a limited liability partnership, and a limited liability company.

(J) A candidate shall have only one campaign committee at any given time for all of the offices for which the person is a candidate or holds office.

(K)(1) In addition to filing a designation of appointment of a treasurer under division (D)(1) of this section, the campaign committee of any candidate for an elected municipal office that pays an annual amount of compensation of five thousand dollars or less, the campaign committee of any candidate for member of a board of education or the campaign committee of any candidate for township trustee or township fiscal officer may sign, under penalty of election falsification, a certificate attesting that the committee will not accept contributions during an election period that exceed in the aggregate two thousand dollars from all contributors and

one hundred dollars from any one individual, and that the campaign committee will not make expenditures during an election period that exceed in the aggregate two thousand dollars.

The certificate shall be on a form prescribed by the secretary of state and shall be filed not later than ten days after the candidate files a declaration of candidacy and petition, a nominating petition, or a declaration of intent to be a write-in candidate.

(2) Except as otherwise provided in division (K)(3) of this section, a campaign committee that files a certificate under division (K)(1) of this section is not required to file the statements required by division (A) of this section.

(3) If, after filing a certificate under division (K)(1) of this section, a campaign committee exceeds any of the limitations described in that division during an election period, the certificate is void and thereafter the campaign committee shall file the statements required by division (A) of this section. If the campaign committee has not previously filed a statement, then on the first statement the campaign committee is required to file under division (A) of this section after the committee's certificate is void, the committee shall report all contributions received and expenditures made from the time the candidate filed the candidate's declaration of candidacy and petition, nominating petition, or declaration of intent to be a write-in candidate.

(4) As used in division (K) of this section, "election period" means the period of time beginning on the day a person files a declaration of candidacy and petition, nominating petition, or declaration of intent to be a write-in candidate through the day of the election at which the person seeks

nomination to office if the person is not elected to office, or, if the candidate was nominated in a primary election, the day of the election at which the candidate seeks office.

(L) A political contributing entity that receives contributions from the dues, membership fees, or other assessments of its members or from its officers, shareholders, and employees may report the aggregate amount of contributions received from those contributors and the number of individuals making those contributions, for each filing period under divisions (A)(1), (2), (3), and (4) of this section, rather than reporting information as required under division (B)(4) of this section, including, when applicable, the name of the current employer, if any, of a contributor whose contribution exceeds one hundred dollars or, if such a contributor is self-employed, the contributor's occupation and the name of the contributor's business, if any. Division (B)(4) of this section applies to a political contributing entity with regard to contributions it receives from all other contributors.

Sec. 3517.106. (A) As used in this section:

(1) "Statewide office" means any of the offices of governor, lieutenant governor, secretary of state, auditor of state, treasurer of state, attorney general, chief justice of the supreme court, and justice of the supreme court.

(2) "Addendum to a statement" includes an amendment or other correction to that statement.

(B) The secretary of state shall store all of the following information on computer:

(1) The information contained in statements of contributions and expenditures and monthly statements required

to be filed under section 3517.10 of the Revised Code and in statements of independent expenditures required to be filed under section 3517.105 of the Revised Code with the secretary of state and the information transmitted to the secretary of state by boards of elections under division (E)(2) of this section;

(2) The information contained in disclosure of electioneering communications statements required to be filed under section 3517.1011 of the Revised Code;

(3) The information contained in deposit and disbursement statements required to be filed with the office of the secretary of state under section 3517.1012 of the Revised Code;

(4) The gift and disbursement information contained in statements required to be filed with the office of the secretary of state under section 3517.1013 of the Revised Code;

(5) The information contained in donation and disbursement statements required to be filed with the office of the secretary of state under section 3517.1014 of the Revised Code.

(C)(1) The secretary of state shall make available to the campaign committees, political action committees, political contributing entities, legislative campaign funds, political parties, individuals, partnerships, corporations, labor organizations, treasurers of transition funds, and other entities that are permitted or required to file statements by electronic means of transmission, and to members of the news media and other interested persons, for a reasonable fee, computer programs that are compatible with the secretary of state's method of storing the information contained in the statements.

(2) The secretary of state shall make the information

required to be stored under division (B) of this section available on computer at the secretary of state's office so that, to the maximum extent feasible, individuals may obtain at the secretary of state's office any part or all of that information for any given year, subject to the limitation expressed in division (D) of this section.

(D) The secretary of state shall keep the information stored on computer under division (B) of this section for at least six years.

(E)(1) Subject to division (J) of this section and subject to the secretary of state having implemented, tested, and verified the successful operation of any system the secretary of state prescribes pursuant to division (F)(1) of this section and divisions (C)(6)(b) and (D)(6) of section 3517.10 of the Revised Code for the filing of campaign finance statements by electronic means of transmission, each of the following entities shall be permitted or required to file statements by electronic means of transmission, as applicable:

(a) The campaign committee of each candidate for statewide office may file the statements prescribed by section 3517.10 of the Revised Code by electronic means of transmission or, if the total amount of the contributions received or the total amount of the expenditures made by the campaign committee for the applicable reporting period as specified in division (A) of section 3517.10 of the Revised Code exceeds ten thousand dollars, shall file those statements by electronic means of transmission.

(b) A campaign committee of a candidate for the office of member of the general assembly or a campaign committee of a candidate for the office of judge of a court of appeals may file

the statements prescribed by section 3517.10 of the Revised Code in accordance with division (A)(2) of section 3517.11 of the Revised Code or by electronic means of transmission to the office of the secretary of state or, if the total amount of the contributions received by the campaign committee for the applicable reporting period as specified in division (A) of section 3517.10 of the Revised Code exceeds ten thousand dollars, shall file those statements by electronic means of transmission to the office of the secretary of state.

(c) A campaign committee of a candidate for an office other than a statewide office, the office of member of the general assembly, or the office of judge of a court of appeals may file the statements prescribed by section 3517.10 of the Revised Code by electronic means of transmission to the secretary of state or the board of elections, as applicable.

(d) A political action committee and a political contributing entity described in division (A)(1) of section 3517.11 of the Revised Code, a legislative campaign fund, and a state political party may file the statements prescribed by section 3517.10 of the Revised Code by electronic means of transmission to the office of the secretary of state or, if the total amount of the contributions received or the total amount of the expenditures made by the political action committee, political contributing entity, legislative campaign fund, or state political party for the applicable reporting period as specified in division (A) of section 3517.10 of the Revised Code exceeds ten thousand dollars, shall file those statements by electronic means of transmission.

(e) A county political party shall file the statements prescribed by section 3517.10 of the Revised Code with respect

to its state candidate fund by electronic means of transmission to the office of the secretary of state.

(f) A county political party may file all other statements prescribed by section 3517.10 of the Revised Code by electronic means of transmission to the board of elections.

(g) A political action committee or political contributing entity described in division (A)(3) of section 3517.11 of the Revised Code may file the statements prescribed by section 3517.10 of the Revised Code by electronic means of transmission to the board of elections.

(h) Any individual, partnership, or other entity that makes independent expenditures in support of or opposition to a statewide candidate or a statewide ballot issue or question as provided in division (B)(2)(b) or (C)(2)(b) of section 3517.105 of the Revised Code may file the statement specified in that division by electronic means of transmission to the office of the secretary of state or, if the total amount of independent expenditures made during the reporting period under that division exceeds ten thousand dollars, shall file the statement specified in that division by electronic means of transmission.

(i) Any individual, partnership, or other entity that makes independent expenditures in support of or opposition to a candidate or ballot issue other than a statewide candidate or a statewide ballot issue as provided in division (B)(2)(b) or (C)(2)(b) of section 3517.105 of the Revised Code may file the statement specified in that division by electronic means of transmission to the board of elections.

(2) A board of elections that receives a statement by electronic means of transmission shall transmit that statement

to the secretary of state within five business days after receiving the statement. If the board receives an addendum or an amended statement from an entity that filed a statement with the board by electronic means of transmission, the board shall transmit the addendum or amended statement to the secretary of state not later than the close of business on the day the board received the addendum or amended statement.

(3)(a) Except as otherwise provided in division (E)(3)(b) of this section, within five business days after a statement filed under division (E)(1) of this section is received by the secretary of state by electronic or other means of transmission, the secretary of state shall make available online to the public through the internet, as provided in division (G) of this section, the contribution and expenditure information in that statement.

(b) The secretary of state shall not make available online to the public through the internet any contribution or expenditure information contained in a statement for any candidate until the secretary of state is able to make available online to the public through the internet the contribution and expenditure information for all candidates for a particular office, or until the applicable filing deadline for that statement has passed, whichever is sooner. As soon as the secretary of state has available all of the contribution and expenditure information for all candidates for a particular office, or as soon as the applicable filing deadline for a statement has passed, whichever is sooner, the secretary of state shall simultaneously make available online to the public through the internet the information for all candidates for that office.

(4)(a) If a statement filed by electronic means of transmission is found to be incomplete or inaccurate after the examination of the statement for completeness and accuracy pursuant to division (B)(3)(a) of section 3517.11 of the Revised Code, the entity that filed the statement shall file by electronic means of transmission any addendum to the statement that provides the information necessary to complete or correct the statement or, if required under that division, an amended statement.

(b) Within five business days after the secretary of state receives an addendum to the statement or an amended statement by electronic or other means of transmission, the secretary of state shall make the contribution and expenditure information in the addendum or amended statement available online to the public through the internet as provided in division (G) of this section.

(5) If a campaign committee for the office of member of the general assembly or a campaign committee of a candidate for the office of judge of a court of appeals files a statement, addendum, or amended statement by printed version only with the appropriate board of elections, the campaign committee shall file two copies of the printed version of the statement, addendum, or amended statement with the board of elections. The board of elections shall send one of those copies by certified mail or an electronic copy to the secretary of state before the close of business on the day the board of elections receives the statement, addendum, or amended statement.

(F)(1) The secretary of state, by rule adopted pursuant to ~~section 3517.23~~ Chapter 119. of the Revised Code, shall prescribe one or more techniques by which a person who executes

and transmits to the secretary of state or a board of elections by electronic means a statement of contributions and expenditures, a statement of independent expenditures, a disclosure of electioneering communications statement, a deposit and disbursement statement, a gift and disbursement statement, or a donation and disbursement statement, an addendum to any of those statements, an amended statement of contributions and expenditures, an amended statement of independent expenditures, an amended disclosure of electioneering communications statement, an amended deposit and disbursement statement, an amended gift and disbursement statement, or an amended donation and disbursement statement, under this section or section 3517.10, 3517.105, 3517.1011, 3517.1012, 3517.1013, or 3517.1014 of the Revised Code shall electronically sign the statement, addendum, or amended statement. Any technique prescribed by the secretary of state pursuant to this division shall create an electronic signature that satisfies all of the following:

(a) It is unique to the signer.

(b) It objectively identifies the signer.

(c) It involves the use of a signature device or other means or method that is under the sole control of the signer and that cannot be readily duplicated or compromised.

(d) It is created and linked to the electronic record to which it relates in a manner that, if the record or signature is intentionally or unintentionally changed after signing, the electronic signature is invalidated.

(2) An electronic signature prescribed by the secretary of state under division (F)(1) of this section shall be attached to or associated with the statement of contributions and

expenditures, the statement of independent expenditures, the disclosure of electioneering communications statement, the deposit and disbursement statement, the gift and disbursement statement, or the donation and disbursement statement, the addendum to any of those statements, the amended statement of contributions and expenditures, the amended statement of independent expenditures, the amended disclosure of electioneering communications statement, the amended deposit and disbursement statement, the amended gift and disbursement statement, or the amended donation and disbursement statement that is executed and transmitted by electronic means by the person to whom the electronic signature is attributed. The electronic signature that is attached to or associated with the statement, addendum, or amended statement under this division shall be binding on all persons and for all purposes under the campaign finance reporting law as if the signature had been handwritten in ink on a printed form.

(G) The secretary of state shall make all of the following information available online to the public by any means that are searchable, viewable, and accessible through the internet:

(1) The contribution and expenditure, the contribution and disbursement, the deposit and disbursement, the gift and disbursement, or the donation and disbursement information in all statements, all addenda to the statements, and all amended statements that are filed with the secretary of state by electronic or other means of transmission under this section or section 3517.10, 3517.105, 3517.1011, 3517.1012, 3517.1013, 3517.1014, or 3517.11 of the Revised Code;

(2) The contribution and expenditure or the deposit and disbursement information in all statements that are filed with a

board of elections by electronic means of transmission, and in all addenda to those statements and all amended versions of those statements, under this section or section 3517.10, 3517.105, 3517.1012, or 3517.11 of the Revised Code.

(H)(1) As used in this division, "library" means a library that is open to the public and that is one of the following:

(a) A library that is maintained and regulated under section 715.13 of the Revised Code;

(b) A library that is created, maintained, and regulated under Chapter 3375. of the Revised Code.

(2) The secretary of state shall notify all libraries of the location on the internet at which the contribution and expenditure, contribution and disbursement, deposit and disbursement, gift and disbursement, or donation and disbursement information in campaign finance statements required to be made available online to the public through the internet pursuant to division (G) of this section may be accessed.

If that location is part of the world wide web and if the secretary of state has notified a library of that world wide web location as required by this division, the library shall include a link to that world wide web location on each internet-connected computer it maintains that is accessible to the public.

(3) If the system the secretary of state prescribes for the filing of campaign finance statements by electronic means of transmission pursuant to division (F)(1) of this section and divisions (C)(6)(b) and (D)(6) of section 3517.10 of the Revised Code includes filing those statements through the internet via the world wide web, the secretary of state shall notify all

libraries of the world wide web location at which those statements may be filed.

If those statements may be filed through the internet via the world wide web and if the secretary of state has notified a library of that world wide web location as required by this division, the library shall include a link to that world wide web location on each internet-connected computer it maintains that is accessible to the public.

(I) It is an affirmative defense to a complaint or charge brought against any campaign committee, political action committee, political contributing entity, legislative campaign fund, or political party, any individual, partnership, or other entity, any person making disbursements to pay the direct costs of producing or airing electioneering communications, or any treasurer of a transition fund, for the failure to file by electronic means of transmission a campaign finance statement as required by this section or section 3517.10, 3517.105, 3517.1011, 3517.1012, 3517.1013, or 3517.1014 of the Revised Code that all of the following apply to the campaign committee, political action committee, political contributing entity, legislative campaign fund, or political party, the individual, partnership, or other entity, the person making disbursements to pay the direct costs of producing or airing electioneering communications, or the treasurer of a transition fund that failed to so file:

(1) The campaign committee, political action committee, political contributing entity, legislative campaign fund, or political party, the individual, partnership, or other entity, the person making disbursements to pay the direct costs of producing or airing electioneering communications, or the

treasurer of a transition fund attempted to file by electronic means of transmission the required statement prior to the deadline set forth in the applicable section.

(2) The campaign committee, political action committee, political contributing entity, legislative campaign fund, or political party, the individual, partnership, or other entity, the person making disbursements to pay the direct costs of producing or airing electioneering communications, or the treasurer of a transition fund was unable to file by electronic means of transmission due to an expected or unexpected shutdown of the whole or part of the electronic campaign finance statement-filing system, such as for maintenance or because of hardware, software, or network connection failure.

(3) The campaign committee, political action committee, political contributing entity, legislative campaign fund, or political party, the individual, partnership, or other entity, the person making disbursements to pay the direct costs of producing or airing electioneering communications, or the treasurer of a transition fund filed by electronic means of transmission the required statement within a reasonable period of time after being unable to so file it under the circumstance described in division (I)(2) of this section.

(J)(1) The secretary of state shall adopt rules pursuant to Chapter 119. of the Revised Code to permit a campaign committee of a candidate for statewide office that makes expenditures of less than twenty-five thousand dollars during the filing period or a campaign committee for the office of member of the general assembly or the office of judge of a court of appeals that would otherwise be required to file campaign finance statements by electronic means of transmission under

division (E) of this section to file those statements by paper with the office of the secretary of state. Those rules shall provide for all of the following:

(a) An eligible campaign committee that wishes to file a campaign finance statement by paper instead of by electronic means of transmission shall file the statement on paper with the office of the secretary of state not sooner than twenty-four hours after the end of the filing period set forth in section 3517.10 of the Revised Code that is covered by the applicable statement.

(b) The statement shall be accompanied by a fee, the amount of which the secretary of state shall determine by rule. The amount of the fee established under this division shall not exceed the data entry and data verification costs the secretary of state will incur to convert the information on the statement to an electronic format as required under division (G) of this section.

(c) The secretary of state shall arrange for the information in campaign finance statements filed pursuant to division (J) of this section to be made available online to the public through the internet in the same manner, and at the same times, as information is made available under divisions (E) and (G) of this section for candidates whose campaign committees file those statements by electronic means of transmission.

(d) The candidate of an eligible campaign committee that intends to file a campaign finance statement pursuant to division (J) of this section shall file a notice indicating that the candidate's campaign committee intends to so file and stating that filing the statement by electronic means of transmission would constitute a hardship for the candidate or

for the eligible campaign committee.

(e) An eligible campaign committee that files a campaign finance statement on paper pursuant to division (J) of this section shall review the contribution and information made available online by the secretary of state with respect to that paper filing and shall notify the secretary of state of any errors with respect to that filing that appear in the data made available on that web site.

(f) If an eligible campaign committee whose candidate has filed a notice in accordance with rules adopted under division (J)(1)(d) of this section subsequently fails to file that statement on paper by the applicable deadline established in rules adopted under division (J)(1)(a) of this section, penalties for the late filing of the campaign finance statement shall apply to that campaign committee for each day after that paper filing deadline, as if the campaign committee had filed the statement after the applicable deadline set forth in division (A) of section 3517.10 of the Revised Code.

(2) The process for permitting campaign committees that would otherwise be required to file campaign finance statements by electronic means of transmission to file those statements on paper with the office of the secretary of state that is required to be developed under division (J)(1) of this section shall be in effect and available for use by eligible campaign committees for all campaign finance statements that are required to be filed on or after June 30, 2005. Notwithstanding any provision of the Revised Code to the contrary, if the process the secretary of state is required to develop under division (L)(1) of this section is not in effect and available for use on and after June 30, 2005, all penalties for the failure of campaign

committees to file campaign finance statements by electronic means of transmission shall be suspended until such time as that process is in effect and available for use.

(3) Notwithstanding any provision of the Revised Code to the contrary, any eligible campaign committee that files campaign finance statements on paper with the office of the secretary of state pursuant to division (J)(1) of this section shall be deemed to have filed those campaign finance statements by electronic means of transmission to the office of the secretary of state.

Sec. 3517.23. The secretary of state ~~shall adopt rules in accordance with Chapter 119. of the Revised Code that are necessary for the administration and enforcement of sections 3517.08 to 3517.13, 3517.20 to 3517.22, 3599.03, and 3599.031 of the Revised Code and~~ shall provide each candidate, political action committee, political contributing entity, legislative campaign fund, political party, and person making disbursements to pay the direct costs of producing or airing electioneering communications with written instructions and explanations in order to ensure compliance with sections 3517.08 to 3517.13, 3517.20 to 3517.22, 3599.03, and 3599.031 of the Revised Code.

Sec. 3701.021. (A) The director of health shall adopt, in accordance with Chapter 119. of the Revised Code, ~~such rules as are necessary to carry out sections 3701.021 to 3701.0210 of the Revised Code, including, but not limited to,~~ rules to establish the following:

(1) Subject to division (D) of this section, medical and financial eligibility requirements for the program for children and youth with special health care needs;

(2) Subject to division (C) of this section, eligibility requirements for providers who provide goods and services for the program for children and youth with special health care needs;

(3) Procedures to be followed by the department of health in disqualifying providers for violating requirements adopted under division (A)(2) of this section;

(4) Procedures to be used by the department regarding application for diagnostic services under division (B) of section 3701.023 of the Revised Code and payment for those services under division (E) of that section;

(5) Standards for the provision of service coordination by the department of health and city and general health districts;

(6) Procedures for the department to use to determine the amount to be paid annually by each county for services for children and youth with special health care needs and to allow counties to retain funds under divisions (A)(2) and (3) of section 3701.024 of the Revised Code;

(7) Financial eligibility requirements for services for Ohio residents twenty-one years of age or older who have cystic fibrosis;

(8) Criteria for payment of approved providers who provide goods and services for children and youth with special health care needs;

(9) Criteria for the department to use in determining whether the payment of health insurance premiums of participants in the program for children and youth with special health care needs is cost-effective;

(10) Procedures for appeal of denials of applications under divisions (A) and (D) of section 3701.023 of the Revised Code, disqualification of providers, and amounts paid for services;

(11) Terms of appointment for members of the children and youth with special health care needs medical advisory council created in section 3701.025 of the Revised Code;

(12) Eligibility requirements for the hemophilia program, including income and hardship requirements;

(13) If a manufacturer discount program is established under division (J)(1) of section 3701.023 of the Revised Code, procedures for administering the program, including criteria and other requirements for participation in the program by manufacturers of drugs and nutritional formulas.

(B) The department of health shall develop a manual of operational procedures and guidelines for the program for children and youth with special health care needs to implement sections 3701.021 to 3701.0210 of the Revised Code.

(C) A medicaid provider, as defined in section 5164.01 of the Revised Code, is eligible to be a provider of the same goods and services for the program for children and youth with special health care needs that the provider is approved to provide for the medicaid program and the director shall approve such a provider for participation in the program for children and youth with special health care needs.

(D) In establishing medical and financial eligibility requirements for the program for children and youth with special health care needs, the director of health shall not specify an age restriction that excludes from eligibility an individual who

is less than twenty-six years of age.

Sec. 3701.132. (A) As used in this section, "WIC program" means the "special supplemental nutrition program for women, infants, and children" established under the "Child Nutrition Act of 1966," 80 Stat. 885, 42 U.S.C. 1786, as amended.

(B) The department of health is hereby designated as the state agency to administer the WIC program.

~~The director of health shall adopt rules pursuant to Chapter 119. of the Revised Code as necessary for administering the WIC program. The rules may include civil money penalties for violations of the rules.~~

(C) In determining eligibility for services provided under the WIC program, the department may use the application form established under section 5163.40 of the Revised Code for the healthy start program. The department may require applicants to furnish their social security numbers.

(D) If the department determines that a vendor has committed an act with respect to the WIC program that federal statutes or regulations or state statutes or rules prohibit, the department shall take action against the vendor in the manner required by 7 C.F.R. part 246, including imposition of a civil money penalty in accordance with 7 C.F.R. 246.12, or rules adopted under this section.

Sec. 3701.136. (A) The director of health may establish a school-based fluoride mouth rinse program. If the director establishes the program, divisions (B) to (E) of this section are applicable.

(B) The director shall conduct a program to educate employees of the department of health and dental hygienists

licensed under Chapter 4715. of the Revised Code on how to train employees of, and volunteers for, public and nonpublic schools regarding the proper means of administering fluoride mouth rinse to students.

(C) Schools that participate in the school-based fluoride mouth rinse program shall require that their employees and volunteers who intend to administer fluoride mouth rinse to students receive training, by either of the following, on the proper means of administering fluoride mouth rinse to students:

(1) An employee of the department of health or a dental hygienist who has been trained through the program the director conducts pursuant to division (B) of this section;

(2) A school employee or volunteer who has been trained by an individual described in division (C)(1) of this section.

(D)(1) The director shall prescribe a form that the parent, guardian, or other person having care or charge of a student enrolled in a public or nonpublic school that participates in the school-based fluoride mouth rinse program may use to consent to the administration of fluoride mouth rinse to the student for the duration of the student's enrollment in that school. School employees or volunteers shall not administer fluoride mouth rinse to a student unless the consent form from the student's parent, guardian, or other person has been received.

(2) The consent form shall include all of the following:

(a) A space designated for the student's name and address;

(b) A space designated for the name of the student's school;

(c) A space designated for the student's grade level and class;

(d) A space designated for the signature of the parent, guardian, or other person who authorizes the administration of fluoride mouth rinse to the student;

(e) Information on the name, dosage, and intervals at which the fluoride mouth rinse is scheduled to be administered during each school year;

(f) The dates the administration of fluoride mouth rinse is to begin and cease, which may, respectively, be the first and last days of a school year;

(g) Any other information or spaces the director considers necessary for the proper administration of the program.

~~(E) The director may adopt rules as necessary to implement and administer the school-based fluoride mouth rinse program. The rules shall be adopted in accordance with Chapter 119. of the Revised Code.~~

Sec. 3701.144. (A) As used in this section, "cost sharing" has the same meaning as in section 3923.85 of the Revised Code.

(B) The department of health shall administer the state's participation in the national breast and cervical cancer early detection program (NBCCEDP), which shall be known as the Ohio breast and cervical cancer project. The project shall be administered in accordance with Title XV of the "Public Health Service Act," 42 U.S.C. 300k et seq., and the department's NBCCEDP grant agreement with the United States centers for disease control and prevention.

(C) In administering the project, the department shall set

eligibility requirements for services provided through the project as follows:

(1) The woman must have countable family income not exceeding three hundred per cent of the federal poverty line.

(2) One of the following must be the case:

(a) The woman is not covered by health insurance.

(b) The woman is covered by health insurance that does not include the screening or diagnostic services the woman seeks through the project.

(c) The woman is covered by health insurance that imposes cost sharing for the screening or diagnostic services the woman seeks through the project that exceeds the limit specified in rules adopted under division (D) of this section.

(3) In the case of a woman seeking cervical cancer screening and diagnostic services through the project, the woman must be at least twenty-one and less than sixty-five years of age.

(4) In the case of a woman seeking breast cancer screening and diagnostic services through the project, either of the following must be the case:

(a) The woman is at least forty years of age.

(b) The woman is at least twenty-one and less than forty years of age and has been determined by a physician, certified nurse-midwife, clinical nurse specialist, or certified nurse practitioner to need breast cancer screening and diagnostic services due to the results of a clinical breast examination, the woman's family history, or other factors.

(D) The director of health shall adopt rules for purposes of division (C)(2)(c) of this section specifying the cost sharing limit for each screening and diagnostic service that may be obtained through the project. ~~The director may adopt other rules as necessary to implement this section.~~ The rules shall be adopted in accordance with Chapter 119. of the Revised Code.

Sec. 3701.145. ~~(A)~~ The director of health shall ensure that, as part of the Ohio breast and cervical cancer project administered under section 3701.144 of the Revised Code, a woman who meets all of the following conditions receives treatment for breast or cervical cancer:

~~(1)~~ (A) The woman was screened for breast or cervical cancer by a provider who either does not participate in or was not paid for the screening by the Ohio breast and cervical cancer project.

~~(2)~~ (B) The woman is in need of treatment for breast or cervical cancer.

~~(3)~~ (C) The woman has a countable income not exceeding three hundred per cent of the federal poverty line.

~~(4)~~ (D) The woman is not covered by health insurance.

~~(5)~~ (E) The woman is less than sixty-five years of age.

~~(B) The director of health may adopt rules as necessary to implement this section. The rules shall be adopted in accordance with Chapter 119. of the Revised Code.~~

Sec. 3701.241. (A) The director of health shall develop and administer the following:

(1) A surveillance system to determine the number of cases of AIDS and the HIV infection rate in various population groups;

(2) Counseling and testing programs for groups determined by the director to be at risk of HIV infection, including procedures for both confidential and anonymous tests, counseling training programs for health care providers, and development of counseling guidelines;

(3) A confidential partner notification system to alert and counsel sexual contacts of individuals with HIV infection;

(4) Risk reduction and education programs for groups determined by the director to be at risk of HIV infection, and, in consultation with a wide range of community leaders, education programs for the public;

(5) Pilot programs for the long-term care of individuals with AIDS or AIDS-related condition, including care in nursing homes and in alternative settings;

(6) Programs to expand regional outpatient treatment of individuals with AIDS or AIDS-related condition;

(7) A program to assist communities, including communities of less than one hundred thousand population, in establishing AIDS task forces and support groups for individuals with AIDS, AIDS-related condition, and HIV infection. The program may include the award of grants if they are matched by local funds.

Information obtained or maintained under the partner notification system is not a public record under section 149.43 of the Revised Code and may be released only in accordance with division (C) of section 3701.243 of the Revised Code.

(B) The director shall:

(1) Approve a test or tests to be used to determine whether an individual has HIV infection, define a confirmed

positive test result, and develop guidelines for interpreting test results;

(2) Establish sites for confidential and anonymous HIV tests, and prepare a list of sites where an individual may obtain an anonymous test;

(3) Prepare a list of counseling services;

(4) Make available a copy of the list of anonymous testing sites or a copy of the list of counseling services to anyone who requests it.

(C) The director of health shall require the director or administrator of each site where anonymous or confidential HIV tests are given to submit a report every three months evaluating from an epidemiologic perspective the effectiveness of the HIV testing program at that site. Not later than January 31, 1991, and each year thereafter, the director of health shall make a report evaluating the anonymous and confidential testing programs throughout the state with regard to their effectiveness as epidemiologic programs. The report shall be submitted to the speaker of the house of representatives and the president of the senate and shall be made available to the public.

The director of health shall adopt rules pursuant to Chapter 119. of the Revised Code for the implementation of the requirements of division (B)(1) of this section and division (D) of section 3701.24 of the Revised Code.

(D) The director of health shall administer funds received under Title XXVI of the "Public Health Services Act," 104 Stat. 576 (1990), 42 U.S.C.A. 2601, as amended, for programs to improve the quality and availability of care for individuals with AIDS, AIDS-related condition, and HIV infection. In

administering these funds, the director may enter into contracts with any person or entity for the purpose of administering the programs, including contracts with the department of job and family services for establishment of a program of reimbursement of drugs used for treatment and care of such individuals. The director of health may ~~adopt rules in accordance with Chapter 119. of the Revised Code and~~ issue orders as necessary for administration of the funds. ~~If the department of job and family services enters into a contract under this division, the director of job and family services may adopt rules in accordance with Chapter 119. of the Revised Code as necessary for carrying out the department's duties under the contract.~~

Sec. 3701.31. In formulating and administering the blood bank program, the department of health may establish necessary standards, ~~promulgate necessary rules and regulations,~~ utilize the facilities and services of other official agencies and of voluntary organizations which may be made available to the department, and co-operate, if requested, with agencies and organizations engaged in a similar program on a local or state basis.

Sec. 3701.341. (A) The director of health, pursuant to Chapter 119. and consistent with Chapter 3726. and section 2317.56 of the Revised Code, shall adopt rules relating to ~~abortions and~~ the following subjects with respect to abortions:

(1) Post-abortion procedures to protect the health of the pregnant woman;

(2) Pathological reports;

(3) Humane disposition of the product of human conception;

(4) Counseling.

(B) The director of health shall implement the rules and shall apply to the court of common pleas for temporary or permanent injunctions restraining a violation or threatened violation of the rules. This action is an additional remedy not dependent on the adequacy of the remedy at law.

Sec. 3701.508. (A) The director of health shall adopt rules ~~governing~~ that do all of the following with respect to the statewide hearing screening, tracking, and early intervention program established under section 3701.504 of the Revised Code~~, including rules that do all of the following~~:

(1) Specify how hospitals and freestanding birthing centers are to comply with the requirements of section 3701.505 of the Revised Code, including methods to be used for hearing screening, except that with regard to the physiologic equipment to be used for hearing screening, the rules may require only that the equipment be capable of giving reliable results and may not specify particular equipment or a particular type of equipment;

(2) Provide that no newborn or infant shall be required to undergo a hearing screening if the parent, guardian, or custodian of the newborn or infant objects on the grounds that the screening conflicts with the parent's, guardian's, or custodian's religious tenets and practices;

(3) Provide for situations in which the parent, guardian, or custodian of a newborn or infant objects to a hearing screening for reasons other than religious tenets and practices;

(4) Specify how the department of health will determine whether a person is financially unable to pay for a hearing screening and define "third-party payer" for the purpose of

reimbursement of hearing screening by the department under section 3701.505 of the Revised Code;

(5) Specify an inexpensive and efficient format and procedures for the submission of hearing screening information from hospitals and freestanding birthing centers to the department of health;

(6) Specify a procedure whereby the department may conduct timely reviews of hearing screening information submissions for purposes of quality assurance, training, and disease prevention and control;

(7) Specify any additional information that hospitals and freestanding birthing centers are to provide to the children and youth with special health care needs medical advisory council's infant hearing screening subcommittee under section 3701.509 of the Revised Code.

(B) In addition to the rules adopted under division (A) of this section, the director shall adopt rules that specify the training that must be completed by persons who will conduct hearing screenings. In adopting these rules, the director shall consider incorporating cost-saving training methods, including computer-assisted learning and on-site training. Neither the rules nor the director of health may establish a minimum educational level for persons conducting hearing screenings.

(C) All rules adopted under this section shall be adopted in accordance with Chapter 119. of the Revised Code and shall be adopted so as to take effect not later than six months after August 1, 2002.

Sec. 3701.54. The department of health shall:

(A) Enforce sections 3701.51 to 3701.55 of the Revised

Code;

(B) ~~Promulgate rules as necessary for the purpose of those sections and as the director of health deems necessary for the further and proper guidance of health commissioners;~~

~~(C)~~ Provide for the gratuitous distribution of a scientific prophylactic for inflammation of the eyes of the newborn, together with directions for its proper use and administration, to all physicians and certified nurse-midwives engaged in the practice of obstetrics or assisting at childbirth;

~~(D)~~ (C) Publish and promulgate such further advice and information concerning the dangers of inflammation of the eyes of the newborn and of gonorrheal ophthalmia, and the necessity for prompt and effective treatment;

~~(E)~~ (D) Furnish copies of sections 3701.51 to 3701.55 of the Revised Code to all physicians, certified nurse-midwives, and persons engaged in services relating to the public health;

~~(F)~~ (E) Keep a proper record of all cases of inflammation of the eyes of the newborn and gonorrheal ophthalmia filed with the department pursuant to sections 3701.51 to 3701.55 of the Revised Code and as may come to its attention in any way;

~~(G)~~ (F) Report all violations of sections 3701.51 to 3701.55 of the Revised Code that come to its attention to the state medical board and also to the prosecuting attorney of the county wherein the violation was committed, and assist those officials in every way possible.

Sec. 3701.615. (A) As used in this section:

(1) "Certified nurse-midwife," "certified nurse

practitioner," and "clinical nurse specialist" have the same meanings as in section 4723.01 of the Revised Code.

(2) "Physician" means an individual authorized under Chapter 4731. of the Revised Code to practice medicine and surgery or osteopathic medicine and surgery.

(3) "Physician assistant" means an individual authorized under Chapter 4730. of the Revised Code to practice as a physician assistant.

(B) The department of health shall establish a grant program to address the provision of prenatal health care services to pregnant women on a group basis. The aim of the program is to increase the number of pregnant women who begin prenatal care early in their pregnancies and to reduce the number of infants born preterm.

(C)(1) An entity seeking to participate in the grant program shall apply to the department of health in a manner prescribed by the department. Participating entities may include the following:

(a) Medical practices, including those operated by or employing one or more physicians, physician assistants, certified nurse-midwives, certified nurse practitioners, or clinical nurse specialists;

(b) Health care facilities.

(2) To be eligible to participate in the grant program, an entity must demonstrate to the department that it can meet all of the following requirements:

(a) Has space to host groups of at least twelve pregnant women;

(b) Has adequate in-kind resources, including existing medical staff, to provide necessary prenatal health care services on both an individual and group basis;

(c) Provides prenatal care based on either of the following:

(i) The centering pregnancy model of care developed by the centering healthcare institute;

(ii) Another model of care acceptable to the department.

(d) Integrates health assessments, education, and support into a unified program in which pregnant women at similar stages of pregnancy meet, learn care skills, and participate in group discussions;

(e) Meets any other requirements established by the department.

(D) When distributing funds under the program, the department shall give priority to entities that are both of the following:

(1) Operating in areas of the state with high preterm birth rates, including rural areas and Cuyahoga, Franklin, Hamilton, and Summit counties;

(2) Providing care to medicaid recipients who are members of the group described in division (B) of section 5163.06 of the Revised Code.

(E) A participating entity may employ or contract with licensed dental hygienists to educate pregnant women about the importance of prenatal and postnatal dental care.

~~(F) The department may adopt rules as necessary to~~

~~implement this section. The rules shall be adopted in accordance with Chapter 119. of the Revised Code.~~

Sec. 3701.84. (A) The department of health shall prepare a plan to reduce tobacco use by Ohioans, with emphasis on reducing the use of tobacco by youth, minority and regional populations, pregnant women, medicaid recipients, and others who may be disproportionately affected by the use of tobacco. The department shall make copies of the plan available to the public.

(B) The plan shall do both of the following:

(1) Take into account the increasing use of electronic health records by health care providers and expanded health insurance coverage for tobacco cessation products and services;

(2) Require the department to collaborate with community organizations in the urban and rural communities specified in rules adopted under section 3701.142 of the Revised Code for the purpose of helping them succeed in securing grants from the moms quit for two grant program created under Section 289.33 of Am. Sub. H.B. 64 of the 131st general assembly and other tobacco cessation grant programs.

(C) The plan may provide for periodic surveys to measure tobacco use and behavior toward tobacco use by Ohioans.

(D) The plan may describe youth tobacco consumption prevention programs to be eligible for consideration for grants from the department and may set forth the criteria by which applications for grants for such programs will be considered by the department. Programs eligible for consideration may include:

(1) Media campaigns directed to youth to prevent underage tobacco consumption;

(2) School-based education programs to prevent youth tobacco consumption;

(3) Community-based youth programs involving youth tobacco consumption prevention through general youth development;

(4) Retailer education and compliance efforts to prevent youth tobacco consumption;

(5) Mentoring programs designed to prevent or reduce tobacco use by students.

(E) Pursuant to the plan, the department may carry out, or provide funding for private or public agencies to carry out, research and programs related to tobacco use prevention and cessation. If the department provides such funding, the department shall establish an objective process to determine which research and program proposals to fund. When appropriate, proposals for research shall be peer-reviewed. No program shall be carried out or funded by the department unless there is research that indicates that the program is likely to achieve the results desired. All research and programs funded by the department shall be goal-oriented and independently and objectively evaluated annually on whether it is meeting its goals. The department shall contract for such evaluations and shall adopt rules under Chapter 119. of the Revised Code regarding conflicts of interest in the research and programs it funds.

The department shall endeavor to coordinate its research and programs with the efforts of other agencies of this state to reduce tobacco use by Ohioans. Any state agency that conducts a survey that measures tobacco use or behavior toward tobacco use by Ohioans shall share the results of the survey with the

department.

~~(F) The department may adopt rules under Chapter 119. of the Revised Code as necessary to implement this section.~~

Sec. 3701.87. The governor may authorize the department of health to enter into an agreement on behalf of the state with the United States secretary of health and human services whereby the department may serve as the agency for review of proposed capital expenditures by health care facilities pursuant to section 1122 of the "Social Security Act" as amended by Public Law 92-603, 42 U.S.C. 1320a-1, and the regulations adopted thereunder. Such agreement shall be subject to and include the following terms and conditions:

(A) All applications, notices, requests for information, and other official communications shall be on written forms prescribed by and approved by the director of health.

(B) The director~~, subject to Chapter 119. of the Revised Code,~~ shall propose, modify, amend, and adopt ~~rules,~~ standards, guidelines, and official policies which are consistent with federal law, as it deems necessary to implement the capital expenditures review program.

(C) The director shall make all findings and recommendations required by federal law and shall give due consideration to the findings, reviews, and comments of areawide health planning agencies performing reviews pursuant to section 314 (b)(2) of the "Public Health Service Act," 42 U.S.C. 246, or the appropriate health systems agency.

(D) The findings and recommendations of the director shall be in writing and shall clearly specify the provisions of the state health facilities plan with which any application is found

to be inconsistent. Any applicant adversely affected by the findings and recommendations of the director may request a hearing before the director pursuant to Chapter 119. of the Revised Code. The findings and recommendations of the director are an adjudication as defined in Chapter 119. of the Revised Code and may be appealed as provided in that chapter.

Sec. 3701.922. (A) The director of health may do any of the following to implement and administer the patient centered medical home education program:

(1) Develop and implement programs of education or training on the patient centered medical home model of care or other similar enhanced models of coordinated patient centered care that are intended to address the multifaceted needs of patients and provide whole person comprehensive and coordinated patient centered care;

(2) Advise, consult, cooperate with, and assist, by contract or other arrangement, government agencies or institutions or private organizations, corporations, or associations in the development and promotion of programs pertaining to the evaluation and implementation of the patient centered medical home model of care or other similar enhanced models of coordinated patient centered care;

(3) Establish projects that provide education or training on the patient centered medical home model of care or other similar enhanced models of coordinated patient centered care.

(4) Seek and administer state funds or grants from other sources to carry out any functions of the patient centered medical home education program.

Any funds or grants received by the director for purposes

of the program shall be used for the program.

(B) The director may adopt ~~rules as necessary to implement and administer the patient centered medical home education program, including~~ rules that define what constitutes a "patient centered medical home" for purposes of an entity authorized to provide care coordination services. The rules shall be adopted in accordance with Chapter 119. of the Revised Code.

Sec. 3701.936. At the request of the director of health, every department, agency, and political subdivision of the state shall provide information, data, records, and otherwise assist in the execution of sections 3701.93 to ~~3701.9314~~ 3701.9312 of the Revised Code.

Sec. 3701.937. At the request of the director of health, any individual or entity not specified in section 3701.936 of the Revised Code, at the individual's or entity's discretion, may provide information, data, records, and otherwise assist in the execution of sections 3701.93 to ~~3701.9314~~ 3701.9312 of the Revised Code. Any information, data, and records provided to the director by any other individual or entity shall contain only information, data, or records that are available or reasonably drawn from any information, data, and record developed and kept in the normal course of business.

Sec. 3701.938. Notwithstanding any section of the Revised Code pertaining to confidentiality, any individual, public social service agency, or public agency that provides services to individuals or families, law enforcement agency, coroner, or public entity that provided services to an individual whose death is the type of death specified by the director of health under section 3701.934 of the Revised Code shall provide information, data, records, and otherwise assist in the

execution of sections 3701.93 to ~~3701.9314~~ 3701.9312 of the Revised Code.

Sec. 3702.301. (A) Except as provided in division (C) of this section, a freestanding birthing center is not required to obtain a license under section 3702.30 of the Revised Code if all of the following are the case:

(1) A religious denomination, sect, or group owns and operates the center.

(2) Requiring that the center be licensed significantly abridges or infringes on the religious practices or beliefs of that religious denomination, sect, or group.

(3) The center provides care only during low-risk pregnancy, delivery, and the immediate postpartum period exclusively to women who

are members of that religious denomination, sect, or group.

(4) The center monitors and evaluates the care provided to its patients in accordance with at least the minimum patient safety monitoring and evaluation requirements established in rules adopted under division (D) of this section.

(5) The center meets the quality assessment and improvement standards established in rules adopted under division (D) of this section.

(B) If the director determines that a freestanding birthing center is no longer exempt from the requirement to obtain a license under section 3702.30 of the Revised Code because the center ceases to comply with division (A)(4) or (5) of this section, the director may order the center to come into

compliance. In the order, the director may do all of the following:

(1) Identify what the center is not in compliance with and what the center needs to do to come into compliance;

(2) Require that the center come into compliance within a period of time specified in the order;

(3) Require that the center provide the director a written notice within a period of time specified in the order that contains all of the following:

(a) Certification that the center has come into compliance;

(b) The signature of the center's administrator or medical director and certification that the administrator or medical director, whichever signs the notice, is the center's authorized representative;

(c) Certification that the information contained in the notice and in any accompanying documentation is true and accurate;

(d) Any other information or documentation that the director may require to verify that the center has come into compliance.

(C) If the director issues an order to a freestanding birthing center under division (B) of this section and the center fails to comply with the order within the time specified in the order, the director may issue a second order that requires the center to cease operations until the center obtains a license under section 3702.30 of the Revised Code.

(D) The director of health shall adopt rules in accordance

with Chapter 119. of the Revised Code ~~as necessary to implement this section. The rules shall~~ that establish all of the following:

(1) Minimum patient safety monitoring and evaluation requirements;

(2) Quality assessment and improvement standards;

(3) Procedures for determining whether freestanding birthing centers are in compliance with the rules.

Sec. 3702.3012. (A) As used in this section, "surgical smoke" and "surgical smoke evacuation system" have the same meanings as in section 3727.25 of the Revised Code.

(B) Not later than one year after ~~the effective date of this section~~ October 3, 2024, each ambulatory surgical facility shall adopt and implement a policy designed to prevent human exposure to surgical smoke during any planned surgical procedure that is likely to generate surgical smoke. The policy shall include the use of a surgical smoke evacuation system.

~~(C) The director of health may adopt any rules the director considers necessary to implement this section. The rules shall be adopted in accordance with Chapter 119. of the Revised Code.~~

Sec. 3702.57. (A) The director of health shall adopt rules establishing procedures and criteria for reviews of applications for certificates of need and issuance, denial, or withdrawal of certificates.

(1) In adopting rules that establish criteria for reviews of applications of certificates of need, the director shall consider the availability of and need for long-term care beds to

provide care and treatment to persons diagnosed as having traumatic brain injuries and shall prescribe criteria for reviewing applications that propose to add long-term care beds to provide care and treatment to persons diagnosed as having traumatic brain injuries.

(2) The criteria for reviews of applications for certificates of need shall relate to the need for the reviewable activity and shall pertain to all of the following matters:

(a) The impact of the reviewable activity on the cost and quality of long-term care services in the relevant service area, including, but not limited, to the historical and projected utilization of the services to which the application pertains and the effect of the reviewable activity on utilization of other providers of similar services;

(b) The quality of the services to be provided as the result of the activity, as evidenced by the historical performance of the persons that will be involved in providing the services and by the provisions that are proposed in the application to ensure quality, including but not limited to adequate available personnel, available ancillary and support services, available equipment, size and configuration of physical plant, and relations with other providers;

(c) The impact of the reviewable activity on the availability and accessibility of the type of services proposed in the application to the population of the relevant service area, and the level of access to the services proposed in the application that will be provided to medically underserved individuals such as recipients of public assistance and individuals who have no health insurance or whose health insurance is insufficient;

(d) The activity's short- and long-term financial feasibility and cost-effectiveness, the impact of the activity on the applicant's costs and charges, and a comparison of the applicant's costs and charges with those of providers of similar services in the applicant's proposed service area;

(e) The advantages, disadvantages, and costs of alternatives to the reviewable activity;

(f) The impact of the activity on all other providers of similar services in the relevant service area, including the impact on their utilization, market share, and financial status;

(g) The historical performance of the applicant and related or affiliated parties in complying with previously granted certificates of need and any applicable certification, accreditation, or licensure requirements;

(h) The historical performance of the applicant and related or affiliated parties in providing cost-effective long-term care services;

(i) The special needs and circumstances of the applicant or population proposed to be served by the proposed project, including research activities, prevalence of particular diseases, unusual demographic characteristics, cost-effective contractual affiliations, and other special circumstances;

(j) The appropriateness of the zoning status of the proposed site of the activity;

(k) The participation by the applicant in research conducted by the United States food and drug administration or clinical trials sponsored by the national institutes of health.

(3) The criteria for reviews of applications shall include

a formula for determining each county's long-term care bed need for purposes of section 3702.593 of the Revised Code and may include other formulas for determining need for beds.

Any rules prescribing criteria that establish ratios of beds to population shall specify the bases for establishing the ratios or mitigating factors or exceptions to the ratios.

(B) The director shall adopt rules specifying all of the following:

(1) Information that must be provided in applications for certificates of need;

(2) Procedures for reviewing applications for completeness of information;

(3) Criteria for determining that the application is complete;

(4) Procedures for making a final determination regarding an application's completeness and issuing a notice of the determination within the one-hundred-eighty-day time frame specified in division (B)(3) of section 3702.52 of the Revised Code.

(C) The director shall adopt rules specifying requirements that holders of certificates of need must meet in order for the certificates to remain valid and establishing definitions and requirements for obligation of capital expenditures and implementation of projects authorized by certificates of need.

The rules shall not specify a maximum capital expenditure that a certificate holder may obligate under a certificate of need.

(D) The director shall adopt rules establishing criteria

and procedures under which the director of health may withdraw a certificate of need if the holder fails to meet requirements for continued validity of the certificate.

(E) The director shall adopt rules establishing procedures under which the department of health shall monitor project implementation activities of holders of certificates of need. The rules adopted under this division also may establish procedures for monitoring implementation activities of persons that have received nonreviewability rulings.

(F) The director shall adopt rules establishing certificate of need application fees sufficient to pay the costs incurred by the department for administering sections 3702.51 to 3702.62 of the Revised Code. Unless rules are adopted under this division establishing different application fees, the application fee for a project not involving a capital expenditure shall be three thousand dollars and the application fee for a project involving a capital expenditure shall be nine-tenths of one per cent of the capital expenditure proposed subject to a minimum of three thousand dollars and a maximum of twenty thousand dollars.

(G) The director shall adopt rules specifying information that is necessary to conduct reviews of certificate of need applications and to develop criteria for reviews that long-term care facilities are to submit to the director under division (H) of section 3702.52 of the Revised Code.

(H) The director shall adopt rules defining "affiliated person," "related person," and "ultimate controlling interest" for purposes of section 3702.523 of the Revised Code.

(I) The director shall adopt rules prescribing

requirements for holders of certificates of need to demonstrate to the director under section 3702.525 of the Revised Code that reasonable progress is being made toward completion of the reviewable activity and establishing standards by which the director shall determine whether reasonable progress is being made.

(J) The director shall adopt all rules under divisions (A) to (I) of this section in accordance with Chapter 119. of the Revised Code. ~~The director may adopt other rules as necessary to carry out the purposes of sections 3702.51 to 3702.62 of the Revised Code.~~

Sec. 3702.71. As used in sections 3702.71 to ~~3702.79~~ 3702.78 of the Revised Code:

(A) "Full-time practice" means working a minimum of forty hours per week for a minimum of forty-five weeks each service year.

(B) "Part-time practice" means working a minimum of twenty and a maximum of thirty-nine hours per week for a minimum of forty-five weeks per service year.

(C) "Primary care physician" means an individual who is authorized under Chapter 4731. of the Revised Code to practice medicine and surgery or osteopathic medicine and surgery and is board certified or board eligible in a primary care specialty.

(D) "Primary care service" means professional comprehensive personal health services, which may include health education and disease prevention, treatment of uncomplicated health problems, diagnosis of chronic health problems, overall management of health care services for an individual or a family, and the services of a psychiatrist. "Primary care

service" also includes providing the initial contact for health care services, making referrals for secondary and tertiary care and for continuity of health care services, and teaching activities to the extent specified in a contract entered into pursuant to section 3702.74 of the Revised Code.

(E) "Primary care specialty" means general internal medicine, pediatrics, adolescent medicine, obstetrics and gynecology, psychiatry, child and adolescent psychiatry, geriatric psychiatry, combined internal medicine and pediatrics, geriatrics, or family practice.

(F) "Teaching activities" means providing clinical education to students and residents regarding the primary care physician's normal course of practice and expertise at the service site specified in the contract described in section 3702.74 of the Revised Code.

Sec. 3702.74. (A) A primary care physician who has signed a letter of intent under section 3702.73 of the Revised Code and the director of health may enter into a contract for the physician's participation in the physician loan repayment program. The physician's employer or other funding source may also be a party to the contract.

(B) The contract shall include all of the following obligations:

(1) The primary care physician agrees to provide primary care services in the health resource shortage area identified in the letter of intent for the number of hours and duration specified in the contract;

(2) When providing primary care services in the health resource shortage area, the primary care physician agrees to do

all of the following:

(a) Provide primary care services in an outpatient or ambulatory setting approved by the department of health;

(b) Provide primary care services without regard to a patient's ability to pay;

(c) Meet the requirements for a medicaid provider agreement and enter into the agreement with the department of medicaid to provide primary care services to medicaid recipients.

(3) The department of health agrees, as provided in section 3702.75 of the Revised Code, to repay, so long as the primary care physician performs the service obligation agreed to under division (B)(1) of this section, all or part of the principal and interest of a government or other educational loan taken by the primary care physician for expenses described in section 3702.75 of the Revised Code;

(4) The primary care physician agrees to pay the department of health an amount ~~established~~ the director establishes by rules adopted under ~~section 3702.79~~ Chapter 119. of the Revised Code if the physician fails to complete the service obligation agreed to under division (B)(1) of this section.

(C) The contract shall include the following terms as agreed upon by the parties:

(1) The primary care physician's required length of service in the health resource shortage area, which must be at least two years;

(2) The number of weekly hours the primary care physician

will be engaged in full-time practice or part-time practice in the health resource shortage area;

(3) The maximum amount that the department will repay on behalf of the primary care physician;

(4) The extent to which the primary care physician's teaching activities will be counted toward the physician's full-time practice or part-time practice hours under the contract.

(D) If the amount specified in division (C)(3) of this section includes federal funds, the amount of state funds repaid on the individual's behalf shall be the same as the amount of those federal funds.

Sec. 3702.91. (A) As used in this section:

(1) "Full-time practice" and "part-time practice" have the same meanings as in section 3702.71 of the Revised Code;

(2) "Teaching activities" means providing clinical education to dental students and residents and dental health profession students at the service site specified in the contract described in division (B) of this section.

(B) An individual who has signed a letter of intent may enter into a contract with the director of health for participation in the dentist loan repayment program. The dentist's employer or other funding source may also be a party to the contract.

(C) The contract shall include all of the following obligations:

(1) The individual agrees to provide dental services in the dental health resource shortage area identified in the letter of intent for the number of hours and duration specified

in the contract.

(2) When providing dental services in the dental health resource shortage area, the individual agrees to do all of the following:

(a) Provide dental services in a service site approved by the department of health;

(b) Provide dental services without regard to a patient's ability to pay;

(c) Meet the requirements for a medicaid provider agreement and enter into the agreement with the department of medicaid to provide dental services to medicaid recipients.

(3) The department of health agrees, as provided in section 3702.85 of the Revised Code, to repay, so long as the individual performs the service obligation agreed to under division (C)(1) of this section, all or part of the principal and interest of a government or other educational loan taken by the individual for expenses described in section 3702.85 of the Revised Code.

(4) The individual agrees to pay the department of health an amount established by the director by rules adopted under ~~section 3702.86~~ Chapter 119. of the Revised Code, if the individual fails to complete the service obligation agreed to under division (C)(1) of this section.

(D) The contract shall include the following terms as agreed upon by the parties:

(1) The individual's required length of service in the dental health resource shortage area, which must be at least two years;

(2) The number of weekly hours the individual will be engaged in full-time practice or part-time practice;

(3) The maximum amount that the department will repay on behalf of the individual;

(4) The extent to which the individual's teaching activities will be counted toward the individual's full-time practice or part-time practice hours under the contract.

(E) If the amount specified in division (D)(3) of this section includes federal funds, the amount of state funds repaid on the individual's behalf shall be the same as the amount of those federal funds.

Sec. 3702.965. (A) As used in this section:

(1) "Full-time practice" and "part-time practice" have the same meanings as in section 3702.71 of the Revised Code;

(2) "Teaching activities" means supervising dental hygiene students at the service site specified in the contract described in division (B) of this section.

(B) An individual who has been approved for participation under section 3702.964 of the Revised Code may enter into a contract with the director of health for participation in the dental hygienist loan repayment program. The dental hygienist's employer or other funding source may also be a party to the contract.

(C) The contract shall include all of the following obligations:

(1) The individual agrees to provide dental hygiene services in the dental health resource shortage area for the number of hours and duration specified in the contract.

(2) The department of health agrees, as provided in section 3702.96 of the Revised Code, to repay, so long as the individual performs the service obligation agreed to under division (C)(1) of this section, all or part of the principal and interest of a government or other educational loan taken by the individual for expenses described in section 3702.96 of the Revised Code.

(3) The individual agrees to pay the department of health an amount established by the director by rules adopted under ~~section 3702.961~~ Chapter 119. of the Revised Code, if the individual fails to complete the service obligation agreed to under division (C)(1) of this section.

(D) The contract shall include the following terms as agreed upon by the parties:

(1) The particular site within a dental health resource shortage area where the dental hygiene services are to be performed;

(2) The individual's required length of service in the dental health resource shortage area, which must be at least two years;

(3) The number of weekly hours the individual will be engaged in full-time practice or part-time practice;

(4) The maximum amount that the department will repay on behalf of the individual;

(5) The extent to which the individual's teaching activities will be counted toward the individual's full-time practice or part-time practice hours under the contract.

(E) Before agreeing to the amount specified in division

(D)(4) of this section, the department of health shall consult with the Ohio dental hygienists' association regarding the amount. If this amount includes funds from the bureau of clinician recruitment and service in the United States department of health and human services, the amount of state funds repaid on the individual's behalf shall be the same as the amount of those funds.

Sec. 3703.21. (A) Within ninety days after September 16, 2004, the superintendent of industrial compliance shall appoint a backflow advisory board consisting of not more than ten members, who shall serve at the pleasure of the superintendent. The superintendent shall appoint a representative from the plumbing section of the division of industrial compliance, three representatives recommended by the plumbing administrator of the division of industrial compliance, a representative of the drinking water program of the Ohio environmental protection agency, three representatives recommended by the director of environmental protection, and not more than two members who are not employed by the plumbing or water industry.

The board shall advise the superintendent on matters pertaining to the training and certification of backflow technicians.

(B)(1) The superintendent shall adopt rules in accordance with Chapter 119. of the Revised Code to ~~provide for the certification of backflow technicians. The rules shall~~ establish all of the following requirements, specifications, and procedures for the certification of backflow technicians:

(a) Requirements and procedures for the initial certification of backflow technicians, including eligibility criteria and application requirements and fees;

(b) Specifications concerning and procedures for taking examinations required for certification as a backflow technician, including eligibility criteria to take the examination and application requirements and fees for taking the examination;

(c) Subject to division (B)(2) of this section, specifications concerning and procedures for renewing a certification as a backflow technician, including eligibility criteria, application requirements, and fees for renewal;

(d) Specifications concerning and procedures for both of the following:

(i) Approval of training agencies authorized to teach required courses to candidates for certification as backflow technicians or continuing education courses to certified backflow technicians;

(ii) Renewal of the approval described in division (B)(1)(d)(i) of this section.

(e) Education requirements that candidates for initial certification as backflow technicians must satisfy and continuing education requirements that certified backflow technicians must satisfy;

(f) Grounds and procedures for denying, suspending, or revoking certification, or denying the renewal of certification, as a backflow technician;

(g) Procedures for issuing administrative orders for the remedy of any violation of this section or any rule adopted pursuant to division (B)(1) of this section, including, but not limited to, procedures for assessing a civil penalty authorized under division (E) of this section~~;~~

~~(h) Any provision the superintendent determines is necessary to administer or enforce this section~~.

(2) In the rules the superintendent adopts under division (B)(1)(c) of this section, the superintendent shall do both of the following:

(a) Specify that a certification be renewed every five years;

(b) Establish a certification renewal fee of seventy-five dollars.

(C) The superintendent shall certify a backflow technician in accordance with Chapter 4796. of the Revised Code if either of the following applies:

(1) The individual holds a license or certification in another state.

(2) The individual has satisfactory work experience, a government certification, or a private certification as described in that chapter as a backflow technician in a state that does not issue that certification.

(D) No individual shall engage in the installation, testing, or repair of any isolation backflow prevention device unless that individual possesses a valid certification as a backflow technician. This division does not apply with respect to the installation, testing, or repair of any containment backflow prevention device.

(E) Whoever violates division (D) of this section or any rule adopted pursuant to division (B)(1) of this section shall pay a civil penalty of not more than five thousand dollars for each day that the violation continues. The superintendent may,

by order, assess a civil penalty under this division, or may request the attorney general to bring a civil action to impose the civil penalty in the court of common pleas of the county in which the violation occurred or where the violator resides.

(F) Any action taken under a rule adopted pursuant to division (B)(1)(f) of this section is subject to the appeal process of Chapter 119. of the Revised Code. An administrative order issued pursuant to rules adopted under division (B)(1)(g) of this section and an appeal to that type of administrative order shall be executed in accordance with Chapter 119. of the Revised Code.

(G) As used in this section:

(1) "Isolation backflow prevention device" means a device for the prevention of the backflow of liquids, solids, or gases that is regulated by the building code adopted pursuant to section 3781.10 of the Revised Code and rules adopted pursuant to this section.

(2) "Containment backflow prevention device" means a device for the prevention of the backflow of liquids, solids, or gases that is installed by the supplier of, or as a requirement of, any public water system as defined in division (A) of section 6109.01 of the Revised Code.

Sec. 3704.03. The director of environmental protection may do any of the following:

(A) Develop programs for the prevention, control, and abatement of air pollution;

(B) Advise, consult, contract, and cooperate with any governmental or private agency in the furtherance of the purposes of this chapter;

(C) Encourage, participate in, or conduct studies, investigations, and research relating to air pollution, collect and disseminate information, and conduct education and training programs relating to the causes, prevention, control, and abatement of air pollution;

(D) ~~Adopt, modify, and rescind rules prescribing ambient air quality standards for the state as a whole or for various areas of the state that are consistent with and no more stringent than the national ambient air quality standards in effect under the federal Clean Air Act;~~

~~(E)~~ Adopt, modify, suspend, and rescind rules ~~for the prevention, control, and abatement of air pollution, including rules~~ prescribing for the state as a whole or for various areas of the state emission standards for air contaminants~~, and other necessary rules for the purpose of achieving and maintaining compliance with ambient air quality standards in all areas within the state as expeditiously as practicable, but not later than any deadlines applicable under the federal Clean Air Act~~; rules for the prevention or control of the emission of hazardous or toxic air contaminants; rules prescribing fugitive dust limitations and standards that are related, on an areawide basis, to attainment and maintenance of ambient air quality standards; rules prescribing shade, density, or opacity limitations and standards for emissions, provided that with regard to air contaminant sources for which there are particulate matter emission standards in addition to a shade, density, or opacity rule, upon demonstration by such a source of compliance with those other standards, the shade, density, or opacity rule shall provide for establishment of a shade, density, or opacity limitation for that source that does not require the source to reduce emissions below the level specified

by those other standards; rules for the prevention or control of odors and air pollution nuisances; ~~rules that prevent significant deterioration of air quality to the extent required by the federal Clean Air Act; rules for the protection of visibility as required by the federal Clean Air Act;~~ and rules prescribing open burning limitations and standards. In adopting, modifying, suspending, or rescinding any such rules, the director, to the extent consistent with the federal Clean Air Act, shall hear and give consideration to evidence relating to all of the following:

(1) Conditions calculated to result from compliance with the rules, the overall cost within this state of compliance with the rules, and their relation to benefits to the people of the state to be derived from that compliance;

(2) The quantity and characteristics of air contaminants, the frequency and duration of their presence in the ambient air, and the dispersion and dilution of those contaminants;

(3) Topography, prevailing wind directions and velocities, physical conditions, and other factors that may or may combine to affect air pollution.

Consistent with division (K) of section 3704.036 of the Revised Code, the director shall consider alternative emission limits proposed by the owner or operator of an air contaminant source that is subject to an emission limit established in rules adopted under this division and shall accept those alternative emission limits that the director determines to be equivalent to emission limits established in rules adopted under this division.

~~(F)(1)~~ (E)(1) Adopt, modify, suspend, and rescind rules

consistent with the purposes of this chapter prohibiting the location, installation, construction, or modification of any air contaminant source or any machine, equipment, device, apparatus, or physical facility intended primarily to prevent or control the emission of air contaminants unless an installation permit therefor has been obtained from the director or the director's authorized representative.

(2)(a) Applications for installation permits shall be accompanied by plans, specifications, construction schedules, and such other pertinent information and data, including data on ambient air quality impact and a demonstration of best available technology, as the director may require. Installation permits shall be issued for a period specified by the director and are transferable. The director shall specify in each permit the applicable emission standards and that the permit is conditioned upon payment of the applicable fees as required by section 3745.11 of the Revised Code and upon the right of the director's authorized representatives to enter upon the premises of the person to whom the permit has been issued, at any reasonable time and subject to safety requirements of the person in control of the premises, for the purpose of determining compliance with such standards, this chapter, the rules adopted thereunder, and the conditions of any permit, variance, or order issued thereunder. Each proposed new or modified air contaminant source shall provide such notice of its proposed installation or modification to other states as is required under the federal Clean Air Act. Installation permits shall include the authorization to operate sources installed and operated in accordance with terms and conditions of the installation permits for a period not to exceed one year from commencement of operation, which authorization shall constitute an operating

permit under division ~~(G)~~ (F) of this section and rules adopted under it.

No installation permit shall be required for activities that are subject to and in compliance with a plant-wide applicability limit issued by the director in accordance with rules adopted under this section.

No installation permit shall be issued except in accordance with all requirements of this chapter and rules adopted thereunder. No application shall be denied or permit revoked or modified without a written order stating the findings upon which denial, revocation, or modification is based. A copy of the order shall be sent to the applicant or permit holder by certified mail.

(b) An air contaminant source that is the subject of an installation permit shall be installed or modified in accordance with the permit not later than eighteen months after the permit's effective date at which point the permit shall terminate unless one of the following applies:

(i) The owner or operator has undertaken a continuing program of installation or modification during the eighteen-month period.

(ii) The owner or operator has entered into a binding contractual obligation to undertake and complete within a reasonable period of time a continuing program of installation or modification of the air contaminant source during the eighteen-month period.

(iii) The director has extended the date by which the air contaminant source that is the subject of the installation permit must be installed or modified.

(iv) The installation permit is the subject of an appeal by a party other than the owner or operator of the air contaminant source that is the subject of the installation permit, in which case the date of termination of the permit is not later than eighteen months after the effective date of the permit plus the number of days between the date in which the permit was appealed and the date on which all appeals concerning the permit have been resolved.

(v) The installation permit has been superseded by a subsequent installation permit, in which case the original installation permit terminates on the effective date of the superseding installation permit.

Division ~~(F)(2)(b)~~ (E)(2)(b) of this section applies to an installation permit that has not terminated as of October 16, 2009.

~~The director may adopt rules in accordance with Chapter 119. of the Revised Code for the purpose of establishing additional requirements that are necessary for the implementation of division (F)(2)(b) of this section.~~

(3) Not later than two years after August 3, 2006, the director shall adopt a rule in accordance with Chapter 119. of the Revised Code specifying that a permit to install is required only for new or modified air contaminant sources that emit any of the following air contaminants:

(a) An air contaminant or precursor of an air contaminant for which a national ambient air quality standard has been adopted under the federal Clean Air Act;

(b) An air contaminant for which the air contaminant source is regulated under the federal Clean Air Act;

(c) An air contaminant that presents, or may present, through inhalation or other routes of exposure, a threat of adverse human health effects, including, but not limited to, substances that are known to be, or may reasonably be anticipated to be, carcinogenic, mutagenic, teratogenic, or neurotoxic, that cause reproductive dysfunction, or that are acutely or chronically toxic, or a threat of adverse environmental effects whether through ambient concentrations, bioaccumulation, deposition, or otherwise, and that is identified in the rule by chemical name and chemical abstract service number.

The director may modify the rule adopted under division ~~(F)(3)(c)~~ (E)(3)(c) of this section for the purpose of adding or deleting air contaminants. For each air contaminant that is contained in or deleted from the rule adopted under division ~~(F)(3)(c)~~ (E)(3)(c) of this section, the director shall include in a notice accompanying any proposed or final rule an explanation of the director's determination that the air contaminant meets the criteria established in that division and should be added to, or no longer meets the criteria and should be deleted from, the list of air contaminants. The explanation shall include an identification of the scientific evidence on which the director relied in making the determination. Until adoption of the rule under division ~~(F)(3)(c)~~ (E)(3)(c) of this section, nothing shall affect the director's authority to issue, deny, modify, or revoke permits to install under this chapter and rules adopted under it.

(4)(a) Applications for permits to install new or modified air contaminant sources shall contain sufficient information regarding air contaminants for which the director may require a permit to install to determine conformity with the environmental

protection agency's document entitled "Review of New Sources of Air Toxics Emissions, Option A," dated May 1986, which the director shall use to evaluate toxic emissions from new or modified air contaminant sources. The director shall make copies of the document available to the public upon request at no cost and post the document on the environmental protection agency's web site. Any inconsistency between the document and division ~~(F)(4)~~(E)(4) of this section shall be resolved in favor of division ~~(F)(4)~~(E)(4) of this section.

(b) The maximum acceptable ground level concentration of an air contaminant shall be calculated in accordance with the document entitled "Review of New Sources of Air Toxics Emissions, Option A." Modeling shall be conducted to determine the increase in the ground level concentration of an air contaminant beyond the facility's boundary caused by the emissions from a new or modified source that is the subject of an application for a permit to install. Modeling shall be based on the maximum hourly rate of emissions from the source using information including, but not limited to, any emission control devices or methods, operational restrictions, stack parameters, and emission dispersion devices or methods that may affect ground level concentrations, either individually or in combination. The director shall determine whether the activities for which a permit to install is sought will cause an increase in the ground level concentration of one or more relevant air contaminants beyond the facility's boundary by an amount in excess of the maximum acceptable ground level concentration. In making the determination as to whether the maximum acceptable ground level concentration will be exceeded, the director shall give consideration to the modeling conducted under division ~~(F)(4)(b)~~(E)(4)(b) of this section and other relevant information

submitted by the applicant.

(c) If the modeling conducted under division ~~(F)(4)(b)~~ (E)(4)(b) of this section with respect to an application for a permit to install demonstrates that the maximum ground level concentration from a new or modified source will be greater than or equal to eighty per cent, but less than one hundred per cent of the maximum acceptable ground level concentration for an air contaminant, the director may establish terms and conditions in the permit to install for the air contaminant source that will require the owner or operator of the air contaminant source to maintain emissions of that air contaminant commensurate with the modeled level, which shall be expressed as allowable emissions per day. In order to calculate the allowable emissions per day, the director shall multiply the hourly emission rate modeled under division ~~(F)(4)(b)~~ (E)(4)(b) of this section to determine the ground level concentration by the operating schedule that has been identified in the permit to install application. Terms and conditions imposed under division ~~(F)(4)(c)~~ (E)(4)(c) of this section are not federally enforceable requirements and, if included in a Title V permit, shall be placed in the portion of the permit that is only enforceable by the state.

(d) If the modeling conducted under division ~~(F)(4)(b)~~ (E)(4)(b) of this section with respect to an application for a permit to install demonstrates that the maximum ground level concentration from a new or modified source will be less than eighty per cent of the maximum acceptable ground level concentration, the owner or operator of the source annually shall report to the director, on a form prescribed by the director, whether operations of the source are consistent with the information regarding the operations that was used to conduct the modeling with regard to the permit to install

application. The annual report to the director shall be in lieu of an emission limit or other permit terms and conditions imposed pursuant to division ~~(F)(4)~~(E)(4) of this section. The director may consider any significant departure from the operations of the source described in the permit to install application that results in greater emissions than the emissions rate modeled to determine the ground level concentration as a modification and require the owner or operator to submit a permit to install application for the increased emissions. The requirements established in division ~~(F)(4)(d)~~(E)(4)(d) of this section are not federally enforceable requirements and, if included in a Title V permit, shall be placed in the portion of the permit that is only enforceable by the state.

(e) Division ~~(F)(4)~~(E)(4) of this section and the document entitled "Review of New Sources of Air Toxics Emissions, Option A" shall not be included in the state implementation plan under section 110 of the federal Clean Air Act and do not apply to an air contaminant source that is subject to a maximum achievable control technology standard or residual risk standard under section 112 of the federal Clean Air Act, to a particular air contaminant identified under 40 C.F.R. 51.166, division (b)(23), for which the director has determined that the owner or operator of the source is required to install best available control technology for that particular air contaminant, or to a particular air contaminant for which the director has determined that the source is required to meet the lowest achievable emission rate, as defined in 40 C.F.R. part 51, Appendix S, for that particular air contaminant.

(f)(i) Division ~~(F)(4)~~(E)(4) of this section and the document entitled "Review of New Sources of Air Toxics Emissions, Option A" do not apply to parking lots, storage

piles, storage tanks, transfer operations, grain silos, grain dryers, emergency generators, gasoline dispensing operations, air contaminant sources that emit air contaminants solely from the combustion of fossil fuels, or the emission of wood dust, sand, glass dust, coal dust, silica, and grain dust.

(ii) Notwithstanding division ~~(F)(4)(f)(i)~~ (E)(4)(f)(i) of this section, the director may require an individual air contaminant source that is within one of the source categories identified in division ~~(F)(4)(f)(i)~~ (E)(4)(f)(i) of this section to submit information in an application for a permit to install a new or modified source in order to determine the source's conformity to the document if the director has information to conclude that the particular new or modified source will potentially cause an increase in ground level concentration beyond the facility's boundary that exceeds the maximum acceptable ground level concentration as set forth in the document.

~~(iii) The director may adopt rules in accordance with Chapter 119. of the Revised Code that are consistent with the purposes of this chapter and that add to or delete from the source category exemptions established in division (F)(4)(f)(i) of this section.~~

(5) Not later than one year after August 3, 2006, the director shall adopt rules in accordance with Chapter 119. of the Revised Code specifying activities that do not, by themselves, constitute beginning actual construction activities related to the installation or modification of an air contaminant source for which a permit to install is required such as the grading and clearing of land, on-site storage of portable parts and equipment, and the construction of

foundations or buildings that do not themselves emit air contaminants. The rules also shall allow specified initial activities that are part of the installation or modification of an air contaminant source, such as the installation of electrical and other utilities for the source, prior to issuance of a permit to install, provided that the owner or operator of the source has filed a complete application for a permit to install, the director or the director's designee has determined that the application is complete, and the owner or operator of the source has notified the director that this activity will be undertaken prior to the issuance of a permit to install. Any activity that is undertaken by the source under those rules shall be at the risk of the owner or operator. The rules shall not apply to activities that are precluded prior to permit issuance under section 111, section 112, Part C of Title I, and Part D of Title I of the federal Clean Air Act.

~~(G)~~ (F) Adopt, modify, suspend, and rescind rules prohibiting the operation or other use of any new, modified, or existing air contaminant source unless an operating permit has been obtained from the director or the director's authorized representative~~, or the air contaminant source is being operated in compliance with the conditions of a variance issued pursuant to division (H) of this section~~. Applications for operating permits shall be accompanied by such plans, specifications, and other pertinent information as the director may require. Operating permits may be issued for a period determined by the director not to exceed ten years, are renewable, and are transferable. The director shall specify in each operating permit that the permit is conditioned upon payment of the applicable fees as required by section 3745.11 of the Revised Code and upon the right of the director's authorized

representatives to enter upon the premises of the person to whom the permit has been issued, at any reasonable time and subject to safety requirements of the person in control of the premises, for the purpose of determining compliance with this chapter, the rules adopted thereunder, and the conditions of any permit, variance, or order issued thereunder. Operating permits may be denied or revoked for failure to comply with this chapter or the rules adopted thereunder. An operating permit shall be issued only upon a showing satisfactory to the director or the director's representative that the air contaminant source is being operated in compliance with applicable emission standards and other rules or upon submission of a schedule of compliance satisfactory to the director for a source that is not in compliance with all applicable requirements at the time of permit issuance, provided that the compliance schedule shall be consistent with and at least as stringent as that contained in any judicial consent decree or administrative order to which the air contaminant source is subject. The rules shall provide for the issuance of conditional operating permits for such reasonable periods as the director may determine to allow the holder of an installation permit, who has constructed, installed, located, or modified a new air contaminant source in accordance with the provisions of an installation permit, to make adjustments or modifications necessary to enable the new air contaminant source to comply with applicable emission standards and other rules. Terms and conditions of operating permits issued pursuant to this division shall be federally enforceable for the purpose of establishing the potential to emit of a stationary source and shall be expressly designated as federally enforceable. Any such federally enforceable restrictions on a source's potential to emit shall include both an annual limit and a short-term limit of not more than thirty

days for each pollutant to be restricted together with adequate methods for establishing compliance with the restrictions. In other respects, operating permits issued pursuant to this division are enforceable as state law only. No application shall be denied or permit revoked or modified without a written order stating the findings upon which denial, revocation, or modification is based. A copy of the order shall be sent to the applicant or permit holder by certified mail.

~~(H) Adopt, modify, and rescind rules governing the issuance, revocation, modification, or denial of variances that authorize emissions in excess of the applicable emission standards.~~

(G) No variance shall be issued except pursuant to ~~those rules~~rule. The rules shall ~~prescribe conditions and criteria in furtherance of the purposes of this chapter and consistent with the federal Clean Air Act governing eligibility for issuance of variances, which shall include~~ establish all of the following:

(1) Provisions requiring consistency of emissions authorized by a variance with timely attainment and maintenance of ambient air quality standards;

(2) Provisions prescribing the classes and categories of air contaminants and air contaminant sources for which variances may be issued;

(3) Provisions defining the circumstances under which an applicant shall demonstrate that compliance with applicable emission standards is technically infeasible, economically unreasonable, or impossible because of conditions beyond the control of the applicant~~;~~

~~(4) Other provisions prescribed in furtherance of the~~

~~goals of this chapter~~.

The rules shall prohibit the issuance of variances from any emission limitation that was applicable to a source pursuant to an installation permit and shall prohibit issuance of variances that conflict with the federal Clean Air Act.

Applications for variances shall be accompanied by such information as the director may require. In issuing variances, the director may order the person to whom a variance is issued to furnish plans and specifications and such other information and data, including interim reports, as the director may require and to proceed to take such action within such time as the director may determine to be appropriate and reasonable to prevent, control, or abate the person's existing emissions of air contaminants. The director shall specify in each variance that the variance is conditioned upon payment of the applicable fees as required by section 3745.11 of the Revised Code and upon the right of the director's authorized representatives to enter upon the premises of the person to whom the variance has been issued, at any reasonable time and subject to safety requirements of the person in control of the premises, for the purpose of determining compliance with this chapter, the rules adopted thereunder, and the conditions of any permit, variance, or order issued thereunder.

The director may hold a public hearing on an application for a variance or renewal thereof at a location in the county where the variance is sought. The director shall give not less than twenty days' notice of the hearing to the applicant by certified mail or another type of mail accompanied by a receipt. The director also shall cause at least one publication of notice in a newspaper with general circulation in the county where the

variance is sought or may instead provide public notice by publication on the environmental protection agency's web site. The director shall keep available for public inspection at the principal office of the environmental protection agency a current schedule of pending applications for variances and a current schedule of pending variance hearings. The director shall make a complete stenographic record or electronic record of testimony and other evidence submitted at the hearing. The director shall make a written determination to issue, renew, or deny the variance and shall enter the determination and the basis therefor into the record of the hearing. The director shall issue, renew, or deny an application for a variance or renewal thereof, or issue a proposed action upon the application pursuant to section 3745.07 of the Revised Code, within six months of the date upon which the director receives a complete application with all pertinent information and data required by the director.

Any variance granted pursuant to rules adopted under this division shall be for a period specified by the director, not to exceed three years, and may be renewed from time to time on such terms and for such periods, not to exceed three years each, as the director determines to be appropriate. A variance may be revoked, or renewal denied, for failure to comply with conditions specified in the variance. No variance shall be issued, denied, revoked, or modified without a written order stating the findings upon which the issuance, denial, revocation, or modification is based. A copy of the order shall be sent to the applicant or variance holder by certified mail.

~~(I)~~ (H) Require the owner or operator of an air contaminant source to install, employ, maintain, and operate such emissions, ambient air quality, meteorological, or other monitoring devices

or methods as the director shall prescribe; to sample those emissions at such locations, at such intervals, and in such manner as the director prescribes; to maintain records and file periodic reports with the director containing information as to location, size, and height of emission outlets, rate, duration, and composition of emissions, and any other pertinent information the director prescribes; and to provide such written notice to other states as the director shall prescribe. In requiring monitoring devices, records, and reports, the director, to the extent consistent with the federal Clean Air Act, shall give consideration to technical feasibility and economic reasonableness and allow reasonable time for compliance. For sources where a specific monitoring, record-keeping, or reporting requirement is specified for a particular air contaminant from a particular air contaminant source in an applicable regulation adopted by the United States environmental protection agency under the federal Clean Air Act or in an applicable rule adopted by the director, the director shall not impose an additional requirement in a permit that is a different monitoring, record-keeping, or reporting requirement other than the requirement specified in the applicable regulation or rule for that air contaminant except as otherwise agreed to by the owner or operator of the air contaminant source and the director. For sources where no specific monitoring requirement is specified for a particular air contaminant from a particular air contaminant source in an applicable regulation adopted by the United States environmental protection agency under the federal Clean Air Act or in an applicable rule adopted by the director, the director shall not impose a monitoring requirement in a permit that requires community air monitoring, except as otherwise agreed to by the owner or air operator of the air contaminant source and the director. If two or more regulations

or rules impose different monitoring, record-keeping, or reporting requirements for the same air contaminant from the same air contaminant source, the director may impose permit terms and conditions that consolidate or streamline the monitoring, record-keeping, or reporting requirements in a manner that conforms with each applicable requirement. To the extent consistent with the federal Clean Air Act and except as otherwise agreed to by the owner or operator of an air contaminant source and the director, the director shall not require an operating restriction that has the practical effect of increasing the stringency of an existing applicable emission limitation or standard.

~~(J)~~ (I) Establish, operate, and maintain monitoring stations and other devices designed to measure air pollution and enter into contracts with any public or private agency for the establishment, operation, or maintenance of such stations and devices, except that the director shall not enter into contracts with any private agency for the establishment, operation, or maintenance of community air monitoring where the intended use of the data produced by such monitoring stations and other devices would violate ~~divisions~~ division (B) or (C) of section 3704.09 of the Revised Code;

~~(K)~~ (J) By rule adopt procedures for giving reasonable public notice and conducting public hearings on any plans for the prevention, control, and abatement of air pollution that the director is required to submit to the federal government;

~~(L)~~ (K) Through any employee, agent, or authorized representative of the director or the environmental protection agency, enter upon private or public property, including improvements thereon, at any reasonable time, to make

inspections, take samples, conduct tests, and examine records or reports pertaining to any emission of air contaminants and any monitoring equipment or methods and to determine if there are any actual or potential emissions from such premises and, if so, to determine the sources, amounts, contents, and extent of those emissions, or to ascertain whether there is compliance with this chapter, any orders issued or rules adopted thereunder, or any other determination of the director. The director, at reasonable times, may have access to and copy any such records. If entry or inspection authorized by this division is refused, hindered, or thwarted, the director or the director's authorized representative may by affidavit apply for, and any judge of a court of record may issue, an appropriate inspection warrant necessary to achieve the purposes of this chapter within the court's territorial jurisdiction.

~~(M)~~ (L) Accept and administer gifts or grants from the federal government and from any other source, public or private, for carrying out any of the functions under this chapter;

~~(N)~~ (M) Obtain necessary scientific, technical, and laboratory services;

~~(O)~~ (N) Establish advisory boards in accordance with section 121.13 of the Revised Code;

~~(P)~~ (O) Delegate to any city or general health district or political subdivision of the state any of the director's enforcement and monitoring powers and duties, other than rule-making powers, as the director elects to delegate, and in addition employ, compensate, and prescribe the powers and duties of such officers, employees, and consultants as are necessary to enable the director to exercise the authority and perform duties imposed upon the director by law. Technical and other services

shall be performed, insofar as practical, by personnel of the environmental protection agency.

~~(Q)~~ (P) Certify to the government of the United States or any agency thereof that an industrial air pollution facility is in conformity with the state program or requirements for control of air pollution whenever such certificate is required for a taxpayer pursuant to any federal law or requirements;

~~(R)~~ (Q) Issue, modify, or revoke orders requiring abatement of or prohibiting emissions that violate applicable emission standards or other requirements of this chapter and rules adopted thereunder, or requiring emission control devices or measures in order to comply with applicable emission standards or other requirements of this chapter and rules adopted thereunder. Any such order shall require compliance with applicable emission standards by a specified date and shall not conflict with any requirement of the federal Clean Air Act. In the making of such orders, the director, to the extent consistent with the federal Clean Air Act, shall give consideration to, and base the determination on, evidence relating to the technical feasibility and economic reasonableness of compliance with such orders and their relation to benefits to the people of the state to be derived from such compliance. If, under the federal Clean Air Act, any such order shall provide for the posting of a bond or surety to secure compliance with the order as a condition of issuance of the order, the order shall so provide, but only to the extent required by the federal Clean Air Act.

~~(S)~~ (R) To the extent provided by the federal Clean Air Act, adopt, modify, and rescind rules providing for the administrative assessment and collection of monetary penalties,

not in excess of those required pursuant to the federal Clean Air Act, for failure to comply with any emission limitation or standard, compliance schedule, or other requirement of any rule, order, permit, or variance issued or adopted under this chapter or required under the applicable implementation plan whether or not the source is subject to a federal or state consent decree. The director may require the submission of compliance schedules, calculations of penalties for noncompliance, and related information. Any orders, payments, sanctions, or other requirements imposed pursuant to rules adopted under this division shall be in addition to any other permits, orders, payments, sanctions, or other requirements established under this chapter and shall not affect any civil or criminal enforcement proceedings brought under any provision of this chapter or any other provision of state or local law. This division does not apply to any requirement of this chapter regarding the prevention or abatement of odors.

~~(T)~~ (S) Require new or modified air contaminant sources to install best available technology, but only in accordance with this division. With respect to permits issued pursuant to division ~~(F)~~ (E) of this section beginning three years after August 3, 2006, best available technology for air contaminant sources and air contaminants emitted by those sources that are subject to standards adopted under section 112, Part C of Title I, and Part D of Title I of the federal Clean Air Act shall be equivalent to and no more stringent than those standards. For an air contaminant or precursor of an air contaminant for which a national ambient air quality standard has been adopted under the federal Clean Air Act, best available technology only shall be required to the extent required by rules adopted under Chapter 119. of the Revised Code for permit to install applications

filed three or more years after August 3, 2006.

Best available technology requirements established in rules adopted under this division shall be expressed only in one of the following ways that is most appropriate for the applicable source or source categories:

(1) Work practices;

(2) Source design characteristics or design efficiency of applicable air contaminant control devices;

(3) Raw material specifications or throughput limitations averaged over a twelve-month rolling period;

(4) Monthly allowable emissions averaged over a twelve-month rolling period.

Best available technology requirements shall not apply to an air contaminant source that has the potential to emit, taking into account air pollution controls installed on the source, less than ten tons per year of emissions of an air contaminant or precursor of an air contaminant for which a national ambient air quality standard has been adopted under the federal Clean Air Act. In addition, best available technology requirements established in rules adopted under this division shall not apply to any existing, new, or modified air contaminant source that is subject to a plant-wide applicability limit that has been approved by the director. Further, best available technology requirements established in rules adopted under this division shall not apply to general permits issued prior to January 1, 2006, under rules adopted under this chapter.

For permits to install issued three or more years after August 3, 2006, any new or modified air contaminant source that has the potential to emit, taking into account air pollution

controls installed on the source, ten or more tons per year of volatile organic compounds or nitrogen oxides shall meet, at a minimum, the requirements of any applicable reasonably available control technology rule in effect as of January 1, 2006, regardless of the location of the source.

~~(U) Consistent with section 507 of the federal Clean Air Act, adopt, modify, suspend, and rescind rules for the establishment of a small business stationary source technical and environmental compliance assistance program as provided in section 3704.18 of the Revised Code;~~

~~(V)~~ (T) Provide for emissions trading, marketable permits, auctions of emission rights, and economic incentives that would reduce the cost or increase the efficiency of achieving a specified level of environmental protection;

~~(W)~~ (U) Provide for the construction of an air contaminant source prior to obtaining a permit to install pursuant to division ~~(F)~~ (E) of this section if the applicant demonstrates that the source will be installed to comply with all applicable emission limits and will not adversely affect public health or safety or the environment and if the director determines that such an action will avoid an unreasonable hardship on the owner or operator of the source. Any such determination shall be consistent with the federal Clean Air Act.

~~(X) Exercise all incidental powers, including adoption of rules, required to carry out this chapter.~~

The environmental protection agency shall develop a plan to control air pollution resulting from state-operated facilities and property.

Sec. 3704.031. (A) Except as provided in division (B) of

this section, prior to issuance or renewal of a permit or a variance under division ~~(F), (G),~~(E) or ~~(H)~~(F) of section 3704.03 of the Revised Code, the director of environmental protection may require the applicant to install such equipment and conduct such tests and analyses as the director finds reasonable and necessary to determine adequately the amount and content of any emissions from such sources, the ambient air quality at the proposed site and in areas that may be affected by emissions from such sources, and any violation or potential violation of Chapter 3704. of the Revised Code, or the regulations or orders promulgated thereunder.

(B) Prior to the issuance or renewal of a permit or a variance under division ~~(F), (G),~~(E) or ~~(H)~~(F) of section 3704.03 of the Revised Code, the director shall not require an applicant to conduct community air monitoring.

Sec. 3704.034. (A) Within sixty days after the director of environmental protection or the director's agent or authorized representative receives an application for the issuance of an initial permit to operate, or for the modification or renewal of such a permit, pursuant to rules adopted under division ~~(G)~~(F) of section 3704.03 of the Revised Code, the director shall determine whether the application is substantially complete or materially deficient and, in writing, shall notify the applicant of the director's determination. If the director fails to make such a completeness determination and provide written notice of the determination to the applicant within sixty days after the application was submitted, the applicant may submit a written request to the director for the making of such a completeness determination.

(B) Within thirty days after receiving a written request

for the making of a completeness determination on an application under division (A) of this section, the director shall determine whether the application is substantially complete or materially deficient and, in writing, notify the applicant of the determination. If the director fails to make a completeness determination and provide written notice of the director's determination to the applicant within thirty days after receiving the applicant's written request for the making of the determination, the application shall be deemed to have been complete in all material respects at the time that it was submitted to the director or the director's agent or authorized representative.

(C) If, within the time prescribed in division (A) and, if applicable, division (B) of this section, the director determines that an application is materially deficient, the director shall return the application to the applicant together with the written notice of material deficiency. The running of the time prescribed under division (A) and, if applicable, division (B) of this section ceases at the time that the determination is made. If the applicant subsequently resubmits the application to the director, the time prescribed in division (A) of this section and, if applicable, division (B) of this section shall resume running at the time that the application is resubmitted. The resubmission of the application constitutes a request for the making of a completeness determination on the application. The director shall do one of the following within the time remaining pursuant to division (A) and, if applicable, division (B) of this section at the time that the application is resubmitted:

(1) Make a completeness determination on the application and, in writing, notify the applicant of the determination;

(2) Issue or deny or propose to issue or deny the permit, modification, or renewal.

(D) The director shall include in each written notice of the completeness of an application provided under division (A), (B), or (C)(1) of this section the date on which the application was determined to be complete.

(E) The director shall issue or deny or propose to issue or deny an initial permit to operate, or a modification or renewal of such a permit, pursuant to rules adopted under division ~~(G)~~ (F) of section 3704.03 of the Revised Code within one hundred eighty days after the date that the application for the permit, modification, or renewal was determined to be complete as that date is set forth in the written notice of the determination of the completeness of the application provided under division (A), (B), or (C)(1) of this section or within one hundred eighty days after the application is deemed to be complete under division (B) of this section, as appropriate. If the director fails to issue or deny or propose to issue or deny the permit, modification, or renewal within the appropriate one-hundred-eighty-day period, the applicant may bring a mandamus action to obtain a judgment that orders the director to take a final action on the application.

(F) The director, upon the director's own motion or upon the written request of the applicant and in writing, may extend the time provided under division (E) of this section for issuing or denying or proposing to issue or deny the permit, modification, or renewal for an additional sixty days if a public informational meeting or public hearing was held on the application for the permit, modification, or renewal.

(G) Upon the written request of the applicant, the

director, in writing, may extend the time provided under division (E) of this section for issuing or denying or proposing to issue or deny the permit, modification, or renewal for the additional time specified in the applicant's request for the extension.

(H) Upon the written request of the person responsible for a facility, the director may consolidate or group applications for the issuance of permits pursuant to rules adopted under division ~~(G)~~ (F) of section 3704.03 of the Revised Code, or modifications or renewals of those permits, for individual air contaminant sources located at the facility in order to reduce the unnecessary paperwork and administrative burden to the applicant and the director in connection with the issuance of those permits, modifications, and renewals. Fees payable to the director under section 3745.11 of the Revised Code shall not be reduced by reason of any such consolidation or grouping of applications for permits, modifications, or renewals.

Sec. 3704.035. (A) There is hereby created in the state treasury the Title V clean air fund. Except as otherwise provided in division (K) of section 3745.11 of the Revised Code, all moneys collected under division (B) of that section, and any gifts, grants, or contributions received by the director of environmental protection for the purposes of the fund, shall be credited to the fund.

The director shall expend all moneys credited to the fund solely to administer and enforce the Title V program pursuant to the federal Clean Air Act, this chapter, and rules adopted under it, except as costs relating to enforcement are limited by the federal Clean Air Act. The director shall establish separate and distinct accounting for all such moneys.

(B) There is hereby created in the state treasury the non-Title V clean air fund. All money collected under section 3710.15 and divisions (D), (F), (G), (H), (I), and (J) of section 3745.11 of the Revised Code shall be credited to the fund. In addition, any gifts, grants, or contributions received by the director for the purposes of the fund shall be credited to the fund.

The director shall expend money in the fund exclusively to pay the cost of administering and enforcing the laws of this state pertaining to the prevention, control, and abatement of air pollution, the prevention, control, and abatement of asbestos, rules adopted under those laws, and terms and conditions of permits, variances, and orders issued under those laws, and asbestos abatement licensure and certification issued under those laws. However, the director shall not expend money credited to the fund for the administration and enforcement of the Title V permit program established under this chapter and rules adopted under it or motor vehicle inspection and maintenance programs established under sections 3704.14, ~~3704.141,~~ 3704.16, 3704.161, and 3704.162 of the Revised Code.

(C) The director shall report biennially to the general assembly the amounts of fees and other moneys credited to the funds under this section and the amounts expended from them for each of the various air pollution control programs.

Sec. 3704.036. (A) The director of environmental protection shall develop and administer a federally approvable Title V permit program and shall take all necessary and appropriate action to implement, through the issuance of Title V permits, applicable requirements of the federal Clean Air Act. Title V permits shall be required only for major sources and

affected sources, as defined in 40 C.F.R. 70.2, and solid waste incineration units required to obtain a permit under section 129 (e) of the federal Clean Air Act unless the administrator extends the obligation to obtain a Title V permit to other sources.

The Title V permit program does not apply to research and development sources whose emissions do not exceed the requirements of 40 C.F.R. 70.3 (a)(1) or any facility or air contaminant source authorized by 40 C.F.R. 70.3 (b) to be exempt from the obligation to obtain a Title V permit. A source that obtains a Title V permit shall not be required to obtain any other operating permit under this chapter and rules adopted under it.

Federally enforceable requirements shall be identified separately in Title V permits. The director may include in those permits reasonable and lawful terms and conditions necessary to ensure compliance with this chapter and rules adopted under it that are not federally enforceable requirements, provided that those terms and conditions are clearly separated from federally enforceable requirements and the Title V permits state that those terms and conditions are not federally enforceable.

(B) The director shall adopt, and may amend, suspend, and rescind, the rules ~~to facilitate the implementation, supervision, administration, and operation of~~ described under this division for the Title V permit program ~~that are~~ . The rules shall be consistent with, and no more stringent than, the requirements of Title V of the federal Clean Air Act and 40 C.F.R. part 70. The rules shall establish ~~at least~~ all of the following:

(1) Definitions of the following terms, which shall be

consistent with and no more stringent than the definitions in 40 C.F.R. part 70: "administrative permit amendment," "affected source," "applicable requirement," "emergency," "emissions unit," "fugitive emissions," "major source," "major stationary source," "potential to emit," "regulated air pollutant," and "stationary source;"

(2) Provisions for minor modifications and operational flexibility that minimize administrative burdens on a source and ensure maximum operational flexibility consistent with the federal Clean Air Act and regulations adopted under it;

(3) Provisions for administrative Title V permit amendments. The rules shall require the director to approve or disapprove an administrative permit amendment in accordance with all of the following:

(a) The director shall take not more than sixty days from receipt of a request for an administrative permit amendment to issue a final action on the request in accordance with the procedures specified in 40 C.F.R. 70.7 (d).

(b) Chapter 119. and sections 3704.04 and 3745.07 of the Revised Code do not apply to administrative permit amendments under division (B)(3) of this section.

(c) The director's determination under division (B)(3) of this section is a final action appealable to the environmental review appeals commission under section 3745.04 of the Revised Code.

(4) Provisions for exemption of insignificant air contaminant sources from inclusion in the Title V permit program. To the extent consistent with the federal Clean Air Act, the exemptions shall include, at a minimum, all source

categories that are excluded from the requirements to obtain installation permits and operating permits pursuant to divisions ~~(F)~~ (E) and ~~(G)~~ (F) of section 3704.03 of the Revised Code and any source categories specifically exempted under 40 C.F.R. part 70 and also shall include, to the extent consistent with the federal Clean Air Act, any air contaminant sources with the potential to emit not more than five tons per year of a federally regulated air pollutant other than hazardous air pollutants and not more than twenty per cent of an applicable major source threshold under the federal Clean Air Act.

(5) Provisions to implement the permit shield permitted by the Federal Clean Air Act to the extent consistent with that act and regulations adopted under it, including at least provisions by which a Title V permit applicant may request the director to make a determination whether a provision or class of requirements of that act is applicable to the applicant's air contaminant source. Any such determination made by the director shall be specified in the applicant's Title V permit.

~~The director may adopt, amend, suspend, and rescind such other rules as are necessary for a federally approvable Title V permit program, which shall be consistent with, and no more stringent than, the requirements of Title V of the federal Clean Air Act and 40 C.F.R. part 70.~~

(C) Applications for initial Title V permits shall be submitted not less than one year after the director adopts rules under division (B) of this section for the implementation of the Title V permit program. New facilities that are required to obtain a Title V permit shall submit a complete Title V permit application not later than one year after the date of commencement of operation.

Title V permits shall not become effective prior to approval of the Title V permit program by the administrator pursuant to section 502 of the federal Clean Air Act.

Title V permits, except for permits that contain acid rain provisions pursuant to Title IV of the federal Clean Air Act and permits issued for solid waste incineration units combusting municipal waste that are subject to section 129 (e) of the federal Clean Air Act, may be issued for a period determined by the director not to exceed five years, are renewable, and are transferable. Title V permits that contain acid rain provisions pursuant to Title IV of the federal Clean Air Act shall be issued for a fixed term of five years. Title V permits for solid waste incineration units combusting municipal waste that are subject to section 129 (e) of the federal Clean Air Act may be issued for a period to be determined by the director not to exceed twelve years and are renewable. If such permits are issued for a period longer than five years, they shall be reviewed by the director at least once every five years to determine compliance with the permit requirements and to incorporate any new requirements established during the previous five years.

(D) A complete Title V permit application is one that contains all the information, consistent with 40 C.F.R. 70.5 (c), needed to begin processing the application and a certification by a responsible official of the truth, accuracy, and completeness of the information in the application, based upon information and belief formed after reasonable inquiry by the responsible official. Unless the director determines within sixty days after receipt of the application that the application is not complete, the application shall be deemed to be complete.

If, during the processing of an application before or after it has been determined or deemed to be complete, the director determines that additional information is necessary in order to evaluate or take final action on the application, the director may request that information in writing from the applicant. Any such request by the director shall identify the information requested with reasonable specificity and shall provide a reasonable time, not less than fifteen days, for the applicant's submission of the requested information.

If an applicant fails to make a good faith and timely response to a request for additional information under this division with regard to an application that the director believes to be incomplete, the director shall offer to meet with the applicant within seven days after issuance of a letter for failure to submit the requested information. If the meeting or meeting offer fails to obtain a complete application from the applicant, the director, without prior hearing, shall make a final determination that the application is not complete. Any such determination shall not become effective until twenty days after notice of the determination is sent to the applicant by certified mail. An incompleteness determination by the director may be appealed in accordance with section 3745.04 of the Revised Code, except that if the notice of appeal is timely filed and is accompanied by an application for stay, the stay shall become effective upon filing and shall continue until such time as the environmental review appeals commission rules on the merits of the stay. The commission shall conduct an immediate hearing and determination on the application for stay without interruption by continuances, other than for unavoidable circumstances. If the commission grants the stay, it immediately shall conduct the hearing on the merits and determine the appeal

without interruption by continuances, other than for unavoidable circumstances.

(E) The director expressly shall include permit shield provisions for each Title V permit in accordance with the following requirements:

(1) Except as provided in this section, the director shall expressly include in a Title V permit a provision stating that compliance with the conditions of the permit shall be deemed to be compliance with any applicable requirements as of the date of permit issuance, provided that either:

(a) The applicable requirements are included and are specifically identified in the permit;

(b) The director, in acting on the permit application or revision, determines in writing that other requirements specifically identified are not applicable to the facility, and the permit includes the determination or a concise summary of it.

(2) Nothing in division (E) of this section or in any Title V permit shall alter or affect any of the following:

(a) The provisions of section 303 of the federal Clean Air Act, including the authority of the administrator under that section;

(b) The liability of an owner or operator of a facility for any violation of applicable requirements prior to or at the time of permit issuance;

(c) The applicable requirements of the acid rain program, consistent with section 408 (a) of the federal Clean Air Act;

(d) The ability of the administrator to obtain information

from a facility pursuant to section 114 of the federal Clean Air Act.

(F)(1) Title V permit applications shall be acted upon by the director in accordance with Chapters 119. and 3745. of the Revised Code and with 40 C.F.R. 70.8. If a Title V permit expires after a complete and timely renewal application has been filed with the director, all provisions and authorizations of the expired permit shall remain in effect until the director's final action on the pending renewal application. The director's failure to take action on a Title V permit application or permit renewal or modification application within the deadlines specified in the federal Clean Air Act or in 40 C.F.R. part 70 shall be a final action appealable to the environmental review appeals commission under section 3745.04 of the Revised Code.

(2) The director shall not issue a Title V permit if the administrator timely objects to its issuance under 40 C.F.R. 70.8 (c) or (d).

(3) The director may modify, revoke, or revoke and reissue a Title V permit for cause. The director shall modify, revoke, or revoke and reissue a Title V permit if requested to do so by the administrator under 40 C.F.R. 70.8 (d).

(G) A Title V permit applicant may request a single permit for a stationary source with multiple Title V emissions units or may request separate permits for any one or more emissions units at the same stationary source required to have a Title V permit. The director shall honor all such requests.

Upon written request of a Title V permit applicant, the director shall make a determination of the applicability or inapplicability of any provision or class of requirements under

the federal Clean Air Act to an emissions unit or stationary source and shall include that determination or a concise summary of it in the applicant's Title V permit.

(H) A Title V permit applicant may request a permit that accommodates multiple operating scenarios and anticipated changes in emissions during the term of a permit at a specified facility. The director shall include in a Title V permit all operating scenarios and anticipated changes in emissions for which an application has been made unless the operating scenarios or emissions are prohibited by federally enforceable requirements. The director may include in a Title V permit such monitoring and recordkeeping requirements as may be reasonably necessary to verify that any authorized operating scenario complies with federally enforceable requirements. In imposing any such requirements, the director shall consider and minimize, to the extent practicable, the administrative burdens that the monitoring will impose on the source.

(I) The director, by rule or order on a class of similar permit applications, may issue a general permit covering numerous similar facilities or air contaminant sources. Any such general permit shall comply with all substantive requirements applicable to conventional Title V permits. A general permit shall apply to the owner or operator of a facility or air contaminant source only upon application of the owner or operator to the director.

(J) The director may issue a single Title V permit authorizing emissions from similar operations at multiple temporary locations within the state, provided that the permit ensures compliance with all federally enforceable requirements and with 40 C.F.R. 70.6 (e) at all authorized locations. Any

such permit shall require the owner or operator to notify the director in advance of each change in location.

(K) A Title V permit shall address all existing federally enforceable requirements applicable to the permitted facility and shall not impose new substantive requirements beyond the federally enforceable requirements except for terms and conditions that are identified as not federally enforceable as provided in division (A) of this section. A Title V permit shall specify the regulatory citation for federal requirements addressed in the permit and shall identify any difference in form as compared to the federally enforceable requirement on which it is based.

If the applicant for a Title V permit proposes an alternative emission limit as provided under division ~~(E)~~ (D) of section 3704.03 of the Revised Code, and if the director determines that the alternative emission limit is equivalent to an emission limit adopted under that division, the alternative emission limit shall be included in the Title V permit together with provisions to ensure that any resulting emission limit has been demonstrated to be quantifiable, accountable, enforceable, and based on replicable procedures. Any such alternative emission limit shall not take effect if the administrator timely objects to it in accordance with division (F)(2) of this section.

(L) The director shall take all necessary and appropriate action to do both of the following:

(1) Issue Title V permits for affected sources consistent with the requirements of Title IV of the federal Clean Air Act;

(2) Implement, through Title V permits, applicable

requirements of section 112 of the federal Clean Air Act.

(M) The director shall develop procedures for the Title V permit program such that the program shall minimize procedural burdens and maximize source operational flexibility to the extent consistent with the federal Clean Air Act.

(N) A Title V permit shall not apply to a physical, operational, or other change that is not a change within a permitted facility. A Title V permittee shall provide simultaneous written notice to the director and the administrator of each such off-permit change that is not addressed or prohibited by the federally enforceable portion of the Title V permit, except that no notice is required for off-permit changes that qualify as insignificant under rules adopted under division (B)(4) of this section.

(O) The director shall adopt rules doing both of the following:

(1) Establishing procedures under which any air contaminant source may assume federally enforceable restrictions on its emissions rates, operating rates, hours of operation, or other parameters that are more stringent than those limitations that ordinarily would apply to the source in order to limit the potential of the source to emit;

(2) To the maximum extent possible consistent with federal law, allowing such a source to impose the limitations described in division (O)(1) of this section on its operations unilaterally without further action by the director or approval from the United States environmental protection agency and otherwise minimizing the time required to effectuate such federally enforceable limits.

Until the director adopts rules under division (O) of this section, the owner or operator of an air contaminant source or sources may submit an application for a permit or permit modification pursuant to division ~~(G)~~ (F) of section 3704.03 of the Revised Code with federally enforceable terms and conditions to limit the potential to emit of the source or sources to less than the major source emission thresholds defined in 40 C.F.R. 70.2. The application shall identify both an annual limit and a short-term limit of not more than thirty days for each pollutant to be restricted together with adequate methods for establishing compliance with the limits. Upon submission of the application, the limits shall be federally enforceable against the applicant. The application shall be signed by a responsible official and submitted simultaneously to the director and the administrator. The director shall act on the application in accordance with Chapters 119. and 3745. of the Revised Code.

Sec. 3704.037. (A) The director of environmental protection shall formulate and implement a tiered permitting system for air contaminant sources that categorizes, prioritizes, and expedites review of, and final action on, applications for installation permits and operating permits issued pursuant to divisions ~~(F)~~ (E) and ~~(G)~~ (F) of section 3704.03 of the Revised Code, respectively. The tiered permitting system shall include at least exemptions, registration status, permits-by-rule, and general permits. The director may issue general permits to install and permits to operate, and permits-by-rule, containing terms and conditions that apply to types of air contaminant sources specified by the director that have sufficiently similar characteristics to warrant substantially identical installation permits and operating permits.

(B) Any person may petition the director to exempt a

certain source category from obtaining an installation permit or operating permit pursuant to division ~~(F)~~(E) or ~~(G)~~(F) of section 3704.03 of the Revised Code, respectively, or both. The petition shall contain all of the technical support necessary to justify the exemption, including the estimated emissions levels, the impact on air quality including the impact of any hazardous or toxic emission, and the effect that granting the exemption would have on ambient air quality standards. Sources regulated by the United States environmental protection agency under the new source performance standards or the hazardous air pollutant standards established pursuant to the federal Clean Air Act are not eligible for exemption through petition.

Not later than one hundred eighty days after receiving a petition, the director shall notify the petitioner in writing if the petition has been accepted or rejected and, if rejected, the basis of the rejection. At least once every two years, the director shall propose rules containing the exemptions that have been accepted through the petition process.

Sec. 3704.038. (A) The director of environmental protection shall maintain and make readily available to the public a best available technology information clearinghouse.

(B) The director shall make readily available to the public interpretive guidelines and technical guidance in order to effect technically sound, consistent, and efficient permit processing under this chapter and rules adopted under it.

(C) The director shall develop a training course on the requirements for the completion of applications for installation permits and the determination of best available technology pursuant to division ~~(F)~~(E) of section 3704.03 of the Revised Code. The training course shall be available to employees of the

environmental protection agency, personnel from local air pollution control agencies, regulated industry, small businesses, environmental advocacy organizations, and other interested persons. The director may charge a fee for the training course in an amount necessary to cover only the actual cost of the training.

Sec. 3704.039. Not later than the first day of March each year, the director of environmental protection shall prepare and submit to the governor and the general assembly a report on the timeliness of the issuance of installation permits pursuant to division ~~(F)~~ (E) of section 3704.03 of the Revised Code for the immediately preceding year. The report shall include indicators to monitor the processing of installation permits by the environmental protection agency and a comparison of the performance of the two previous years. The report also shall identify the measures that have been taken during the immediately preceding year to improve the efficiency and timeliness of the issuance of installation permits and what ~~acitivities~~activities are planned in the year in which the report is issued to improve that issuance.

Sec. 3704.04. The adoption, modification, and repeal of rules and the issuance, revocation, modification, and denial of permits and variances under this chapter shall be in accordance with Chapter 119.~~,~~ and Chapter 3745.~~, and division (H) of section 3704.03~~ of the Revised Code.

Sec. 3704.05. (A) No person shall cause, permit, or allow emission of an air contaminant in violation of any rule adopted by the director of environmental protection under division ~~(E)~~ (D) of section 3704.03 of the Revised Code unless the person is the holder of a variance that is ~~issued under division (H) of~~

~~that section and~~ consistent with the federal Clean Air Act permitting the emission of the contaminant in excess of that permitted by the rule or the person is the holder of an operating permit that includes a compliance schedule issued pursuant to rules adopted under division ~~(G)~~ (F) of section 3704.03 of the Revised Code.

(B) No person who is the holder of a variance ~~issued under division (H) of section 3704.03 of the Revised Code~~ shall cause, permit, or allow emission of an air contaminant or contaminants listed therein in violation of the conditions of the variance or fail to obey an order of the director issued under authority of that division.

(C) No person who is the holder of a permit issued under division ~~(F)~~ (E) or ~~(G)~~ (F) of section 3704.03 of the Revised Code shall violate any of its terms or conditions.

(D) No person shall fail to install and maintain monitoring devices or to submit reports or other information as may be required under division ~~(I)~~ (H) of section 3704.03 of the Revised Code.

(E) No person to whom a permit or variance has been issued shall refuse entry to an authorized representative of the director or the environmental protection agency as provided in division ~~(L)~~ (K) of section 3704.03 of the Revised Code or hinder or thwart the person in making an investigation.

(F) No person shall fail to submit plans and specifications as required by section 3704.03 of the Revised Code.

(G) No person shall violate any order, rule, or determination of the director issued, adopted, or made under

this chapter.

(H) No person shall do any of the following:

(1) Falsify any plans, specifications, data, reports, records, or other information required to be kept or submitted to the director by this chapter or rules adopted under it;

(2) Make any false material statement, representation, or certification in any form, notice, or report required by the Title V permit program;

(3) Render inaccurate any monitoring device required by a Title V permit.

Violation of division (H)(1), (2), or (3) of this section is not also falsification under section 2921.13 of the Revised Code.

(I) No person shall knowingly falsify an inspection certificate submitted to another under section 3704.14 or Chapter 4503. of Revised Code. Violation of this division is not also falsification under section 2921.13 of the Revised Code.

(J) No person shall do either of the following:

(1) With regard to the Title V permit program, fail to pay any administrative penalty assessed in accordance with rules adopted under division ~~(S)~~ (R) of section 3704.03 of the Revised Code or any fee assessed under section 3745.11 of the Revised Code;

(2) Violate any applicable requirement of a Title V permit or any permit condition, except for an emergency as defined in 40 C.F.R. 70.6 (g), or filing requirement of the Title V permit program, any duty to allow or carry out inspection, entry, or monitoring activities, or any rule adopted or order issued by

the director pursuant to the Title V permit program.

(K) On and after the three hundred sixty-sixth day following the administrator's final approval of the Title V permit program, or on and after the three hundred sixty-sixth day following the commencement of operation of a new major source required to comply with section 112(g) or part C or D of Title I of the federal Clean Air Act, whichever is later, no person shall operate any such source that is required to obtain a Title V permit under section 3704.036 of the Revised Code or rules adopted under it unless such a permit has been issued authorizing operation of the source or unless a complete and timely application for the issuance, renewal, or modification of a Title V permit for the source has been submitted to the director under that section.

Sec. 3704.11. (A) Sections 3704.01 to 3704.11 of the Revised Code do not limit the authority a political subdivision of the state has to adopt and enforce ordinances or regulations relative to the prevention, control, and abatement of air pollution, except that every such local ordinance or regulation shall be consistent with Chapter 3704. of the Revised Code, and shall include emission standards and other regulations which are not less stringent than the emission standards and other regulations adopted pursuant to division ~~(E)~~ (D) of section 3704.03 of the Revised Code. Nothing in this section shall prohibit any such local law from controlling any air contaminant or source of air contamination which is not subject to control under regulations of the director of environmental protection.

(B) No local air pollution control authority shall issue any enforcement order, grant any permit or variance, or institute any system or program that conflicts with, or is in

any way inconsistent with any general plan, orders, or regulations of the director.

(C)(1) Notwithstanding any other provision of Chapter 3704. of the Revised Code or any rule adopted pursuant thereto, any municipal corporation or township may issue permits to contractors engaged in the construction of buildings for the open burning of construction debris only on the construction site, lot, or recorded plat referred to in the permit application, if such burning is supervised by an employee at all times. Construction debris which may be burned under this section shall be limited to natural wood, lumber, paper, cardboard, and wooden boxes but not including any product having a rubber or petroleum base. A municipal corporation or township may make rules applicable to issuance and use of permits as are reasonably necessary to guarantee the public health and safety and necessary to ensure the efficient operation of the permit system, and such rules may contain a schedule of fees for the permits. A municipal corporation or township may revoke a permit for violation of any provision of this section or any rule adopted by the municipal corporation or township pursuant thereto. Annually, in accordance with a schedule specified by the director of environmental protection, all municipal corporations and townships shall report to the director the number of permits issued, renewed, and revoked for the preceding calendar year.

(2) No contractor shall burn construction debris under a permit issued pursuant to division (C)(1) of this section during an air pollution alert, warning, or emergency for the area of the construction site.

Sec. 3704.13. The governor may do all things necessary on

behalf of the state, except the adoption of rules, to secure the full benefits available to the state under the federal Clean Air Act. The governor may, in accordance with the federal Clean Air Act, exercise all powers permitted by the federal Clean Air Act to be exercised by a governor, including, but not limited to, powers pertaining to the issuance of orders; ~~adoption of rules;~~ designation of officials; emergency suspension of any part of an implementation plan adopted by the state; and redesignation of air quality control regions.

Sec. 3704.14. (A)(1) If the director of environmental protection determines that implementation of a motor vehicle inspection and maintenance program is necessary for the state to effectively comply with the federal Clean Air Act after June 30, 2025, the director may provide for the implementation of the program in those counties in this state in which such a program is federally mandated. Upon making such a determination, the director of environmental protection may request the director of administrative services to extend the terms of the contract that was entered into under the authority of H.B. 33 of the 135th general assembly. Upon receiving the request, the director of administrative services shall extend the contract, beginning on July 1, 2025, in accordance with this section. The contract shall be extended for a period of up to twenty-four months with the contractor who conducted the motor vehicle inspection and maintenance program under that contract.

(2) Prior to the expiration of the contract extension that was authorized by division (A)(1) of this section under the authority of H.B. 33 of the 135th general assembly, the director of environmental protection shall request the director of administrative services to enter into a contract with a vendor to operate a decentralized motor vehicle inspection and

maintenance program in each county in this state in which such a program is federally mandated through June 30, 2027. The contract shall ensure that the decentralized motor vehicle inspection and maintenance program achieves an equivalent amount of emission reductions as achieved by the program operated under the authority of the contract that was extended under division (A)(1) of this section under the authority of H.B. 33 of the 135th general assembly. The director of administrative services shall select a vendor through a competitive selection process in compliance with Chapter 125. of the Revised Code.

(3) Notwithstanding any law to the contrary, the director of administrative services shall ensure that a competitive selection process regarding a contract to operate a decentralized motor vehicle inspection and maintenance program in this state incorporates the following, which shall be included in the contract:

(a) For purposes of expanding the number of testing locations for consumer convenience, a requirement that the vendor utilize established local businesses, auto repair facilities, or leased properties to operate state-approved inspection and maintenance testing facilities;

(b) A requirement that the vendor selected to operate the program provide notification of the program's requirements to each owner of a motor vehicle that is required to be inspected under the program. The contract shall require the notification to be provided not later than sixty days prior to the date by which the owner of the motor vehicle is required to have the motor vehicle inspected. The director of environmental protection and the vendor shall jointly agree on the content of the notice. However, the notice shall include at a minimum the

locations of all inspection facilities within a specified distance of the address that is listed on the owner's motor vehicle registration.

(c) A requirement that the vendor comply with testing methodology and supply the required equipment approved by the director of environmental protection as specified in the competitive selection process in compliance with Chapter 125. of the Revised Code.

(4) A decentralized motor vehicle inspection and maintenance program operated under this section shall comply with division (B) of this section. The director of environmental protection shall administer the decentralized motor vehicle inspection and maintenance program operated under this section.

(B) The director shall establish a decentralized motor vehicle inspection and maintenance program as authorized by this section and, at a minimum, the director shall ensure that the program does all of the following:

(1) Complies with the federal Clean Air Act;

(2) Provides for the issuance of inspection certificates and alternative emissions certificates as specified in rules adopted under division ~~(C)(2)~~ (C) of this section;

(3) Provides for a new car exemption for motor vehicles six years old or newer and provides that a new motor vehicle is exempt for six years regardless of whether legal title to the motor vehicle is transferred during that period;

(4) Provides for an exemption for battery electric motor vehicles;

(5) Provides for an exemption for hybrid motor vehicles

seven years old or newer and provides that a hybrid motor vehicle is exempt for seven years regardless of whether legal title to the motor vehicle is transferred during that period.

~~(C)(1)~~ (C) The director of environmental protection shall adopt rules in accordance with Chapter 119. of the Revised Code that ~~the director determines are necessary to implement this section. The director may continue to implement and enforce rules pertaining to the motor vehicle inspection and maintenance program previously implemented under former section 3704.14 of the Revised Code as that section existed prior to its repeal and reenactment by Am. Sub. H.B. 66 of the 126th general assembly, provided that the rules do not conflict with this section.~~

~~(2) The rules adopted under division (C)(1) of this section shall~~ provide for the issuance of inspections certificates and alternative emissions certificates. Under the rules, an inspection certificate shall be issued to the owner or lessee of a motor vehicle when the motor vehicle passes an emissions inspection conducted in accordance with the motor vehicle inspection and maintenance program established under this section. ~~In lieu of obtaining an inspection certificate, the rules shall establish a system by which the owner or lessee of a motor vehicle may request an alternative emissions certificate from the director.~~

~~(a)~~ (1) The rules providing for the issuance of alternative emissions certificates shall require an owner or lessee of a motor vehicle to do the following in order to receive the certificate:

~~(i)~~ (a) Complete and submit an attestation form created by the director that includes a statement that reads substantially as follows:

"I, _____, attest that, to the best of my knowledge, the motor vehicle concerning which I am the owner or lessee complies with all laws of Ohio and the United States governing motor vehicle emissions. I, _____, am aware that a false statement on this form is not permitted."

~~(ii)~~ (b) Sign and date the form either manually or electronically;

~~(iii)~~ (c) Submit the form to the director either by regular mail, certified mail, or electronically.

~~(b)~~ (2) The rules shall require the director to include both of the following additional information on the attestation form:

~~(i)~~ (a) A provision that allows the owner or lessee of a motor vehicle to specify one of the following methods by which the owner or lessee may request delivery of the alternative emissions certificate: certified mail, noncertified mail, or electronically;

~~(ii)~~ (b) A provision that allows the owner or lessee of a motor vehicle to specify the vehicle identification number, make, model, and year of the relevant motor vehicle and the date the attestation form is submitted to the director.

~~(c)~~ (3) Subject to division ~~(C)(2)(d)~~ (C)(4) of this section, the rules shall require the director to deliver an alternative emission certificate to the owner or lessee of a motor vehicle who complies with rules adopted under division ~~(C)(2)(a)~~ (C)(1) of this section. The director shall deliver the certificate within thirty business days after the director's receipt of the attestation form or, if the owner or lessee submits the form electronically, within five business days after

receipt of the form. The director shall confirm the receipt of the attestation form if the director receives it by electronic means.

~~(d)~~ (4) The rules shall require the director to reject an attestation form for any of the following reasons:

~~(i)~~ (a) The motor vehicle that is the subject of the attestation form was in an accident or collision within the two years prior to the date of submission of the form, and the accident or collision caused substantial damage to the internal structure of the motor vehicle.

~~(ii)~~ (b) The owner or lessee of the motor vehicle that is the subject of the attestation form has received a ticket, citation, or summons with regard to that motor vehicle within the two years prior to the date of submission of the form for a violation of section 4513.22 of the Revised Code or substantially equivalent municipal ordinance.

~~(iii)~~ (c) The information in the attestation form is determined by the director to be false.

If the director rejects an attestation form under division ~~(C)(2)(d)(iii)~~ (C)(4)(c) of this section, the director shall provide notice to the owner or lessee that the attestation form was determined to be false. The notice shall inform the owner or lessee that the owner or lessee may submit a corrected form to the director within thirty days of the receipt of the notice. If the owner or lessee submits a corrected attestation form that complies with rules adopted under division ~~(C)(2)~~ (C) of this section within that thirty-day period, the director shall issue an alternative emissions certificate to the owner or lessee. If the owner or lessee fails to correct the attestation form, the

director shall require the owner or lessee to complete an emissions inspection and obtain an inspection certificate in accordance with rules adopted under this section.

If the director rejects an attestation form under division ~~(C)(2)(d)(i)~~ (C)(4)(a) or ~~(ii)~~ (b) of this section, the director shall require the owner or lessee to complete an emissions inspection and obtain an inspection certificate in accordance with rules adopted under this section.

~~(e)~~ (5) In adopting rules under division ~~(C)(2)~~ (C) of this section, the director shall ensure that the owner or lessee of a motor vehicle who falsifies an attestation form receives a notice that includes a statement that reads substantially as follows: "You have falsified an attestation form for your vehicle under the E-Check/motor vehicle emissions testing program. Your vehicle is registered in one of [insert the number of counties] counties in this state that has federal emission mandates imposed on it that the State of Ohio is required, under threat of penalty, to enforce. This letter serves as Ohio's only penalty for falsification of an attestation form. You have thirty days from the date of this notice to amend your attestation form and submit the amended form to the Environmental Protection Agency. However, if you choose not to submit an amended attestation form, you must have a motor vehicle emissions inspection conducted for your vehicle in accordance with section 3704.14 of the Revised Code and rules adopted under it."

~~(f)~~ (6) No penalties apply to a person who the director has determined to have falsified an attestation form, other than the issuance of the notice required under division ~~(C)(2)(e)~~ (C)(5) of this section.

(D) There is hereby created in the state treasury the auto emissions test fund, which shall consist of money received by the director from any cash transfers, state and local grants, and other contributions that are received for the purpose of funding the program established under this section. The director of environmental protection shall use money in the fund solely for the implementation, supervision, administration, operation, and enforcement of the motor vehicle inspection and maintenance program established under this section. Money in the fund shall not be used for either of the following:

(1) To pay for the inspection costs incurred by a motor vehicle dealer so that the dealer may provide inspection certificates to an individual purchasing a motor vehicle from the dealer when that individual resides in a county that is subject to the motor vehicle inspection and maintenance program;

(2) To provide payment for more than one free passing emissions inspection or a total of three emissions inspections for a motor vehicle in any three-hundred-sixty-five-day period. The owner or lessee of a motor vehicle is responsible for inspection fees that are related to emissions inspections beyond one free passing emissions inspection or three total emissions inspections in any three-hundred-sixty-five-day period. Inspection fees that are charged by a contractor conducting emissions inspections under a motor vehicle inspection and maintenance program shall be approved by the director of environmental protection.

(E) The motor vehicle inspection and maintenance program established under this section expires upon the termination of all contracts entered into under this section and shall not be implemented beyond the final date on which termination occurs.

(F) As used in this section "battery electric motor vehicle" and "hybrid motor vehicle" have the same meanings as in section 4501.01 of the Revised Code.

(G) On June 30, 2025, the director shall immediately begin procedures to submit to the United States environmental protection agency the alternative emissions certification program for approval as part of the Ohio state implementation plan. If the United States environmental protection agency approves the modification of the decentralized motor vehicle inspection and maintenance program as providing sufficient air pollution reductions to meet the federal Clean Air Act requirements for a vehicle inspection and maintenance program and modifies the Ohio state implementation plan, the director shall immediately begin to modify the Ohio environmental protection agency rules to implement the alternative emissions certification program. Nothing in this division requires the Ohio environmental protection agency to take action to implement the alternative emissions certification program until the United States environmental protection agency approves the alternative program as part of the Ohio state implementation plan.

(H) If the United States environmental protection agency determines that the motor vehicle inspection and maintenance program implemented in accordance with this section is not necessary for the state or any area of the state to comply with the federal Clean Air Act, the director shall immediately discontinue the program and take any actions necessary to effectuate the termination of the program.

Sec. 3704.161. (A) The director of environmental protection shall enforce sections 3704.16 to 3704.162 of the Revised Code and the rules adopted under them. In doing so, the

director or the director's authorized representative may do either or both of the following:

(1) Inspect, during normal business hours, any motor vehicle or documents located at premises owned, operated, rented, leased, or otherwise used by any owner or operator of a motor vehicle if that motor vehicle is operated for commercial purposes, or by any person engaged in the sale, lease, or rental of motor vehicles or motor vehicle parts, in order to determine compliance with sections 3704.16 to 3704.162 of the Revised Code and the rules adopted under them;

(2) Issue a notice of violation to any person who violates any provision of sections 3704.16 to 3704.162 of the Revised Code or the rules adopted under them and who the director or the director's authorized representative finds has committed such a violation. The notice of violation shall set forth the specific violation allegedly committed by the person and be accompanied by an order requiring the person to comply with the relevant provision. The person may appeal the order to the environmental review appeals commission in accordance with section 3745.04 of the Revised Code.

(B) The director shall adopt rules in accordance with Chapter 119. of the Revised Code to implement sections 3704.16 to 3704.162 of the Revised Code~~. The rules shall include all~~ that establish both of the following:

(1) Requirements and procedures for inspection of motor vehicles and documents under division (A)(1) of this section;

(2) A method by which any person may report violations or suspected violations of sections 3704.16 to 3704.162 of the Revised Code to the director for enforcement~~;~~

~~(3) Any other rule the director determines necessary for the administration and enforcement of sections 3704.16 to 3704.162 of the Revised Code~~.

(C)(1) Notwithstanding any other section of the Revised Code relating to the distribution or crediting of fines for violations of the Revised Code, all fines imposed under divisions (D) and (E) of section 3704.99 of the Revised Code resulting from an arrest made by the law enforcement agency of a political subdivision shall be paid to the treasury of the political subdivision.

(2) All civil penalties collected pursuant to section 3704.06 of the Revised Code for violations of section 3704.16 of the Revised Code and the rules adopted under this section shall be deposited in the anti-tampering settlement fund, which is hereby created in the state treasury. The director shall use the moneys in the fund solely for public education concerning and administration and enforcement of sections 3704.16 to 3704.162 of the Revised Code.

Sec. 3705.02. A statewide system of registration of births, deaths, fetal deaths, and other vital statistics is hereby established, which shall consist of the office of vital statistics in the department of health and primary registration districts. The office of vital statistics shall be maintained at the capital of the state and shall be provided with sufficient staff, suitable offices, and other resources for the proper administration of the system of vital statistics and for the preservation of its official records. The director of health shall have charge of the system of vital statistics, enforce sections 3705.01 to 3705.29 of the Revised Code, and prepare and issue instructions necessary to secure the uniform observance of

such sections. ~~The director shall adopt rules as necessary to insure that this state shall have a complete and accurate registration of vital statistics.~~ No system of registration of births, deaths, fetal deaths, or other vital statistics shall be maintained in any political subdivision in conflict with such sections.

Sec. 3705.24. (A)(1) The director of health shall, in accordance with section 111.15 of the Revised Code, adopt rules prescribing fees for the following items or services provided by the state office of vital statistics:

(a) Except as provided in division (A)(4) of this section:

(i) A certified copy of a vital record or a certification of birth;

(ii) A search by the office of vital statistics of its files and records pursuant to a request for information, regardless of whether a copy of a record is provided;

(iii) A copy of a record provided pursuant to a request.

(b) Replacement of a birth certificate following an adoption, legitimation, paternity determination or acknowledgement, or court order;

(c) Filing of a delayed registration of a vital record;

(d) Amendment of a vital record that is requested later than one year after the filing date of the vital record~~;~~

~~(e) Any other documents or services for which the director considers the charging of a fee appropriate~~.

(2) Fees prescribed under division (A)(1)(a) of this section shall not be less than twelve dollars.

(3) Fees prescribed under division (A)(1) of this section shall be collected in addition to any fees required by sections 3109.14 and 3705.242 of the Revised Code.

(4) Fees prescribed under division (A) of this section shall not apply to certifications issued under division (H) of this section or copies provided under section 3705.241 of the Revised Code.

(B) In addition to the fees prescribed under division (A) of this section or section 3709.09 of the Revised Code, the office of vital statistics, the board of health of a city or general health district, or a local registrar of vital statistics who is not a salaried employee of a city or general health district shall charge a five-dollar fee for each certified copy of a vital record and each certification of birth. This fee shall be deposited in the general operations fund created under section 3701.83 of the Revised Code and be used to support the operations, the modernization, and the automation of the vital records program in this state. A board of health or a local registrar shall forward all fees collected under this division to the department of health not later than thirty days after the end of each calendar quarter.

(C) Except as otherwise provided in division (H) of this section, and except as provided in section 3705.241 of the Revised Code, fees collected by the director of health under sections 3705.01 to 3705.29 of the Revised Code shall be paid into the state treasury to the credit of the general operations fund created by section 3701.83 of the Revised Code. Except as provided in division (B) or (I) of this section, money generated by the fees shall be used only for administration and enforcement of this chapter and the rules adopted under it.

Amounts submitted to the department of health for copies of vital records or services in excess of the fees imposed by this section shall be dealt with as follows:

(1) An overpayment of two dollars or less shall be retained by the department and deposited in the state treasury to the credit of the general operations fund created by section 3701.83 of the Revised Code.

(2) An overpayment in excess of two dollars shall be returned to the person who made the overpayment.

(D) If a local registrar is a salaried employee of a city or a general health district, any fees the local registrar receives pursuant to section 3705.23 of the Revised Code shall be paid into the general fund of the city or the health fund of the general health district.

Each local registrar of vital statistics, or each health district where the local registrar is a salaried employee of the district, shall be entitled to a fee for each birth, fetal death, death, or military service certificate properly and completely made out and registered with the local registrar or district and correctly copied and forwarded to the office of vital statistics in accordance with the population of the primary registration district at the last federal census. The fee for each birth, fetal death, death, or military service certificate shall be:

(1) In primary registration districts of over two hundred fifty thousand, twenty cents;

(2) In primary registration districts of over one hundred twenty-five thousand and less than two hundred fifty thousand, sixty cents;

(3) In primary registration districts of over fifty thousand and less than one hundred twenty-five thousand, eighty cents;

(4) In primary registration districts of less than fifty thousand, one dollar.

(E) The director of health shall annually certify to the county treasurers of the several counties the number of birth, fetal death, death, and military service certificates registered from their respective counties with the names of the local registrars and the amounts due each registrar and health district at the rates fixed in this section. Such amounts shall be paid by the treasurer of the county in which the registration districts are located. No fees shall be charged or collected by registrars except as provided by this chapter and section 3109.14 of the Revised Code.

(F) A probate judge shall be paid a fee of fifteen cents for each certified abstract of marriage prepared and forwarded by the probate judge to the department of health pursuant to section 3705.21 of the Revised Code. The fee shall be in addition to the fee paid for a marriage license and shall be paid by the applicants for the license.

(G) The clerk of a court of common pleas shall be paid a fee of one dollar for each certificate of divorce, dissolution, and annulment of marriage prepared and forwarded by the clerk to the department pursuant to section 3705.21 of the Revised Code. The fee for the certified abstract of divorce, dissolution, or annulment of marriage shall be added to the court costs allowed in these cases.

(H) The fee for an heirloom certification of birth issued

pursuant to division (B)(2) of section 3705.23 of the Revised Code shall be an amount prescribed by rule by the director of health plus any fee required by section 3109.14 of the Revised Code. In setting the amount of the fee, the director shall establish a surcharge in addition to an amount necessary to offset the expense of processing heirloom certifications of birth. The fee prescribed by the director of health pursuant to this division shall be deposited into the state treasury to the credit of the heirloom certification of birth fund which is hereby created. Money credited to the fund shall be used by the office of vital statistics to offset the expense of processing heirloom certifications of birth. However, the money collected for the surcharge, subject to the approval of the controlling board, shall be used for the purposes specified by the family and children first council pursuant to section 121.37 of the Revised Code.

(I)(1) Four dollars of each fee collected by the board of health of a city or general health district for a certified copy of a vital record or a certification of birth shall be transferred to the office of vital statistics not later than thirty days after the end of each calendar quarter. The amount collected shall be used to support public health systems. Of each four dollars collected, one dollar shall be used by the director of health to pay subsidies to boards of health. The subsidies shall be distributed in accordance with the same formula established under section 3701.342 of the Revised Code for the distribution of state health district subsidy funds to boards of health and local health departments.

(2) Four dollars of each fee collected by a local registrar of vital statistics who is not a salaried employee of a city or general health district, for a certified copy of a

vital record or certification of birth, shall be transferred to the office of vital statistics not later than thirty days after the end of each calendar quarter. The amount collected shall be used to support public health systems.

Sec. 3706.25. As used in sections 3706.25 to ~~3706.29~~ 3706.28 of the Revised Code:

(A) "Advanced energy project" means any technologies, products, activities, or management practices or strategies that facilitate the generation or use of electricity or energy and that reduce or support the reduction of energy consumption or support the production of clean, renewable energy for industrial, distribution, commercial, institutional, governmental, research, not-for-profit, or residential energy users including, but not limited to, advanced energy resources and renewable energy resources. "Advanced energy project" includes any project described in division (A), (B), or (C) of section 4928.621 of the Revised Code.

(B) "Advanced energy resource" means any of the following:

(1) Any method or any modification or replacement of any property, process, device, structure, or equipment that increases the generation output of an electric generating facility to the extent such efficiency is achieved without additional carbon dioxide emissions by that facility;

(2) Any distributed generation system consisting of customer cogeneration technology, primarily to meet the energy needs of the customer's facilities;

(3) Advanced nuclear energy technology consisting of generation III technology as defined by the nuclear regulatory commission; other, later technology; or significant improvements

to existing facilities;

(4) Any fuel cell used in the generation of electricity, including, but not limited to, a proton exchange membrane fuel cell, phosphoric acid fuel cell, molten carbonate fuel cell, or solid oxide fuel cell;

(5) Advanced solid waste or construction and demolition debris conversion technology, including, but not limited to, advanced stoker technology, and advanced fluidized bed gasification technology, that results in measurable greenhouse gas emissions reductions as calculated pursuant to the United States environmental protection agency's waste reduction model (WARM).

(C) "Air contaminant source" has the same meaning as in section 3704.01 of the Revised Code.

(D) "Cogeneration technology" means technology that produces electricity and useful thermal output simultaneously.

(E) "Renewable energy resource" means solar photovoltaic or solar thermal energy, wind energy, power produced by a hydroelectric facility, power produced by a run-of-the-river hydroelectric facility placed in service on or after January 1, 1980, that is located within this state, relies upon the Ohio river, and operates, or is rated to operate, at an aggregate capacity of forty or more megawatts, geothermal energy, fuel derived from solid wastes, as defined in section 3734.01 of the Revised Code, through fractionation, biological decomposition, or other process that does not principally involve combustion, biomass energy, energy produced by cogeneration technology that is placed into service on or before December 31, 2015, and for which more than ninety per cent of the total annual energy input

is from combustion of a waste or byproduct gas from an air contaminant source in this state, which source has been in operation since on or before January 1, 1985, provided that the cogeneration technology is a part of a facility located in a county having a population of more than three hundred sixty-five thousand but less than three hundred seventy thousand according to the most recent federal decennial census, biologically derived methane gas, heat captured from a generator of electricity, boiler, or heat exchanger fueled by biologically derived methane gas, or energy derived from nontreated by-products of the pulping process or wood manufacturing process, including bark, wood chips, sawdust, and lignin in spent pulping liquors. "Renewable energy resource" includes, but is not limited to, any fuel cell used in the generation of electricity, including, but not limited to, a proton exchange membrane fuel cell, phosphoric acid fuel cell, molten carbonate fuel cell, or solid oxide fuel cell; wind turbine located in the state's territorial waters of Lake Erie; methane gas emitted from an abandoned coal mine; storage facility that will promote the better utilization of a renewable energy resource that primarily generates off peak; or distributed generation system used by a customer to generate electricity from any such energy. As used in this division, "hydroelectric facility" means a hydroelectric generating facility that is located at a dam on a river, or on any water discharged to a river, that is within or bordering this state or within or bordering an adjoining state and meets all of the following standards:

(1) The facility provides for river flows that are not detrimental for fish, wildlife, and water quality, including seasonal flow fluctuations as defined by the applicable licensing agency for the facility.

(2) The facility demonstrates that it complies with the water quality standards of this state, which compliance may consist of certification under Section 401 of the "Clean Water Act of 1977," 91 Stat. 1598, 1599, 33 U.S.C. 1341, and demonstrates that it has not contributed to a finding by this state that the river has impaired water quality under Section 303(d) of the "Clean Water Act of 1977," 114 Stat. 870, 33 U.S.C. 1313.

(3) The facility complies with mandatory prescriptions regarding fish passage as required by the federal energy regulatory commission license issued for the project, regarding fish protection for riverine, anadromous, and catadromous fish.

(4) The facility complies with the recommendations of the Ohio environmental protection agency and with the terms of its federal energy regulatory commission license regarding watershed protection, mitigation, or enhancement, to the extent of each agency's respective jurisdiction over the facility.

(5) The facility complies with provisions of the "Endangered Species Act of 1973," 87 Stat. 884, 16 U.S.C. 1531 to 1544, as amended.

(6) The facility does not harm cultural resources of the area. This can be shown through compliance with the terms of its federal energy regulatory commission license or, if the facility is not regulated by that commission, through development of a plan approved by the Ohio historic preservation office, to the extent it has jurisdiction over the facility.

(7) The facility complies with the terms of its federal energy regulatory commission license or exemption that are related to recreational access, accommodation, and facilities

or, if the facility is not regulated by that commission, the facility complies with similar requirements as are recommended by resource agencies, to the extent they have jurisdiction over the facility; and the facility provides access to water to the public without fee or charge.

(8) The facility is not recommended for removal by any federal agency or agency of any state, to the extent the particular agency has jurisdiction over the facility.

Sec. 3710.02. (A) In accordance with Chapter 119. of the Revised Code, the director of environmental protection shall~~, as the director determines necessary,~~ adopt rules ~~to carry out this chapter. The rules shall include~~ that establish all of the following:

(1) Criteria and procedures for the certification of asbestos hazard abatement specialists, asbestos hazard evaluation specialists, asbestos hazard abatement workers, asbestos hazard abatement project designers, and asbestos hazard abatement air-monitoring technicians by the director;

(2) Criteria and procedures for the director to examine the records of licensees, certificate holders, and asbestos hazard abatement training schools;

(3) Procedures and criteria in addition to those provided in this chapter for the approval of courses for asbestos hazard training;

(4) Fees for licenses, certifications, and course approvals in excess of the levels set in section 3710.05 of the Revised Code and fees for the certification of asbestos hazard abatement air-monitoring technicians;

(5) Levels of asbestos exposure or other circumstances

constituting an environmental health emergency that authorize the director to issue an emergency order under division (B) of section 3710.13 of the Revised Code;

(6) Employee training standards, work practices that reduce the risk of contamination and recontamination of the environment, record-keeping requirements, action levels, project clearance levels, and other requirements that asbestos hazard abatement contractors, asbestos hazard abatement specialists, asbestos hazard evaluation specialists, asbestos hazard abatement project designers, asbestos hazard abatement air-monitoring technicians, asbestos hazard abatement workers, and other persons involved with asbestos hazard abatement activities must follow for the prevention of hazard to the public;

(7) Worker protection equipment and practices and other health and safety standards for employees and agents of public entities coming in contact with asbestos through asbestos hazard abatement activity;

(8) Standards of acceptable conduct for licensees and certificate holders engaged in asbestos hazard abatement or evaluation activities and acts and omissions that constitute grounds for the suspension or revocation of a license or certificate, or the denial of an application or renewal of a license or certificate in addition to those otherwise provided in this chapter;

(9) Training requirements for asbestos hazard abatement project designers and asbestos hazard abatement air-monitoring technicians;

(10)(a) Subject to the condition specified in division (A)(10)(b) of this section, a standard requiring that the amount of

asbestos contained in the air in areas accessible to the public in buildings that are owned, operated, or leased by a public entity be not more than ten thousand asbestos fibers longer than five microns per cubic meter of air calculated as an eight-hour time-weighted average, which is measured during periods of normal building occupancy, and a requirement that measurement of airborne asbestos be made by either or both of the following methods, provided that results derived by use of the method described in division (A)(10)(a)(i) of this section supersede results derived by use of the method described in division (A)(10)(a)(ii) of this section if both methods are used and the methods yield conflicting results concerning the presence of fibers in the tested air that may not be asbestos:

(i) Transmission electron microscopy in the manner described in the measurement protocol established by the United States environmental protection agency as set forth in 40 C.F.R. 763;

(ii) Optical phase contrast microscopy in the manner described in the measurement protocol established by the United States occupational safety and health administration as set forth in 29 C.F.R. 1910.

(b) The director periodically shall review the standard required by division (A)(10)(a) of this section and determine whether and how it should be amended and how it shall be used in conjunction with visual and physical assessment of asbestos-containing materials located in buildings that are owned, operated, or leased by a public entity to determine appropriate and cost-effective response actions to such asbestos-containing materials and shall amend the standard if it determines that such action is necessary.

~~(11) Other rules that the director determines necessary for the implementation of this chapter and to protect the public health from the hazards associated with exposure to asbestos.~~

(B) The director shall do all of the following:

(1) Administer and enforce this chapter and the rules adopted pursuant thereto;

(2) Develop comprehensive programs and policies for the control and prevention of nonoccupational exposure of the public to friable asbestos-containing materials;

(3) Ensure that persons are trained and licensed or certified, where appropriate, in accordance with this chapter and the rules adopted pursuant thereto;

(4) Examine those records of licensed asbestos hazard abatement contractors, certified asbestos hazard abatement specialists, asbestos hazard evaluation specialists, asbestos hazard abatement project designers, asbestos hazard abatement air-monitoring technicians, and asbestos hazard training courses in accordance with rules adopted by the director ~~as the director determines necessary~~ to determine compliance with this chapter and the rules adopted pursuant thereto;

(5) Prohibit and prevent improper asbestos hazard abatement procedures and require the modification or alteration of asbestos abatement procedures as they relate to this chapter and the rules adopted pursuant thereto;

(6) Collect and disseminate health education information relating to safe management of asbestos hazards;

(7) Accept and administer grants from the federal government and other sources, both public and private, for

carrying out any of the director's functions;

(8) As the director determines appropriate, conduct on-site inspections at any location where an asbestos hazard abatement activity is planned, in progress, or has been completed, at any location where an environmental health emergency involving asbestos may occur, is occurring, or has occurred, or to evaluate the performance or compliance of any person subject to this chapter;

(9) Conduct an on-site audit of each asbestos hazard training provider approved pursuant to this chapter, at least once biennially, during an actual course conducted by the provider within the state;

(10) Cooperate and assist in investigations, as such relate to this chapter, conducted by local law enforcement agencies, ~~,~~ the United States occupational safety and health administration, and other local, state, and federal agencies.

Sec. 3711.12. (A) The director of health shall adopt rules in accordance with Chapter 119. of the Revised Code ~~as the director considers necessary~~ to implement the requirements of this chapter for licensure and operation of maternity homes. The rules shall ~~include~~ establish provisions for the following:

(1) Licensure application forms and procedures;

(2) Renewal procedures, including procedures that address the right of the director of health, at the director's sole discretion, to conduct an inspection prior to renewal of a license;

(3) Initial license fees and license renewal fees;

(4) Fees for inspections conducted by the director under

section 3711.10 of the Revised Code;

(5) Safety standards, quality-of-care standards, and quality-of-care data reporting requirements;

(6) Reporting and auditing requirements;

(7) Inspection criteria, procedures, and guidelines;

(8) Application forms to be used and procedures to be followed in applying under section 3711.13 of the Revised Code for a variance or waiver of any of the requirements of the rules adopted under this section regarding the operation of a maternity home~~;~~

~~(9) Any other rules necessary to implement this chapter~~.

(B) When adopting rules under this section, the director shall give consideration to recommendations regarding obstetric and newborn care issued by the American college of obstetricians and gynecologists; American academy of pediatrics; American academy of family physicians; American society of anesthesiologists; American college of nurse-midwives; United States centers for disease control and prevention; association of women's health, obstetric and neonatal nurses; and association of perioperative registered nurses, or their successor organizations.

Sec. 3713.04. (A) In accordance with Chapter 119. of the Revised Code, the superintendent of industrial compliance shall:

(1) Adopt rules pertaining to the definition, name, and description of materials necessary to carry out this chapter;

(2) Determine the testing standards, fees, and charges to be paid for making any test or analysis required pursuant to section 3713.08 of the Revised Code.

(B) In accordance with Chapter 119. of the Revised Code, the superintendent may adopt rules regarding the following:

(1) Establishing an initial application fee or an annual registration renewal fee not more than fifty per cent higher than the fees set forth in section 3713.05 of the Revised Code;

(2) Establishing standards, on a reciprocal basis, for the acceptance of labels and laboratory analyses from other states where the labeling requirements and laboratory analysis standards are substantially equal to the requirements of this state, provided the other state extends similar reciprocity to labels and laboratory analysis conducted under this chapter~~;~~

~~(3) Any other rules necessary to administer and carry out this chapter~~.

(C) The superintendent may do any of the following:

(1) Issue administrative orders, conduct hearings, and take all actions necessary under the authority of Chapter 119. of the Revised Code for the administration of this chapter. The authority granted under this division shall include the authority to suspend, revoke, or deny registration under this chapter.

(2) Establish and maintain facilities within the department of commerce to make tests and analysis of materials used in the manufacture of bedding and stuffed toys. The superintendent also may designate established laboratories that are qualified to make these tests. These laboratories may be used for making any test or analysis of materials used in the manufacture of bedding and stuffed toys. If the superintendent exercises this authority, the superintendent shall adopt rules to determine the fees and charges to be paid for making the

tests or analyses authorized under this section.

(3) Exercise such other powers and duties, except for the adoption of rules, as are necessary to carry out the purpose and intent of this chapter.

Sec. 3714.052. (A) An application for a permit to install a new construction and demolition debris facility that is submitted under section 3714.051 of the Revised Code shall include all of the following:

(1) A listing of all construction and demolition debris facilities or other waste disposal facilities that the owner or operator of the proposed new construction and demolition debris facility or a key employee of the owner or operator has operated or is operating in this state;

(2) A listing of the construction and demolition debris facilities or other waste disposal facilities that the owner or operator or a key employee of the owner or operator has operated or is operating elsewhere in the United States together with a listing of the construction and demolition debris facilities or other waste disposal facilities that the owner or operator or a key employee of the owner or operator has operated or is operating outside the United States;

(3) A listing of all administrative enforcement orders issued to the owner or operator or a key employee of the owner or operator, all civil actions in which the owner or operator or a key employee of the owner or operator was determined by the trier of fact to be liable in damages or was the subject of injunctive relief or another type of civil relief, and all criminal actions in which the owner or operator or a key employee of the owner or operator pleaded guilty or was

convicted, during the ten years immediately preceding the submission of the application, in connection with any violation by the owner or operator or a key employee of the owner or operator of an applicable state or federal law pertaining to environmental protection or the environmental laws of another country;

(4) A listing of all administrative enforcement orders, civil actions, or criminal actions pending at the time of the submission of the application for a permit to install in connection with a violation of any applicable state or federal law or law of another country pertaining to environmental protection that was alleged to have been committed by the owner or operator or a key employee of the owner or operator.

The lists of construction and demolition debris facilities or other waste disposal facilities operated by the owner or operator or a key employee of the owner or operator within or outside this state or outside the United States shall include all such facilities operated by the owner or operator or a key employee of the owner or operator during the ten-year period immediately preceding the submission of the application.

(B) If the applicant for a permit to install has been involved in any prior activity involving the operation of a construction and demolition debris facility or other waste disposal facility, the director of environmental protection or a board of health, as applicable, may deny the application if the director or board finds from the application, the information submitted under divisions (A)(1) to (4) of this section, pertinent information submitted to the director or board, and other pertinent information obtained by the director or board at the director's or board's discretion that the applicant or any

other person listed on the application, in the operation of construction and demolition debris facilities or other waste disposal facilities, has a history of substantial noncompliance with state and federal laws pertaining to environmental protection or the environmental laws of another country that indicates that the applicant lacks sufficient reliability, expertise, and competence to operate the proposed new construction and demolition debris facility in substantial compliance with this chapter and rules adopted under it.

(C) At the same time that an application for an annual operation license required under section 3714.06 of the Revised Code is submitted, an owner or operator of a construction and demolition debris facility that has submitted the information required under division (A) of this section shall submit to the director or board of health, as applicable, all information required to be submitted under division (A) of this section that has changed or been added since the issuance of the most recent annual operation license for the facility. If, during that period, there have been no changes in or additions to that information, the owner or operator shall submit to the director or board an affidavit stating that there have been no changes in or additions to that information during that time period. The director or board may revoke the license for the facility if the updated information indicates any of the reasons specified in division (B) of this section for the denial of an application for a permit to install.

(D) A person to whom the permit to install or the license for a construction and demolition debris facility is proposed to be transferred under division (B) of section 3714.06 of the Revised Code shall submit to the director or a board of health, as applicable, the information that is required to be submitted

under division (A) of this section by an applicant for a permit to install not later than one hundred twenty days prior to the proposed acquisition of the facility by the transferee. The director or board of health may deny the transfer of the permit or license, as applicable, if the information regarding the transferee indicates any of the reasons specified in division (B) of this section for the denial of an application for a permit to install.

(E) When the owner or operator of a facility employs a new key employee, the owner or operator shall submit or shall require the new key employee to submit to the director or a board of health, as applicable, information regarding the new key employee that is required to be submitted under division (A) of this section by an applicant for a permit to install. The director or board may revoke the permit to install or the license for the facility, as applicable, if the information regarding the new key employee indicates any of the reasons specified in division (B) of this section for the denial of an application for a permit to install.

(F) In lieu of complying with this section, an applicant for a permit to install for, or a proposed transferee of a permit to install or a license for, a construction and demolition debris facility may choose to comply with sections 3734.41 to ~~3734.47~~ 3734.46 of the Revised Code. An applicant or transferee that so chooses shall comply with those sections. For purposes of this division, sections 3734.41 to ~~3734.47~~ 3734.46 of the Revised Code are deemed to apply to applicants for permits to install for, and proposed transferees of permits to install or licenses for, construction and demolition debris facilities. The director shall provide notice in writing to the applicable board of health that the applicant or proposed

transferee has complied with sections 3734.41 to ~~3734.47~~ 3734.46 of the Revised Code and has sufficient reliability, expertise, and competence to operate the construction and demolition debris facility in substantial compliance with this chapter and the rules adopted under it.

(G) As used in this section, "key employee" means an individual employed by an applicant for a permit to install for, or by the proposed transferee of a permit to install or license for, a construction and demolition debris facility in a supervisory capacity or who is empowered to make discretionary decisions with respect to the construction and demolition debris operations of the applicant or transferee, but does not include an employee who is exclusively engaged in the physical or mechanical collection, transfer, transportation, storage, or disposal of construction and demolition debris. If the applicant or transferee has entered into a contract with another person to operate the facility that is the subject of the application or transfer, "key employee" includes an employee of the contractor who acts in a supervisory capacity or is empowered to make discretionary decisions with respect to the operation of the facility.

Sec. 3714.071. (A) For the purpose of funding and conducting ground water monitoring at construction and demolition debris facilities by boards of health of health districts that are on the approved list under section 3714.09 of the Revised Code and the director of environmental protection, the director may adopt rules under Chapter 119. of the Revised Code for the purpose of levying a fee of not more than five cents per cubic yard or ten cents per ton on the disposal of construction and demolition debris at a construction and demolition debris facility that is licensed under this chapter.

Such a fee shall be in addition to the fee that is levied under section 3714.07 of the Revised Code. If the director adopts rules under this section establishing a fee on the disposal of construction and demolition debris at a construction and demolition debris facility, the rules shall be subject to review every five years by the joint committee on agency rule review.

The owner or operator of a construction and demolition debris facility shall collect the fee levied under rules adopted under this section as a trustee for the health district having jurisdiction over the facility, if that district is on the approved list under section 3714.09 of the Revised Code, or for the state. The owner or operator shall collect and remit the fee in the same manner that the fee levied under section 3714.07 of the Revised Code is collected and remitted.

The money collected by a board of health under this section shall be paid into a special fund, which is hereby created in each health district, and used solely to fund and conduct ground water monitoring at construction and demolition debris facilities within the health district as specified in division (B) of this section. Of the money that is collected, a board of health shall transmit eighty per cent of the money received from the owner or operator of a facility under this section to the director not later than forty-five days after the receipt of the money.

The director shall transmit all money received under this section to the treasurer of state to be credited to the construction and demolition debris facility ground water monitoring fund, which is hereby created in the state treasury. The director shall administer the fund and shall use money credited to it solely for the purposes specified in division (B)

of this section.

(B) A board of health or the director, as applicable, shall conduct ground water monitoring at construction and demolition debris facilities in accordance with this section. In order to conduct the monitoring, the board or director, as applicable, shall pay for the installation of ground water monitoring wells, ground water sampling, and the laboratory analysis of the ground water samples at a construction and demolition debris facility in accordance with either of the following, as applicable:

(1) If the facility is operating before April 15, 2005, and the facility has not had ground water monitoring wells installed and operating before that date, the board of health or director, as applicable, shall pay the cost of the installation of one or more ground water monitoring wells and the annual sampling and laboratory analysis of the ground water at the facility.

(2) If the facility is operating before April 15, 2005, and the facility has had one or more ground water monitoring wells installed and operating before that date, the board of health or director, as applicable, shall pay the cost of the installation of one or more additional ground water monitoring wells and the annual sampling and laboratory analysis of the ground water at the facility that exceeds the facility's annual cost of ground water monitoring certified under division (C) of this section by the owner or operator of the facility.

A board of health or the director, as applicable, shall not pay any costs under this section for the installation of ground water monitoring wells, ground water sampling, or the laboratory analysis of ground water samples incurred by a

construction and demolition debris facility to comply with rules adopted under section 3714.02 of the Revised Code or a permit to install issued under section 3714.051 of the Revised Code.

(C) For purposes of division (B)(2) of this section, the owner or operator of a construction and demolition debris facility that is operating before April 15, 2005, and that has had ground water monitoring wells installed and has incurred monitoring costs before that date shall retain for three years all documents evidencing the cost of the ground water monitoring. If the board or director, as applicable, requests documents evidencing the cost of the ground water monitoring, the owner or operator of the facility shall certify to the board or director, as applicable, the annual cost of ground water monitoring at the facility.

(D) A board of health or the director, as applicable, shall determine the priority of purchases for ground water monitoring and the payment of the costs of conducting monitoring of ground water as provided in division (B) of this section. However, a board of health or the director, as applicable, shall not purchase ground water monitoring wells or pay the costs of conducting monitoring of ground water if the applicable fund does not have sufficient money to pay those costs. The director shall consult with boards of health to determine the priority of ground water monitoring at construction and demolition debris facilities that are licensed under this chapter.

(E) ~~The director may adopt rules in accordance with Chapter 119. of the Revised Code that are necessary to administer this section.~~

~~(F)~~ A board of health or the director, as applicable, may enter into contracts for the purpose of conducting ground water

monitoring that is required in this section.

Sec. 3715.022. (A) All food products, including those produced and packaged by a cottage food production operation, and all packaged maple syrup, sorghum, and honey, are subject to food sampling conducted by the director of agriculture, or a representative the director authorizes, to determine if a food product is misbranded or adulterated. A component of the food sampling conducted under this section may include the performance of sample analyses in accordance with section 3715.02 of the Revised Code.

~~The director of agriculture shall adopt rules as the director considers necessary to establish standards for food sampling and procedures for administration of this section. The rules shall be adopted in accordance with Chapter 119. of the Revised Code.~~

(B) Labeling requirements do not apply to fruit butter produced at a festival or celebration, if the festival or celebration is organized by a political subdivision of this state and the fruit butter is sold during the festival or celebration from the production site.

Sec. 3715.502. (A) A physician, physician assistant, advanced practice registered nurse, or certified mental health assistant may authorize one or more pharmacists and any of the pharmacy interns supervised by the one or more pharmacists to use a protocol developed pursuant to rules adopted under this section for the purpose of dispensing overdose reversal drugs. If use of the protocol has been authorized, a pharmacist or pharmacy intern may dispense overdose reversal drugs without a prescription to either of the following in accordance with that protocol:

(1) An individual who there is reason to believe is experiencing or at risk of experiencing an opioid-related overdose;

(2) A family member, friend, or other individual in a position to assist an individual who there is reason to believe is at risk of experiencing an opioid-related overdose.

(B) A pharmacist or pharmacy intern who dispenses overdose reversal drugs under this section shall instruct the individual to whom the drugs are dispensed to summon emergency services as soon as practicable either before or after administering the drugs.

(C) A pharmacist may document on a prescription form the dispensing of overdose reversal drugs by the pharmacist or a pharmacy intern supervised by the pharmacist. The form may be assigned a number for recordkeeping purposes.

(D) This section does not affect the authority of a pharmacist or pharmacy intern to fill or refill a prescription for overdose reversal drugs.

(E) A physician, physician assistant, advanced practice registered nurse, or certified mental health assistant who in good faith authorizes a pharmacist or pharmacy intern to dispense overdose reversal drugs without a prescription, as provided in this section, is not liable for or subject to any of the following for any act or omission of the individual to whom the drugs are dispensed: damages in any civil action, prosecution in any criminal proceeding, or professional disciplinary action.

A pharmacist or pharmacy intern authorized under this section to dispense overdose reversal drugs without a

prescription who does so in good faith is not liable for or subject to any of the following for any act or omission of the individual to whom the drugs are dispensed: damages in any civil action, prosecution in any criminal proceeding, or professional disciplinary action.

(F) The state board of pharmacy, after consulting with the state medical board and board of nursing, shall adopt rules ~~to implement this section. The rules shall~~ that specify a protocol under which pharmacists or pharmacy interns may dispense overdose reversal drugs without a prescription.

All rules adopted under this section shall be adopted in accordance with Chapter 119. of the Revised Code.

(G)(1) The state board of pharmacy shall develop a program to educate all of the following about the authority of a pharmacist or pharmacy intern to dispense overdose reversal drugs without a prescription:

(a) Holders of licenses issued under Chapter 4729. of the Revised Code that engage in the sale or dispensing of overdose reversal drugs pursuant to this section;

(b) Registered pharmacy technicians, certified pharmacy technicians, and pharmacy technician trainees registered under Chapter 4729. of the Revised Code who engage in the sale of overdose reversal drugs pursuant to this section;

(c) Individuals who are not licensed or registered under Chapter 4729. of the Revised Code but are employed by license holders described in division (G)(1)(a) of this section.

(2) As part of the program, the board also shall educate the license holders, pharmacy technicians, and employees described in division (G)(1) of this section about maintaining

an adequate supply of overdose reversal drugs and methods for determining a pharmacy's stock of such drugs.

(3) The board may use its web site to share information under the program.

Sec. 3715.873. The state board of pharmacy shall adopt rules governing the drug repository program that establish all of the following:

(A) Eligibility criteria for pharmacies, hospitals, and nonprofit clinics to participate in the program, including, in the case of nonprofit clinics, a definition of "underinsured person";

(B) Standards and procedures for accepting, safely storing, and distributing drugs donated or given;

(C) Standards and procedures for inspecting the drugs described in division (C)(1) of section 3715.87 of the Revised Code to determine that the original unit dose packaging is sealed and tamper-evident and that the drugs are unadulterated, safe, and suitable for distribution;

(D) With respect to drugs described in division (D) of section 3715.87 of the Revised Code, standards and procedures to determine based on a basic visual inspection that the drugs appear to be unadulterated, safe, and suitable for distribution;

(E) Eligibility standards based on economic need for individuals to receive drugs under the program;

(F) A means, such as an identification card, by which an individual who is eligible to receive drugs under the program may demonstrate eligibility to a pharmacy, hospital, or nonprofit clinic participating in the program;

(G) A form that an individual receiving a drug under the program must sign before receiving the drug to confirm that the individual understands the immunity provisions of the program;

(H) A form that each individual who is donating or giving drugs to the program, or who represents the person or government entity that is donating or giving drugs to the program, must sign stating that the individual or the person or government entity being represented is the owner of the drugs and intends to voluntarily donate or give them to the program;

(I) A formula to determine the amount of a nominal handling fee that pharmacies, hospitals, and nonprofit clinics participating in the program may charge to drug recipients to cover restocking and distribution costs;

(J) A list of drugs or drug types, if applicable, that are ineligible to be donated or given under the program, including those described in division (C)(2)(b) of section 3715.87 of the Revised Code, and a statement as to why the listed drugs or drug types are ineligible to be donated or given;

(K) The standards by which a charitable pharmacy, hospital, or nonprofit clinic participating in the program may make occasional sales at wholesale, pursuant to section 4729.51 of the Revised Code, of drugs that have been donated or given to the program~~;~~

~~(L) Any other standards and procedures the board considers appropriate~~.

The rules shall be adopted in accordance with Chapter 119. of the Revised Code.

Sec. 3716.03. The director of health shall:

~~(A) Adopt rules in accordance with Chapter 119. of the Revised Code for the efficient enforcement of section 3716.02 of the Revised Code;~~

~~(B)~~ Conduct examinations, inspections, and investigations for the purpose of establishing ~~such~~ regulations for the efficient enforcement of section 3716.02 of the Revised Code, through such officers of the department of health or the boards of health, as the director delegates;

~~(C)~~ (B) Designate officers and employees to enter at reasonable times any factory, warehouse, or establishment in which hazardous substances are held, or to enter any vehicle being used to transport or hold such hazardous substance:

(1) For the purpose of determining the nature of such substances;

(2) To inspect or copy all records showing the movement of any such hazardous substance, or the holding thereof during or after such movement, and the quantity, shipper, and consignee thereof; provided, evidence obtained under this subdivision shall not be used in a criminal prosecution of the person from whom obtained;

~~(D)~~ (C) Inspect and sample, upon tender of reasonable price for such sample, at reasonable times and within reasonable limits and in a reasonable manner, finished hazardous substances in retail packages and labeling thereon in such factory, warehouse, establishment, or vehicle.

Sec. 3717.221. (A) Either of the following may register with the director of agriculture:

(1) A farm market, which is a location where a producer offers fruits, vegetables, and other items for sale;

(2) A farm product auction, which is a location where agricultural products, including food products, are offered for sale at auction.

(B) The director shall inspect each farm market and farm product auction that registers under this section. Inspections shall occur at a frequency considered appropriate by the director and shall be conducted in accordance with sanitation standards established in rules adopted under ~~this section~~Chapter 119. of the Revised Code.

~~(C) The director shall adopt rules in accordance with Chapter 119. of the Revised Code as necessary to administer this section.~~

Sec. 3717.33. Pursuant to section 3717.04 of the Revised Code, the director of agriculture shall adopt rules regarding the following:

(A) Licensing categories for retail food establishments and licensing requirements for each category, including appropriate practices for the activities performed by a retail food establishment;

(B) Standards for collection of food samples from retail food establishments for purposes of identifying adulteration and misbranding;

(C) Records to be generated and maintained by licensed retail food establishments;

(D) Appeals of proposed suspensions and revocations of retail food establishment licenses and appeals of suspensions of licenses issued for violations presenting a clear and present danger to the public health;

(E) Standards and procedures, including a schedule of frequency, for conducting inspections of retail food establishments;

(F) Standards and procedures for determining during an inspection whether articles should be removed from use because of a clear and present danger to the public health;

(G) Standards and procedures for conducting investigations of complaints pertaining to retail food establishments;

(H)(1) Surveys conducted by the director to determine whether boards of health are qualified and have the capacity to administer and enforce the provisions of this chapter and the rules adopted under it applicable to retail food establishments and to abide by the Ohio uniform food safety code. The rules shall require, as part of a survey, both of the following:

(a) The director to evaluate whether an individual registered as an environmental health specialist or an environmental health specialist in training under Chapter 4736. of the Revised Code who is employed by or has contracted with a board of health to enforce this chapter as it relates to retail food establishments has sufficient knowledge of the provisions of this chapter, rules adopted under it, and of the Ohio uniform food safety code to conduct such enforcement;

(b) The director to evaluate an individual under division (H)(1)(a) of this section solely through the use of an objective written or electronic assessment that complies with all of the following:

(i) It is developed by the director in consultation with representatives from the Ohio environmental health association and the association of Ohio health commissioners.

(ii) It does not exceed fifty questions in length.

(iii) In order to pass the assessment, the individual must correctly answer eighty per cent or more of the questions in the assessment. Questions on the exam shall be derived from the most common violations cited during the previous inspection year.

(iv) The individual is allowed to review the Ohio uniform food safety code during the assessment.

(2) The director, in consultation with representatives from the Ohio environmental health association and the association of Ohio health commissioners, shall review and update the assessment described in division (H)(1)(b) of this section on at least a biennial basis.

(3) For purposes of any field review portion of the survey, the director may require a registered environmental health specialist or environmental health specialist in training to participate in the field review for training and educational purposes. However, the director shall not use such participation to evaluate whether the registered environmental health specialist or environmental health specialist in training has sufficient knowledge of this chapter, rules adopted under it, and of the Ohio uniform food safety code.

(I) Reinstatement of a board of health as a licensor after the director has revoked the approval of the board;

(J) Procedures for resolving disputes between licensors and the holders of licenses for retail food establishments;

(K) Procedures for providing enforcement support to a board of health requesting assistance in the prosecution of a person for a violation of the provisions of this chapter applicable to retail food establishments~~;~~

~~(L) Any other matter the director considers relevant to the administration and enforcement of the provisions of this chapter applicable to retail food establishments~~.

Sec. 3719.28. (A) The state board of pharmacy, pursuant to Chapter 119. of the Revised Code, shall adopt rules ~~for administration and enforcement of Chapter 3719. of the Revised Code and~~ prescribing the manner of keeping and the form and content of records to be kept by persons authorized to manufacture, distribute, dispense, conduct research in, prescribe, administer, or otherwise deal with controlled substances. Such rules shall be designed to:

(1) Facilitate surveillance of traffic in drugs, to prevent the improper acquisition or use of controlled substances or their diversion into illicit channels;

(2) Aid the state board of pharmacy and state, local, and federal law enforcement officers in enforcing the laws of this state and the federal government dealing with drug abuse and control of drug traffic.

(B) Rules adopted pursuant to this section shall not provide any less stringent requirements with respect to records than the requirements of the federal drug abuse control laws and regulations adopted thereunder. To the extent that records kept under the federal drug abuse control laws and regulations adopted thereunder fulfill requirements for similar records under rules adopted pursuant to this section, compliance with the federal law and regulations shall constitute compliance with the law and rules of this state with respect to such records.

Sec. 3719.81. (A) As used in this section, "sample drug" has the same meaning as in section 2925.01 of the Revised Code.

(B) A person may furnish another a sample drug, if all of the following apply:

(1) The sample drug is furnished free of charge by a manufacturer, manufacturer's representative, or wholesale dealer in pharmaceuticals to a licensed health professional authorized to prescribe drugs, or is furnished free of charge by such a professional to a patient for use as medication;

(2) The sample drug is in the original container in which it was placed by the manufacturer, and the container is plainly marked as a sample;

(3) Prior to its being furnished, the sample drug has been stored under the proper conditions to prevent its deterioration or contamination;

(4) If the sample drug is of a type which deteriorates with time, the sample container is plainly marked with the date beyond which the sample drug is unsafe to use, and the date has not expired on the sample furnished. Compliance with the labeling requirements of the "Federal Food, Drug, and Cosmetic Act," 52 Stat. 1040 (1938), 21 U.S.C.A. 301, as amended, shall be deemed compliance with this section.

(5) The sample drug is distributed, stored, or discarded in such a way that the sample drug may not be acquired or used by any unauthorized person, or by any person, including a child, for whom it may present a health or safety hazard.

(C) Division (B) of this section does not do any of the following:

(1) Apply to or restrict the furnishing of any sample of a nonnarcotic substance if the substance may, under the "Federal Food, Drug, and Cosmetic Act" and under the laws of this state,

otherwise be lawfully sold over the counter without a prescription;

(2) Authorize a licensed health professional authorized to prescribe drugs who is a clinical nurse specialist, certified nurse-midwife, certified nurse practitioner, optometrist, physician assistant, or certified mental health assistant to furnish a sample drug that is not a drug the professional is authorized to prescribe.

(3) Prohibit a licensed health professional authorized to prescribe drugs, manufacturer of dangerous drugs, wholesale distributor of dangerous drugs, or representative of a manufacturer of dangerous drugs from furnishing a sample drug to a charitable pharmacy in accordance with section 3719.811 of the Revised Code.

(4) Prohibit a pharmacist working, whether or not for compensation, in a charitable pharmacy from dispensing a sample drug to a person in accordance with section 3719.811 of the Revised Code.

~~(D) The state board of pharmacy shall, in accordance with Chapter 119. of the Revised Code, adopt rules as necessary to give effect to this section.~~

Sec. 3719.811. (A) As used in this section:

(1) "Charitable pharmacy" means a pharmacy that meets all of the following requirements:

(a) Holds a terminal distributor of dangerous drugs license under section 4729.54 of the Revised Code.

(b) Is exempt from federal taxation pursuant to 26 U.S.C. 501(a) and (c)(3).

(c) Is not a hospital.

(2) "Prescription" has the same meaning as in section 4729.01 of the Revised Code.

(3) "Sample drug" has the same meaning as in section 2925.01 of the Revised Code.

(B) A manufacturer of dangerous drugs or wholesale distributor of dangerous drugs may furnish a sample drug to a charitable pharmacy if all of the following apply:

(1) The sample drug is in the original container in which it was placed by its manufacturer and the container is plainly marked as a sample.

(2) Prior to its being furnished, the sample drug has been stored under the proper conditions to prevent its deterioration or contamination.

(3) If the sample drug is of a type that deteriorates with time, the container in which the sample drug is stored is plainly marked with the date beyond which the sample drug is unsafe to use, and the date has not expired on the sample drug furnished. Compliance with the labeling requirements of the "Federal Food, Drug, and Cosmetic Act," 52 Stat. 1040 (1938), 21 U.S.C. 301, as amended, constitutes compliance with division (B)(3) of this section.

(4) The sample drug is distributed, stored, or discarded in such a way that the sample drug may not be acquired or used by any unauthorized person, or by any person, including a child, for whom it may present a health or safety hazard.

(5) The sample drug is furnished free of charge.

(6) The sample drug is not a controlled substance.

(C) A representative of a manufacturer of dangerous drugs or a licensed health professional authorized to prescribe drugs may furnish a sample drug to a charitable pharmacy if all of the following apply:

(1) Rules have been adopted rules under division (F) of this section that permit such a representative or health professional to furnish a sample drug to a charitable pharmacy.

(2) The representative or health professional complies with standards and procedures established in rules adopted under division (F) of this section.

(3) The requirements of divisions (B)(1) to (6) of this section are satisfied.

(D) A pharmacist working, whether or not for compensation, in a charitable pharmacy may dispense a sample drug to a person if all of the following apply:

(1) The person to whom the sample drug is dispensed is eligible for the sample drug under standards established by the body responsible for the charitable pharmacy's general management.

(2) The person to whom the sample is dispensed presents to the pharmacist a valid prescription for the sample drug.

(3) The sample drug is dispensed free of charge.

(4) The requirements of divisions (B)(1) to (4) and (6) of this section are satisfied.

(E) Divisions (B), (C), and (D) of this section do not do either of the following:

(1) Apply to or restrict the furnishing of any sample of a

nonnarcotic substance if the substance may, under the "Federal Food, Drug, and Cosmetic Act" and under the law of this state, otherwise be lawfully sold over the counter without a prescription.

(2) Authorize a pharmacist working, whether or not for compensation, in a charitable pharmacy to dispense a sample drug that the charitable pharmacy is unauthorized to possess, have custody or control of, or distribute.

(F) The state board of pharmacy ~~shall~~, in accordance with Chapter 119. of the Revised Code, may adopt rules ~~as necessary to give effect to this section. The rules may~~ to permit representatives of manufacturers of dangerous drugs or licensed health professionals authorized to prescribe drugs to furnish sample drugs to charitable pharmacies under this section. If they do so, the rules shall establish standards and procedures for the representatives or health professionals to furnish the sample drugs.

Sec. 3721.02. (A) As used in this section, "residential facility" means a residential facility licensed under section 5119.34 of the Revised Code that provides accommodations, supervision, and personal care services for three to sixteen unrelated adults.

(B)(1) The director of health shall license homes and establish procedures to be followed in inspecting and licensing homes. The director may inspect a home at any time. The director may enter at any time, for the purposes of investigation, any institution, residence, facility, or other structure that has been reported to the director or that the director has reasonable cause to believe is operating as a nursing home, residential care facility, or home for the aging without a valid

license required by section 3721.05 of the Revised Code or, in the case of a county home or district home, is operating despite the revocation of its residential care facility license. The director may delegate the director's authority and duties under this chapter to any division, bureau, agency, or official of the department of health.

(2)(a) Except as provided in division (B)(2)(b) of this section, prior to the issuance of a license, each home shall be inspected by the director and the state fire marshal or a township, municipal, or other legally constituted fire department approved by the state fire marshal.

(b) The inspections set forth in division (B)(2)(a) of this section are not required prior to the issuance of a license if ownership of the home is assigned or transferred to a different person and the home was licensed under this chapter immediately prior to the assignment or transfer.

(3) After issuance of a license by the director, each home shall be inspected as follows:

(a) By the director at least once every fifteen months, except that a home that is a residential care facility, or part of a home for the aging that is licensed as a residential care facility, may, at the discretion of the director, be inspected at least once every thirty months if all of the following apply:

(i) During the two most recent consecutive inspections that occurred at least once every fifteen months, there were no substantiated violations against the residential care facility;

(ii) During the time period of the inspections referred to in division (B)(4)(a) of this section, there were no substantiated violations against the residential care facility

from any other inspections or from any investigations of complaints;

(iii) The residential care facility does not have any outstanding violations from any previous inspections or investigations.

(b) By the state fire marshal or a township, municipal, or other legally constituted fire department approved by the marshal at least once every fifteen months.

(4) A nursing home does not need to be inspected before the director increases the nursing home's licensed capacity if the beds being added to the nursing home are placed in resident rooms that were inspected, as part of the most recent previous inspection of the nursing home, for the same number of residents proposed to be placed in a room after the capacity increase.

(5)(a) The inspection procedures established under division (B) of this section shall include a process for conducting expedited licensing inspections. An expedited licensing inspection may be requested by an applicant seeking a license for a new home or, in the case of an existing home, an applicant seeking approval to increase or decrease the home's licensed capacity or to make any other change for which the director requires a licensing inspection to be conducted.

If an applicant submits a complete request for an expedited licensing inspection and the request is submitted in a manner and form approved by the director, the director shall commence the inspection of the home not later than ten business days after receiving the complete request.

~~Any rules adopted by the director pursuant to section 3721.04 of the Revised Code to implement the requirements~~

~~described in division (B)(5)(a) of this section are not subject to the requirements of division (F) of section 121.95 of the Revised Code.~~

(b) The director may charge a fee for an expedited licensing inspection that is adequate to cover the expense of expediting the inspection. The fee shall be deposited in the state treasury to the credit of the general operations fund created in section 3701.83 of the Revised Code and used solely for expediting inspections.

(C) A single facility may be licensed both as a nursing home pursuant to this chapter and as a residential facility pursuant to section 5119.34 of the Revised Code if the director determines that the part or unit to be licensed as a nursing home can be maintained separate and discrete from the part or unit to be licensed as a residential facility.

(D) In determining the number of residents in a home for the purpose of licensing, the director shall consider all the individuals for whom the home provides accommodations as one group unless one of the following is the case:

(1) The home is a home for the aging, in which case all the individuals in the part or unit licensed as a nursing home shall be considered as one group, and all the individuals in the part or unit licensed as a residential care facility shall be considered as another group.

(2) The home is both a nursing home and a residential facility. In that case, all the individuals in the part or unit licensed as a nursing home shall be considered as one group, and all the individuals in the part or unit licensed as ~~an~~ a residential facility shall be considered as another group.

(3) The home maintains, in addition to a nursing home or residential care facility, a separate and discrete part or unit that provides accommodations to individuals who do not require or receive skilled nursing care and do not receive personal care services from the home, in which case the individuals in the separate and discrete part or unit shall not be considered in determining the number of residents in the home if the separate and discrete part or unit is in compliance with the Ohio basic building code established by the board of building standards under Chapters 3781. and 3791. of the Revised Code and the home permits the director, on request, to inspect the separate and discrete part or unit and speak with the individuals residing there, if they consent, to determine whether the separate and discrete part or unit meets the requirements of this division.

(E)(1) The director of health shall charge the following application fee and annual renewal licensing and inspection fee for each fifty persons or part thereof of a home's licensed capacity:

(a) For state fiscal year 2010, two hundred twenty dollars;

(b) For state fiscal year 2011, two hundred seventy dollars;

(c) For each state fiscal year thereafter, three hundred twenty dollars.

(2) All fees collected by the director for the issuance or renewal of licenses shall be deposited into the state treasury to the credit of the general operations fund created in section 3701.83 of the Revised Code for use only in administering and enforcing this chapter and rules adopted under it.

(F)(1) Except as otherwise provided in this section, the results of an inspection or investigation of a home that is conducted under this section, including any statement of deficiencies and all findings and deficiencies cited in the statement on the basis of the inspection or investigation, shall be used solely to determine the home's compliance with this chapter or another chapter of the Revised Code in any action or proceeding other than an action commenced under division (I) of section 3721.17 of the Revised Code. Those results of an inspection or investigation, that statement of deficiencies, and the findings and deficiencies cited in that statement shall not be used in either of the following:

(a) Any court or in any action or proceeding that is pending in any court and are not admissible in evidence in any action or proceeding unless that action or proceeding is an appeal of an action by the department of health under this chapter or is an action by any department or agency of the state to enforce this chapter or another chapter of the Revised Code;

(b) An advertisement, unless the advertisement includes all of the following:

(i) The date the inspection or investigation was conducted;

(ii) A statement that the director of health inspects all homes at least once every fifteen months or, if applicable under this section, at least once every thirty months;

(iii) If a finding or deficiency cited in the statement of deficiencies has been substantially corrected, a statement that the finding or deficiency has been substantially corrected and the date that the finding or deficiency was substantially

corrected;

(iv) The number of findings and deficiencies cited in the statement of deficiencies on the basis of the inspection or investigation;

(v) The average number of findings and deficiencies cited in a statement of deficiencies on the basis of an inspection or investigation conducted under this section during the same calendar year as the inspection or investigation used in the advertisement;

(vi) A statement that the advertisement is neither authorized nor endorsed by the department of health or any other government agency.

(2) Nothing in division (F)(1) of this section prohibits the results of an inspection or investigation conducted under this section from being used in a criminal investigation or prosecution.

Sec. 3721.022. (A) As used in this section:

(1) "Nursing facility" has the same meaning as in section 5165.01 of the Revised Code.

(2) "Deficiency" and "survey" have the same meanings as in section 5165.60 of the Revised Code.

(3) "Title XIX" and "Title XVIII" have the same meanings as in section 5165.01 of the Revised Code.

(B) The department of health is hereby designated the state agency responsible for establishing and maintaining health standards and serving as the state survey agency for the purposes of Title XVIII and Title XIX. The department shall carry out these functions in accordance with the regulations,

guidelines, and procedures issued under Title XVIII and Title XIX by the United States secretary of health and human services and with sections 5165.60 to 5165.89 of the Revised Code. The director of health shall enter into agreements with regard to these functions with the department of medicaid and the United States department of health and human services. The director may also enter into agreements with the department of medicaid under which the department of health is designated to perform functions under sections 5165.60 to 5165.89 of the Revised Code.

The director, in accordance with Chapter 119. of the Revised Code, shall adopt rules ~~necessary~~ to implement the survey and certification requirements for skilled nursing facilities and nursing facilities established by the United States secretary of health and human services under Title XVIII and Title XIX and the survey requirements established under sections 5165.60 to 5165.89 of the Revised Code. The rules shall include an informal process by which a facility may obtain up to two reviews of any deficiencies that have been cited on a statement of deficiencies made by the department of health under 42 C.F.R. Part 488 and cause the facility to be in noncompliance as defined in 42 C.F.R. 488.301. The first review shall be conducted by an employee of the department who did not participate in and was not otherwise involved in any way with the survey. A facility that is not satisfied with the results of a first review may receive a second review on payment of a fee to the department. The amount of the fee shall be specified in rules adopted under this section. The fee shall be deposited into the state treasury to the credit of the general operations fund created in section 3701.83 of the Revised Code for use in the implementation of this section. The second review shall be conducted by either of the following as selected by the

facility: a hearing officer employed by the department or a hearing officer included on a list the department shall provide the facility. A final determination that any deficiency citation is unjustified shall be reflected clearly in all records relating to the survey.

The director need not adopt as rules any of the regulations, guidelines, or procedures issued under Title XVIII and Title XIX by the United States secretary of health and human services.

Sec. 3721.026. (A) Before the director of health can issue a license to operate a nursing home to an entering operator, all of the following requirements must be satisfied:

(1) The entering operator completes a change of operator license application on a form prescribed by the director and pays the applicable fee as determined by the director.

Any fee required by the director under division (A)(1) of this section shall be credited to the general operations fund established under section 3701.83 of the Revised Code.

A completed application shall be submitted not later than forty-five days before the proposed effective date of the change of operator if the change of operator does not entail the relocation of residents. A completed application shall be submitted not later than ninety days before the proposed effective date of the change of operator if the change of operator entails the relocation of residents. The director may waive the time requirements specified in division (A)(1) of this section in an emergency, such as the death of the operator.

The change of operator license application established under this section shall include all of the following:

(a) Disclosure of all direct and indirect owners owning at least five per cent of each of the following:

(i) The entering operator, if the entering operator is an entity;

(ii) The owner of the building or buildings in which the nursing home is housed, if the owner of the building or buildings is a different person or government entity from the entering operator;

(iii) The owner of the legal rights associated with the ownership and operation of the nursing home beds, if the owner of the legal rights is a different person or government entity from the entering operator;

(iv) Each related party that provides or will provide services to the nursing home, through contracts with any party identified in division (A)(1)(a) of this section.

(b) Disclosure of whether a person or government entity identified in division (A)(1)(a) of this section has or had a direct or indirect ownership or operational interest in a current or previously licensed nursing home in this state or another state, including disclosure of whether any of the following occurred with respect to an identified nursing home within the five years immediately preceding the date of application:

(i) Voluntary or involuntary closure of the nursing home;

(ii) Voluntary or involuntary bankruptcy proceedings;

(iii) Voluntary or involuntary receivership proceedings;

(iv) License suspension, denial, or revocation;

(v) Injunction proceedings initiated by a regulatory agency;

(vi) The nursing home is listed in table A, table B, or table D on the SFF list under the special focus facility program;

(vii) A civil or criminal action was filed against it by a state or federal entity.

(c) Any additional information that the director considers necessary to determine the ownership, operation, management, and control of the nursing home.

(2) Except for applications that demonstrate that the entering operator, or a person or government entity that directly or indirectly owns at least fifty per cent of the entering operator, directly or indirectly owns at least fifty per cent of the nursing home and its assets, the entering operator submits evidence of a bond or other financial security reasonably acceptable to the director for an amount not less than the product of the number of licensed beds in the nursing home, as reflected in the application, multiplied by ten thousand dollars. The bond may be supplied by either the entering operator or the property owner of the nursing home.

(a) The bond or other financial security shall be renewed, replaced, or maintained for five years after the effective date of the change of operator. The aggregate liability of a surety shall not exceed the sum of the bond, which is not cumulative from period to period. If the bond or other financial security is not renewed, replaced, or maintained in accordance with this division, the director shall revoke the nursing home operator's license after providing thirty days' notice to the operator. The

bond or other financial security shall be released five years after the effective date of the change of operator if none of the events described in division (A)(2)(b) of this section have occurred.

(b) The director may utilize the bond or other financial security required under division (A)(2) of this section to pay expenses incurred by the director or another state official or agency if any of the following occur during the five-year period for which the bond or other financial security is required:

(i) The nursing home is voluntarily or involuntarily closed.

(ii) The nursing home or its owner or operator is the subject of voluntary or involuntary bankruptcy proceedings.

(iii) The nursing home or its owner or operator is the subject of voluntary or involuntary receivership proceedings.

(iv) The license to operate the nursing home is suspended, denied, or revoked.

(v) The nursing home undergoes a change of operator, unless the new applicant submits a bond or other financial security in accordance with this section.

(vi) The nursing home appears in table A, table B, or table D on the SFF list under the special focus facility program.

(3) The entering operator or a person or government entity who will have operational control of the nursing home has at least five years of experience as either of the following:

(a) An administrator of a nursing home located in this state or another state;

(b) A person or government entity with operational control of a nursing home located in this state or another state.

(4) The entering operator attests that the entering operator has plans for quality assurance and risk management for the operation of the nursing home.

(5) The entering operator attests that the entering operator has general and professional liability insurance coverage that provides coverage of at least one million dollars per occurrence and three million dollars aggregate.

(6) The entering operator attests that the entering operator has sufficient numbers of qualified staff, by training or experience, who will be employed to properly care for the type and number of nursing home residents.

(B) The director shall issue to the entering operator a notice of intent to grant a change of operator license upon a determination that all requirements of this section have been met, except for submission of the final document evidencing completion of the transaction.

(C) The director may conduct a survey of the nursing home not less than sixty days after the effective date of the change of operator.

(D) The requirements established by this section are in addition to the other requirements established by this chapter and the rules adopted under it for a license to operate a nursing home.

(E) The director shall deny a change of operator license application if any of the following circumstances exist:

(1) The requirements established by this section are not

satisfied.

(2) The entering operator or a person or government entity identified in division (A)(1)(a) of this section who directly or indirectly has twenty-five per cent or more ownership of the entering operator meets both of the following criteria:

(a) The entering operator or the person or government entity has or had either of the following relationships to a currently or previously licensed nursing home in this state or another state:

(i) Fifty per cent or more direct or indirect ownership in the nursing home;

(ii) Alone or together with one or more other persons, operational control of the nursing home.

(b) Any of the following occurred with respect to the current or previously licensed nursing home described in division (E)(2)(a) of this section within the five years immediately preceding the date of application:

(i) Involuntary closure of the nursing home by a regulatory agency or voluntary closure in response to licensure or certification action;

(ii) Voluntary or involuntary bankruptcy proceedings that are not dismissed within sixty days;

(iii) Voluntary or involuntary receivership proceedings that are not dismissed within sixty days;

(iv) License suspension, denial, or revocation for failure to comply with operating standards.

(3) If a change of twenty-five per cent or more of the

property ownership interest in a nursing home occurs in connection with the change of operator, the person or government entity who acquired the property ownership interest meets both of the following criteria:

(a) The person or government entity has or had either of the following relationships to a currently or previously licensed nursing home in this state or another state:

(i) Fifty per cent or more direct or indirect property ownership in the nursing home;

(ii) Alone or together with one or more other persons, operational control of the nursing home.

(b) Any of the following occurred with respect to the current or previously licensed nursing home described in division (E)(3)(a) of this section within the five years immediately preceding the date of application:

(i) Involuntary closure of the nursing home by a regulatory agency or voluntary closure in response to licensure or certification action;

(ii) Voluntary or involuntary bankruptcy proceedings that are not dismissed within sixty days;

(iii) Voluntary or involuntary receivership proceedings that are not dismissed within sixty days;

(iv) License suspension, denial, or revocation for failure to comply with operating standards.

(F) An entering operator may appeal the denial of a change of operator license application in accordance with Chapter 119. of the Revised Code.

(G) An entering operator shall do all of the following:

(1) Notify the director immediately upon discovery of any error, omission, or change of information in a change of operator license application.

(2) Notify the director within ten days of any change in the information or documentation required by this section that occurs after the effective date of the change of operator.

(3) Truthfully supply any additional information or documentation requested by the director.

If an entering operator fails to notify the director or supply additional information or documentation in accordance with this division, the director shall impose a civil penalty of two thousand dollars for each day of noncompliance.

(4) Not complete the change of operator until the director issues to the entering operator notice of intent to grant a change of operator license in accordance with division (B) of this section. The entering operator shall submit the final document evidencing completion of the transaction not later than five days after completion.

(H)(1) The director shall investigate an allegation that a change of operator has occurred and the entering operator failed to submit an application in accordance with this section or an application was filed but the information was fraudulent. The director may request the attorney general's assistance with an investigation under this section.

(2) If the director becomes aware, by means of an investigation or otherwise, that a change of operator has occurred and the entering operator failed to submit an application in accordance with this section, or an application

was filed but the information provided was fraudulent, the director shall impose a civil penalty of two thousand dollars for each day of noncompliance after the date the director becomes aware that the change of operator has occurred. If the entering operator fails to submit an application or new application in accordance with this section within sixty days of the director becoming aware of the change of operator, the director shall begin the process of revoking a nursing home license as specified in section 3721.03 of the Revised Code.

(I) It is the intent of the general assembly in amending this section to require full and complete disclosure and transparency with respect to the ownership, operation, and management of each licensed nursing home located in this state. ~~The director may adopt rules as necessary to implement this section. Any rules shall be adopted in accordance with Chapter 119. of the Revised Code.~~

Sec. 3721.032. The state fire marshal shall enforce all statutes and rules pertaining to fire safety in homes~~ and shall adopt rules pertaining to fire safety in homes as the marshal determines necessary. The rules adopted by the marshal shall be in addition to those fire safety rules that the board of building standards and the director of health are empowered to adopt~~. In the event of a dispute between the state fire marshal and another officer having responsibilities under sections 3721.01 to 3721.09 of the Revised Code with respect to the interpretation or application of a specific fire safety statute or rule, the interpretation of the state fire marshal shall prevail.

Sec. 3721.04. (A) The director of health shall adopt and publish rules~~ governing the operation of homes~~, which shall have

uniform application throughout the state, ~~and shall prescribe~~ prescribing standards for homes with respect to~~, but not limited to,~~ the following matters:

(1) The minimum space requirements for occupants and equipping of the buildings in which homes are housed so as to ensure healthful, safe, sanitary, and comfortable conditions for all residents, so long as they are not inconsistent with Chapters 3781. and 3791. of the Revised Code or with any rules adopted by the board of building standards and by the state fire marshal;

(2) The number and qualifications of personnel, including management and nursing staff, for each class of home, and the qualifications of nurse aides, as defined in section 3721.21 of the Revised Code, used by long-term care facilities, as defined in that section;

(3) The medical, rehabilitative, and recreational services to be provided by each class of home;

(4) Dietetic services, including but not limited to sanitation, nutritional adequacy, and palatability of food;

(5) The personal and social services to be provided by each class of home;

(6) The business and accounting practices to be followed and the type of patient and business records to be kept by such homes;

(7) The operation of adult day-care programs provided by and on the same site as homes licensed under this chapter;

(8) The standards and procedures to be followed by residential care facilities in admitting and retaining a

resident who requires the application of dressings, including requirements for charting and evaluating on a weekly basis;

(9) The requirements for conducting weekly evaluations of residents receiving skilled nursing care in residential care facilities.

(B) ~~The director may adopt whatever additional rules are necessary to carry out or enforce the provisions of sections 3721.01 to 3721.09 and 3721.99 of the Revised Code.~~

~~(C)~~ The following apply to the director when adopting rules under division (A)(1) of this section regarding the equipping of the buildings in which homes are housed:

(1) The rules shall not require that each resident sleeping room, or a percentage of the resident sleeping rooms, have a bathtub or shower that is directly accessible from or exclusively for the room.

(2) The rules shall require that the privacy and dignity of residents be protected when the residents are transported to and from bathing facilities, prepare for bathing, and bathe.

~~(D)~~ (C) The following apply to the director when adopting rules under division (A)(2) of this section regarding the number and qualifications of personnel in homes:

(1) When adopting rules applicable to residential care facilities, the director shall take into consideration the effect that the following may have on the number of personnel needed:

(a) Provision of personal care services;

(b) Provision of part-time, intermittent skilled nursing care pursuant to division (C) of section 3721.011 of the Revised

Code;

(c) Provision of skilled nursing care to residents pursuant to division (D) of section 3721.011 of the Revised Code.

(2) When adopting rules applicable to nursing homes, the director shall require each nursing home to do both of the following:

(a) Have sufficient direct care staff on each shift to meet the needs of the residents in an appropriate and timely manner;

(b) Have the following individuals provide a minimum daily average of two and one-half hours of direct care per resident:

(i) Registered nurses, including registered nurses who perform administrative and supervisory duties;

(ii) Licensed practical nurses, including licensed practical nurses who perform administrative and supervisory duties;

(iii) Nurse aides.

(3) The rules prescribing qualifications of nurse aides used by long-term care facilities, as those terms are defined in section 3721.21 of the Revised Code, shall be no less stringent than the requirements, guidelines, and procedures established by the United States secretary of health and human services under section 1819 of the "Social Security Act," 101 Stat. 1330-160 (1987), 42 U.S.C. 1395i-3, as amended, and section 1919 of the "Social Security Act," 101 Stat. 1330-182 (1987), 42 U.S.C. 1396r, as amended.

~~(E)~~ (D) The following apply to the director when adopting

rules under division (A)(2) of this section regarding the number and qualifications of personnel in nursing homes or rules under division (A)(5) of this section regarding social services to be provided by nursing homes:

(1) The rules shall not prescribe the number of individuals licensed as social workers under Chapter 4757. of the Revised Code that a nursing home with one hundred twenty or fewer beds must employ.

(2) The rules shall require each nursing home with more than one hundred twenty beds to employ on a full-time basis one individual licensed as a social worker under Chapter 4757. of the Revised Code.

(3) The rules shall require each nursing home to offer its residents medically related social services that assist the residents in attaining or maintaining their highest practicable physical, mental, and psychosocial well-being.

Sec. 3721.041. (A) As used in this section:

(1) "Advisory committee" means the advisory committee on immunization practices of the United States centers for disease control and prevention or a successor committee or agency.

(2) "Certified nurse-midwife," "clinical nurse specialist," and "certified nurse practitioner" have the same meanings as in section 4723.01 of the Revised Code.

(3) "Physician" means an individual authorized under Chapter 4731. of the Revised Code to practice medicine and surgery or osteopathic medicine and surgery.

(B)(1) Each home shall, on an annual basis, offer to each resident, in accordance with guidelines issued by the advisory

committee, vaccination against influenza, unless a physician, certified nurse-midwife if authorized as described in section 4723.438 of the Revised Code, clinical nurse specialist, or certified nurse practitioner has determined that vaccination of the resident is medically inappropriate. The vaccine shall be of a form approved by the advisory committee for that calendar year. A resident may refuse vaccination.

(2) Each home shall obtain the influenza vaccine information sheet described in section 3701.138 of the Revised Code and post the sheet in a conspicuous location that is accessible to all residents, employees, and visitors. Not later than the first day of August each year, the home shall determine whether the information sheet it has posted is the most recent version available. If it is not, the home shall replace the information sheet with the updated version. Nothing in this division requires an older adult to be vaccinated against influenza.

Failure to comply with the requirement to post the information sheet shall not be taken into account when any survey or inspection of the home is conducted and shall not be used as the basis for imposing any penalty against the home.

(C) Each home shall offer to each resident, in accordance with guidelines issued by the advisory committee, vaccination against pneumococcal pneumonia, unless the resident has already received such vaccination or a physician, certified nurse-midwife if authorized as described in section 4723.438 of the Revised Code, clinical nurse specialist, or certified nurse practitioner has determined that vaccination of the resident is medically inappropriate. Each vaccine shall be of a form approved by the advisory committee for that calendar year. A

resident may refuse vaccination.

~~(D) The director of health may adopt rules under Chapter 119. of the Revised Code as the director considers appropriate to implement this section.~~

Sec. 3721.121. (A) As used in this section:

(1) "Adult day-care program" means a program operated pursuant to rules adopted by the director of health under section 3721.04 of the Revised Code and provided by and on the same site as homes licensed under this chapter.

(2) "Applicant" means a person who is under final consideration for employment with a home or adult day-care program in a full-time, part-time, or temporary position that involves providing direct care to an older adult. "Applicant" does not include a person who provides direct care as a volunteer without receiving or expecting to receive any form of remuneration other than reimbursement for actual expenses.

(3) "Community-based long-term care services provider" means a provider as defined in section 173.39 of the Revised Code.

(4) "Criminal records check" has the same meaning as in section 109.572 of the Revised Code.

(5) "Home" means a home as defined in section 3721.10 of the Revised Code.

(6) "Older adult" means a person age sixty or older.

(B)(1) Except as provided in division (I) of this section, the chief administrator of a home or adult day-care program shall request that the superintendent of the bureau of criminal identification and investigation conduct a criminal records

check of each applicant. If an applicant for whom a criminal records check request is required under this division does not present proof of having been a resident of this state for the five-year period immediately prior to the date the criminal records check is requested or provide evidence that within that five-year period the superintendent has requested information about the applicant from the federal bureau of investigation in a criminal records check, the chief administrator shall request that the superintendent obtain information from the federal bureau of investigation as part of the criminal records check of the applicant. Even if an applicant for whom a criminal records check request is required under this division presents proof of having been a resident of this state for the five-year period, the chief administrator may request that the superintendent include information from the federal bureau of investigation in the criminal records check.

(2) A person required by division (B)(1) of this section to request a criminal records check shall do both of the following:

(a) Provide to each applicant for whom a criminal records check request is required under that division a copy of the form prescribed pursuant to division (C)(1) of section 109.572 of the Revised Code and a standard fingerprint impression sheet prescribed pursuant to division (C)(2) of that section, and obtain the completed form and impression sheet from the applicant;

(b) Forward the completed form and impression sheet to the superintendent of the bureau of criminal identification and investigation.

(3) An applicant provided the form and fingerprint

impression sheet under division (B)(2)(a) of this section who fails to complete the form or provide fingerprint impressions shall not be employed in any position for which a criminal records check is required by this section.

(C)(1) Except as provided in rules adopted by the director of health in accordance with division (F) of this section and subject to division (C)(2) of this section, no home or adult day-care program shall employ a person in a position that involves providing direct care to an older adult if the person has been convicted of or pleaded guilty to any of the following:

(a) A violation of section 2903.01, 2903.02, 2903.03, 2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 2905.01, 2905.02, 2905.11, 2905.12, 2907.02, 2907.03, 2907.05, 2907.06, 2907.07, 2907.08, 2907.09, 2907.12, 2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 2907.323, 2911.01, 2911.02, 2911.11, 2911.12, 2911.13, 2913.02, 2913.03, 2913.04, 2913.11, 2913.21, 2913.31, 2913.40, 2913.43, 2913.47, 2913.51, 2919.25, 2921.36, 2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 2925.11, 2925.13, 2925.22, 2925.23, or 3716.11 of the Revised Code.

(b) A violation of an existing or former law of this state, any other state, or the United States that is substantially equivalent to any of the offenses listed in division (C)(1)(a) of this section.

(2)(a) A home or an adult day-care program may employ conditionally an applicant for whom a criminal records check request is required under division (B) of this section prior to obtaining the results of a criminal records check regarding the individual, provided that the home or program shall request a criminal records check regarding the individual in accordance with division (B)(1) of this section not later than five

business days after the individual begins conditional employment. In the circumstances described in division (I)(2) of this section, a home or adult day-care program may employ conditionally an applicant who has been referred to the home or adult day-care program by an employment service that supplies full-time, part-time, or temporary staff for positions involving the direct care of older adults and for whom, pursuant to that division, a criminal records check is not required under division (B) of this section.

(b) A home or adult day-care program that employs an individual conditionally under authority of division (C)(2)(a) of this section shall terminate the individual's employment if the results of the criminal records check requested under division (B) of this section or described in division (I)(2) of this section, other than the results of any request for information from the federal bureau of investigation, are not obtained within the period ending sixty days after the date the request is made. Regardless of when the results of the criminal records check are obtained, if the results indicate that the individual has been convicted of or pleaded guilty to any of the offenses listed or described in division (C)(1) of this section, the home or program shall terminate the individual's employment unless the home or program chooses to employ the individual pursuant to division (F) of this section. Termination of employment under this division shall be considered just cause for discharge for purposes of division (D)(2) of section 4141.29 of the Revised Code if the individual makes any attempt to deceive the home or program about the individual's criminal record.

(D)(1) Each home or adult day-care program shall pay to the bureau of criminal identification and investigation the fee

prescribed pursuant to division (C)(3) of section 109.572 of the Revised Code for each criminal records check conducted pursuant to a request made under division (B) of this section.

(2) A home or adult day-care program may charge an applicant a fee not exceeding the amount the home or program pays under division (D)(1) of this section. A home or program may collect a fee only if both of the following apply:

(a) The home or program notifies the person at the time of initial application for employment of the amount of the fee and that, unless the fee is paid, the person will not be considered for employment;

(b) The medicaid program does not reimburse the home or program the fee it pays under division (D)(1) of this section.

(E) The report of any criminal records check conducted pursuant to a request made under this section is not a public record for the purposes of section 149.43 of the Revised Code and shall not be made available to any person other than the following:

(1) The individual who is the subject of the criminal records check or the individual's representative;

(2) The chief administrator of the home or program requesting the criminal records check or the administrator's representative;

(3) The administrator of any other facility, agency, or program that provides direct care to older adults that is owned or operated by the same entity that owns or operates the home or program;

(4) A court, hearing officer, or other necessary

individual involved in a case dealing with a denial of employment of the applicant or dealing with employment or unemployment benefits of the applicant;

(5) Any person to whom the report is provided pursuant to, and in accordance with, division (I)(1) or (2) of this section;

(6) The board of nursing for purposes of accepting and processing an application for a medication aide certificate issued under Chapter 4723. of the Revised Code;

(7) The director of aging or the director's designee if the criminal records check is requested by the chief administrator of a home that is also a community-based long-term care services provider.

(F) ~~In accordance with section 3721.11 of the Revised Code, the~~ The director of health shall adopt rules in accordance with Chapter 119. of the Revised Code to ~~implement this section. The rules shall~~ specify circumstances under which a home or adult day-care program may employ a person who has been convicted of or pleaded guilty to an offense listed or described in division (C)(1) of this section but meets personal character standards set by the director.

(G) The chief administrator of a home or adult day-care program shall inform each individual, at the time of initial application for a position that involves providing direct care to an older adult, that the individual is required to provide a set of fingerprint impressions and that a criminal records check is required to be conducted if the individual comes under final consideration for employment.

(H) In a tort or other civil action for damages that is brought as the result of an injury, death, or loss to person or

property caused by an individual who a home or adult day-care program employs in a position that involves providing direct care to older adults, all of the following shall apply:

(1) If the home or program employed the individual in good faith and reasonable reliance on the report of a criminal records check requested under this section, the home or program shall not be found negligent solely because of its reliance on the report, even if the information in the report is determined later to have been incomplete or inaccurate;

(2) If the home or program employed the individual in good faith on a conditional basis pursuant to division (C)(2) of this section, the home or program shall not be found negligent solely because it employed the individual prior to receiving the report of a criminal records check requested under this section;

(3) If the home or program in good faith employed the individual according to the personal character standards established in rules adopted under division (F) of this section, the home or program shall not be found negligent solely because the individual prior to being employed had been convicted of or pleaded guilty to an offense listed or described in division (C)(1) of this section.

(I)(1) The chief administrator of a home or adult day-care program is not required to request that the superintendent of the bureau of criminal identification and investigation conduct a criminal records check of an applicant if the applicant has been referred to the home or program by an employment service that supplies full-time, part-time, or temporary staff for positions involving the direct care of older adults and both of the following apply:

(a) The chief administrator receives from the employment service or the applicant a report of the results of a criminal records check regarding the applicant that has been conducted by the superintendent within the one-year period immediately preceding the applicant's referral;

(b) The report of the criminal records check demonstrates that the person has not been convicted of or pleaded guilty to an offense listed or described in division (C)(1) of this section, or the report demonstrates that the person has been convicted of or pleaded guilty to one or more of those offenses, but the home or adult day-care program chooses to employ the individual pursuant to division (F) of this section.

(2) The chief administrator of a home or adult day-care program is not required to request that the superintendent of the bureau of criminal identification and investigation conduct a criminal records check of an applicant and may employ the applicant conditionally as described in this division, if the applicant has been referred to the home or program by an employment service that supplies full-time, part-time, or temporary staff for positions involving the direct care of older adults and if the chief administrator receives from the employment service or the applicant a letter from the employment service that is on the letterhead of the employment service, dated, and signed by a supervisor or another designated official of the employment service and that states that the employment service has requested the superintendent to conduct a criminal records check regarding the applicant, that the requested criminal records check will include a determination of whether the applicant has been convicted of or pleaded guilty to any offense listed or described in division (C)(1) of this section, that, as of the date set forth on the letter, the employment

service had not received the results of the criminal records check, and that, when the employment service receives the results of the criminal records check, it promptly will send a copy of the results to the home or adult day-care program. If a home or adult day-care program employs an applicant conditionally in accordance with this division, the employment service, upon its receipt of the results of the criminal records check, promptly shall send a copy of the results to the home or adult day-care program, and division (C)(2)(b) of this section applies regarding the conditional employment.

Sec. 3721.122. Before an individual is admitted as a resident to a home, the home's administrator shall search for the individual's name in the internet-based sex offender and child-victim offender database established under division ~~(A)(11)~~(A)(10) of section 2950.13 of the Revised Code. If the search results identify the individual as a sex offender and the individual is admitted as a resident to the home, the administrator shall provide for the home to do all of the following:

(A) Develop a plan of care to protect the other residents' rights to a safe environment and to be free from abuse;

(B) Notify all of the home's other residents and their sponsors that a sex offender has been admitted as a resident to the home and include in the notice a description of the plan of care developed under division (A) of this section;

(C) Direct the individual in updating the individual's address under section 2950.05 of the Revised Code and, if the individual is unable to do so without assistance, provide the assistance the individual needs to update the individual's address under that section.

Sec. 3721.26. The director of health shall adopt rules pursuant to Chapter 119. of the Revised Code ~~to implement sections 3721.21 to 3721.25 of the Revised Code, including rules~~ prescribing requirements for the notice and hearing required under section 3721.23 of the Revised Code. The notice and hearing required under section 3721.23 of the Revised Code are not subject to Chapter 119. of the Revised Code; however, the rules may provide for the notice to be provided and the hearing to be conducted in accordance with that chapter. Rules adopted under this section shall be no less stringent than the requirements, guidelines, and procedures established by the United States secretary of health and human services under sections 1819 and 1919 of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended.

Sec. 3721.29. In addition to competency evaluation programs and training and competency evaluation programs required by this chapter, each long-term care facility shall provide both of the following to each nurse aide it uses:

(A) An orientation program that includes at least an explanation of the organizational structure of the facility, its policies and procedures, its philosophy of care, a description of its resident population, and an enumeration of its employee rules;

(B) Regular performance review and in-service education to assure that individuals working in the facility as nurse aides are competent to perform the nursing and nursing-related services they perform. In-service education shall include training for nurse aides providing nursing and nursing-related services to residents and patients with cognitive impairments.

~~The director of health shall adopt rules to implement the~~

~~purposes of this section. The rules shall be no less stringent than the requirements, guidelines, and procedures established by the United States secretary of health and human services under sections 1819 and 1919 of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended.~~

Sec. 3721.30. (A)(1) A training and competency evaluation program approved by the director of health under division (A) of section 3721.31 of the Revised Code or a competency evaluation program conducted by the director under division (C) of that section shall evaluate the competency of a nurse aide in the following areas:

(a) Basic nursing skills;

(b) Personal care skills;

(c) Recognition of mental health and social service needs;

(d) Care of residents with cognitive impairments;

(e) Basic restorative services;

(f) Residents' rights~~;~~

~~(g) Any other area specified by rule of the director~~.

(2) Any training and competency evaluation program approved or competency evaluation program conducted by the director may include a written examination, but shall permit a nurse aide, at the nurse aide's option, to establish competency in another manner approved by the director. A nurse aide shall be permitted to have the competency evaluation conducted at the long-term care facility at which the nurse aide is or will be employed, unless the facility has been determined by the director or the United States secretary of health and human services to have been out of compliance with the requirements of

subsection (b), (c), or (d) of section 1819 or 1919 of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended, within the previous two years.

(B) A training and competency evaluation program approved or conducted by the director under section 3721.31 of the Revised Code shall consist of training and competency evaluation specified by the director in rules adopted under division (C) of this section, including a minimum of seventy-five hours divided between skills training and classroom instruction in the following topic areas:

(1) Basic nursing skills;

(2) Personal care skills;

(3) Recognition of mental health and social service needs;

(4) Care of residents with cognitive impairments;

(5) Basic restorative services;

(6) Residents' rights;

(7) Needs of various groups of long-term care facility residents and patients~~;~~

~~(8) Other topic areas specified by rule of the director~~.

(C) In accordance with Chapter 119. of the Revised Code, the director shall adopt rules establishing procedures and criteria for approval of training and competency evaluation programs. The requirements established by rules shall be no less stringent than the requirements, guidelines, and procedures established by the United States secretary of health and human services under sections 1819 and 1919 of the "Social Security Act." The director also shall adopt rules governing all of the

following:

(1) Procedures for determination of an individual's competency to perform services as a nurse aide;

(2) The curriculum of training and competency evaluation programs;

(3) The clinical supervision and physical facilities used for training and competency evaluation programs;

(4) The number of hours of training required in training and competency evaluation programs;

(5) The qualifications for instructors, coordinators, and evaluators of training and competency evaluation programs, except that the rules shall not require an instructor for a training and competency evaluation program to have nursing home experience if the program is under the general supervision of a coordinator who is a registered nurse who possesses a minimum of two years of nursing experience, at least one of which is in the provision of services in a nursing home or intermediate care facility for individuals with intellectual disabilities;

(6) Requirements that training and competency evaluation programs must meet to retain approval;

(7) Standards for successful completion of a training and competency evaluation program;

(8) Procedures and criteria for review and reapproval of training and competency evaluation programs;

(9) Fees for application for approval or reapproval of training and competency evaluation programs and programs to train instructors, coordinators, and evaluators for training and competency evaluation programs;

(10) Fees for participation in any training and competency evaluation program or other program conducted by the director under section 3721.31 of the Revised Code;

(11) Procedures for reporting to the nurse aide registry established under section 3721.32 of the Revised Code whether or not individuals participating in training and competency evaluation programs have successfully completed the programs.

(D) In accordance with Chapter 119. of the Revised Code, the director may adopt rules prescribing criteria and procedures for approval of training programs for instructors, coordinators, and evaluators for competency evaluation programs and training and competency evaluation programs. ~~The director may adopt other rules that the director considers necessary for the administration and enforcement of sections 3721.28 to 3721.34 of the Revised Code or for compliance with requirements, guidelines, or procedures issued by the United States secretary of health and human services for implementation of section 1819 or 1919 of the "Social Security Act."~~

(E) No person or government entity shall impose on a nurse aide any charge for participation in any competency evaluation program or training and competency evaluation program approved or conducted by the director under section 3721.31 of the Revised Code, including any charge for textbooks, other required course materials, or a competency evaluation.

(F) No person or government entity shall require that an individual used by the person or government entity as a nurse aide or seeking employment as a nurse aide pay or repay, either before or while the individual is employed by the person or government entity or when the individual leaves the person or government entity's employ, any costs associated with the

individual's participation in a competency evaluation program or training and competency evaluation program approved or conducted by the director.

Sec. 3721.60. As used in sections 3721.60 to ~~3721.67~~ 3721.66 of the Revised Code:

(A) "Attorney in fact" means a person designated as such by a durable power of attorney for health care executed pursuant to sections 1337.11 to 1337.17 of the Revised Code.

(B) "Electronic monitoring device" means a surveillance instrument with a fixed position video camera or an audio recording device, or a combination thereof, that is installed in a resident's room and broadcasts or records activities or sounds occurring in the room.

(C) "Guardian" has the same meaning as in section 2111.01 of the Revised Code.

(D) "Long-term care facility" has the same meaning as in section 3721.21 of the Revised Code.

(E) "Resident" means an individual who resides in a long-term care facility.

Sec. 3721.63. A long-term care facility may prescribe a form for use by a resident or resident's guardian or attorney in fact seeking to authorize the installation and use of an electronic monitoring device in the resident's room in a long-term care facility. If a long-term care facility prescribes a form, it shall, at a minimum, include all of the following:

(A) An explanation of sections 3721.60 to ~~3721.67~~ 3721.66 of the Revised Code;

(B) An acknowledgment that the resident or resident's

guardian or attorney in fact has consented to the installation and use of the device in the resident's room;

(C) In the case of a resident who lives in a room with another resident, an acknowledgment that the other resident or other resident's guardian or attorney in fact has consented to the installation and use of the device and a description of any conditions placed on that consent pursuant to division (B)(2) of section 3721.62 of the Revised Code;

(D) A section for providing the facility with information regarding the type, function, and use of the device to be installed and used;

(E) A section stating that the facility is released from liability in any civil or criminal action or administrative proceeding for a violation of the resident's right to privacy in connection with using the device.

Sec. 3721.68. Sections 3721.60 to ~~3721.67~~ 3721.66 of the Revised Code do not apply if an electronic monitoring device is installed by a law enforcement agency and used solely for a bona fide law enforcement purpose.

Sec. 3722.06. (A) Not later than the date that is one year after ~~the effective date of this section~~ September 30, 2022, the director of health shall adopt rules establishing~~ health, safety, welfare, and quality standards~~ , for hospitals licensed under this chapter, ~~including~~ standards for all of the following:

(1) Maternity units;

(2) Newborn care nurseries;

(3) Health care services.

(B) Not later than the date that is one year after ~~the effective date of this section~~ September 30, 2022, the director shall adopt rules establishing standards and procedures for the licensure of hospitals, including all of the following:

(1) Procedures for applying and renewing licenses as described in section 3722.03 of the Revised Code;

(2) Procedures for transferring licenses as described in section 3722.04 of the Revised Code;

(3) Procedures for inspections following complaints;

(4) Subject to division (C)(1) of this section, fees for initial applications, license renewals, and license transfers, as well as inspections conducted under section 3722.05 of the Revised Code;

(5) Subject to division (C)(2) of this section, standards and procedures for imposing civil penalties as described in section 3722.07 of the Revised Code;

(6) Subject to division (C)(3) of this section, standards and procedures for correcting violations, including through the submission of correction plans;

(7) Standards and procedures for identifying, monitoring, managing, reporting, and reducing exposures to risk conditions, such as Legionella, including through the use of environmental facility assessments, the development of water management plans, and the use of disinfection measures;

(8) Standards and procedures for data reporting;

(9) Standards and procedures for emergency preparedness;

(10) Standards and procedures for the provision of

technical assistance as described in section 3722.09 of the Revised Code;

(11) Standards and procedures for new hospitals to demonstrate eligibility as described in division (B)(2) of section 3722.03 of the Revised Code;

(12) Standards and procedures to address changes to a hospital's license, including adding or removing a location of the hospital.

(C)(1) In the case of an inspection fee described in division (B)(4) of this section, the director shall establish an amount to cover only the cost of the inspection. All other fees established under that division shall be limited to what is necessary to support the hospital licensure program.

(2) The director shall establish a scale for use in determining the amount of a civil penalty that may be imposed under section 3722.07 of the Revised Code. The scale shall include per day amounts for ongoing violations. The total amount of a civil penalty shall not exceed two hundred fifty thousand dollars for each violation.

(3) The director shall accept a corrective action plan that also was accepted by the federal centers for medicare and medicaid services or an accrediting organization approved under 42 U.S.C. 1395bb(a) provided that the plan was submitted to the centers or organization in response to the same deficiencies identified by the director.

(D) ~~The director may adopt any other rules as necessary to implement this chapter.~~

~~(E)~~ When adopting rules under this section, all of the following apply:

(1) The director shall adopt the rules in accordance with Chapter 119. of the Revised Code;

(2) Any rules adopted are not subject to division (F) of section 121.95 of the Revised Code;

(3) The director shall collaborate with representatives of this state's hospital industry to maximize the public health utility of rules adopted under this section and limit the administrative burden of and costs of complying with such rules.

(4) The director shall not adopt rules that conflict with requirements under federal laws or regulations.

Sec. 3723.09. (A) ~~To protect the health of individuals inhabiting, occupying, or frequenting buildings, the director of health shall adopt rules to implement the requirements of this chapter.~~ All rules adopted under this section shall be adopted in accordance with Chapter 119. of the Revised Code.

(B) The director shall adopt rules establishing criteria and procedures for issuing and renewing licenses under section 3723.06 of the Revised Code to radon testers, mitigation specialists, and mitigation contractors. The rules may require that all applicants for licensure as a radon tester or mitigation specialist pass an examination. If an examination is required, the rules may require applicants to pass an examination conducted by the department or an appropriate examination conducted by the United States environmental protection agency.

(C) The director shall adopt rules establishing criteria and procedures for approving training courses under section 3723.07 of the Revised Code. The rules may require that participants in training courses pass an examination conducted

by the operator of the course and may require that the examinations be approved by the director.

(D) The director shall adopt rules establishing criteria and procedures for approving radon laboratories under section 3723.07 of the Revised Code.

(E) The director shall adopt rules establishing reasonable fees for licenses, license renewals, radon laboratory approvals, and training course approvals.

(F) The director shall adopt rules establishing standards to be followed by licensed radon testers, mitigation specialists, and mitigation contractors for the prevention of hazards to the public health, including standards for worker protection, record keeping, and training of employees of licensed radon mitigation contractors.

(G) The director shall adopt rules establishing procedures to be followed by any individual, business entity, or government entity licensed by another state to practice as a radon tester, mitigation specialist, or mitigation contractor in providing notice to the director of health prior to commencing practice in this state pursuant to section 3723.03 of the Revised Code.

(H) The director may adopt rules that require licensed radon testers and mitigation specialists to report to the director, by street address, radon test results that indicate the presence of radon at a level considered to be dangerous as determined by the director. The rules may require the reporting of screening measurements, follow-up measurements, post-mitigation measurements, and, if it is known that radon mitigation has been performed, the methods of mitigation that were used. Any information required to be reported to the

director under these rules is not a public record under section 149.43 of the Revised Code, and shall not be released except in aggregate statistical form.

Sec. 3725.02. ~~(A)~~ No person other than a hospital shall collect plasma, regardless of the use for which the plasma is intended, except at a plasmapheresis center holding a current, valid certificate of approval issued by the director of health.

Whoever violates this division is guilty of a misdemeanor of the fourth degree.

~~(B) The director shall adopt such rules as are necessary to carry out this chapter.~~

Sec. 3725.03. Application for certificate shall be made to the director of health by the operator of each establishment desiring to operate as a plasmapheresis center. The director shall prescribe the application form.

The director or ~~his~~the director's representative shall inspect each establishment prior to certification, and thereafter at least once each year. Plasmapheresis facilities and operations shall be made available for inspection during normal working hours upon request of any authorized representative of the state department of health. If the director finds, upon inspection, that an establishment applying for certification complies with this chapter ~~and the rules adopted thereunder~~, ~~he~~the director shall issue a certificate of approval to the owner of the center. The owner shall annually apply for renewal of certification according to the standard renewal procedure under Chapter 4745. of the Revised Code.

The director may require the center at any time to send samples of any material collected or processed by the center,

together with the results of applicable tests, to the department of health.

Sec. 3725.04. Certification of a plasmapheresis center may be denied, revoked, or suspended if the director of health finds that the center is not in compliance with this chapter ~~and the rules adopted thereunder, or if the examination of samples and test results submitted under section 3725.03 of the Revised Code reveals noncompliance with such rules~~. The director shall notify the owner of the center of the proposed action and the violation or information on which it is based. If the owner requests a hearing within seven working days of the receipt of notice, certification shall not be revoked or suspended prior to the hearing, except that certification may be temporarily suspended if the director finds that the public health and safety is in imminent danger.

Sec. 3725.05. No plasmapheresis center shall be certified by the director of health unless all federal requirements for the collection of plasma by plasmapheresis under the "Public Health Service Act," 58 Stat. 682 (1944) 42 U.S.C. 201, as amended, are met and:

(A) A test approved by the director of health for hepatitis B antigen is made on a sample of blood taken from the donor at the time of blood collection;

(B) No person who has ever shown a positive test for hepatitis B antigen or who has a history of hepatitis serves as a donor for plasma, with the exception of plasma intended for special purposes approved by the director of health;

(C) A qualified licensed physician, known as the medical director, is responsible for compliance with this chapter ~~and~~

~~rules adopted thereunder,~~ and for maintaining the health and safety of participants in the plasmapheresis procedure;

(D) One of the following individuals is in attendance at all times when a donor is undergoing plasmapheresis and is responsible for supervising the procedure and the maintenance of sterile technique:

(1) A physician authorized under Chapter 4731. of the Revised Code to practice medicine and surgery or osteopathic medicine and surgery;

(2) A licensed practical nurse or registered nurse as defined in section 4723.01 of the Revised Code;

(3) An individual who is certified as an emergency medical technician-intermediate or emergency medical technician-paramedic under Chapter 4765. of the Revised Code, but is not attending or supervising the procedure or maintaining sterile technique in the individual's capacity as an emergency medical technician;

(4) Another qualified medical staff person, including a medical technologist, approved by the director of health.

(E) Handwashing facilities are present in the room where the blood is drawn and in the room where the formed elements are separated from the plasma.

Sec. 3726.14. Not later than ninety days after ~~the effective date of this section~~ April 6, 2021, the director of health, in accordance with Chapter 119. of the Revised Code, shall adopt rules ~~necessary to carry out sections 3726.01 to 3726.13 of the Revised Code, including rules~~ that prescribe the following:

(A) The notification form informing pregnant women who seek surgical abortions of the following:

(1) The right to determine final disposition of fetal remains under division (A) of section 3726.03 of the Revised Code;

(2) The available options for locations and methods for the disposition of fetal remains.

(B) The consent form for purposes of section 3726.04 or 3726.041 of the Revised Code;

(C)(1) A detachable supplemental form to the form described in division (B)(4) of section 2317.56 of the Revised Code that meets the following requirements:

(a) Indicates whether the pregnant woman has indicated a preference as to the method of disposition of the fetal remains and the preferred method selected;

(b) Indicates whether the pregnant woman has indicated a preference as to the location of disposition of the fetal remains;

(c) Provides for the signature of the physician who is to perform or induce the abortion;

(d) Provides for a medical identification number for the pregnant woman but does not provide for the pregnant woman's printed name or signature.

(2) If a medical emergency or medical necessity prevents the pregnant woman from completing the detachable supplemental form, procedures to complete that form a reasonable time after the medical emergency or medical necessity has ended.

Sec. 3727.131. (A)(1) In an effort to improve the quality of care for patients affected by stroke, the department of health shall establish and maintain a process for the collection, transmission, compilation, and oversight of data related to stroke care. Such data shall be collected, transmitted, compiled, and overseen in a manner prescribed by the director of health.

As part of the process and except as provided in division (A)(2) of this section, the department shall establish or utilize a stroke registry database to store information, statistics, and other data on stroke care, including information, statistics, and data that align with nationally recognized treatment guidelines and performance measures.

(2) If the department established or utilized, prior to ~~the effective date of this section~~ October 3, 2023, a stroke registry database that meets the requirements of this section, then both of the following apply:

(a) Division (A)(1) of this section shall not be construed to require the department to establish or utilize another such database.

(b) The department shall maintain both the process and stroke registry database described in this section, including in the event federal moneys are no longer available to support the process or database.

(B) Not later than six months after ~~the effective date of this section~~ October 3, 2023, the director of health shall adopt rules ~~as necessary to implement this section, including rules~~ specifying all of the following:

(1) The information, statistics, and other data to be

collected, which shall do both of the following:

(a) Align with stroke consensus metrics developed and approved by both of the following: (i) The United States centers for disease control and prevention; (ii) Accreditation organizations that are approved by the United States centers for medicare and medicaid services and that certify stroke centers.

(b) Include at a minimum both of the following:

(i) Data that is consistent with nationally recognized treatment guidelines for patients with confirmed stroke;

(ii) In the case of mechanical endovascular thrombectomy, data regarding the treatment's processes, complications, and outcomes, including data required by national certifying organizations.

(2) The manner in which the information, statistics, and other data are to be collected;

(3) The manner in which the information, statistics, and other data are to be transmitted for inclusion in the stroke registry database.

(C) When adopting rules as described in division (B) of this section, all of the following apply:

(1) The director of health shall do all of the following:

(a) Consider nationally recognized stroke care performance measures;

(b) Designate an electronic platform for the collection and transmission of data.

When designating the platform, the director shall consider nationally recognized stroke data platforms.

(c) In an effort to avoid duplication and redundancy, coordinate, to every extent possible, with hospitals recognized by the department under section 3727.13 of the Revised Code and national voluntary health organizations involved in stroke quality improvement.

(2) The director of health may specify that, of the information, statistics, or other data that is collected, only samples are to be transmitted for inclusion in the stroke registry database.

(3) The rules shall be adopted in accordance with Chapter 119. of the Revised Code.

(D)(1) Except as provided in division (D)(2) of this section, each hospital that is recognized by the department under section 3727.13 of the Revised Code as a comprehensive stroke center, thrombectomy-capable stroke center, or primary stroke center shall do both of the following:

(a) Collect the information, statistics, and other data specified by the director in rules adopted under division (B) of this section;

(b) Transmit the information, statistics, and other data for inclusion in the stroke registry database.

A hospital may contract with a third-party organization for the collection and transmission of the information, statistics, and other data. If a hospital contracts with a third-party organization, the organization shall collect and transmit such information, statistics, and other data for inclusion in the stroke registry database.

(2) The data described in division (B)(1)(b)(ii) of this section shall be collected and transmitted only by a hospital

that is recognized by the department under section 3727.13 of the Revised Code as a thrombectomy-capable stroke center.

(3) In the case of a hospital that is recognized by the department under section 3727.13 of the Revised Code as an acute stroke ready hospital, the collection and transmission of the data described in division (B) of this section is encouraged.

(E) The information, statistics, or other data collected or transmitted as required or encouraged by this section shall not identify or tend to identify any particular patient.

(F) The department may establish an oversight committee to advise and monitor the department in implementing this section and to assist the department in developing short- and long-term goals for the stroke registry database.

If established, the membership of the committee shall consist of individuals with expertise or experience in data collection, data management, or stroke care, including both of the following:

(1) Individuals representing organizations advocating on behalf of those with stroke or cardiovascular conditions;

(2) Individuals representing hospitals recognized by the department under section 3727.13 of the Revised Code.

Sec. 3727.19. (A) As used in this section:

(1) "Advisory committee" means the advisory committee on immunization practices of the United States centers for disease control and prevention or its successor agency.

(2) "Certified nurse-midwife," "clinical nurse specialist," and "certified nurse practitioner" have the same meanings as in section 4723.01 of the Revised Code.

(3) "Physician" means an individual authorized under Chapter 4731. of the Revised Code to practice medicine and surgery or osteopathic medicine and surgery.

(B) Each hospital shall offer to each patient who is admitted to the hospital, in accordance with guidelines issued by the advisory committee, vaccination against influenza, unless a physician, certified nurse-midwife if authorized as described in section 4723.438 of the Revised Code, clinical nurse specialist, or certified nurse practitioner has determined that vaccination of the patient is medically inappropriate. The vaccine shall be of a form approved by the advisory committee for that calendar year. A patient may refuse vaccination.

(C) Each hospital shall offer to each patient who is admitted to the hospital, in accordance with guidelines issued by the advisory committee, vaccination against pneumococcal pneumonia, unless a physician, certified nurse-midwife if authorized as described in section 4723.438 of the Revised Code, clinical nurse specialist, or certified nurse practitioner has determined that vaccination of the patient is medically inappropriate. Each vaccine shall be of a form approved by the advisory committee for that calendar year. A patient may refuse vaccination.

~~(D) The director of health may adopt rules under Chapter 119. of the Revised Code as the director considers appropriate to implement this section.~~

Sec. 3727.23. The director of health may adopt rules ~~for the implementation of sections 3727.21 and 3727.22 of the Revised Code, including rules~~ establishing procedures and criteria for the review and evaluation of proposed cooperative agreements under section 3727.22 of the Revised Code. If rules

are adopted, they shall ensure that there is opportunity for public comment during the review and evaluation of proposed cooperative agreements.

Sec. 3727.25. (A) As used in this section:

(1) "Surgical smoke" means the airborne byproduct of an energy-generating device used in a surgical procedure, including smoke plume, bioaerosols, gases, laser-generated contaminants, and dust.

(2) "Surgical smoke evacuation system" means equipment designed to capture, filter, and eliminate surgical smoke at the point of origin, before the smoke makes contact with the eyes or respiratory tract of individuals.

(B) Not later than one year after ~~the effective date of this section~~ October 3, 2023, each hospital that offers surgical services shall adopt and implement a policy designed to prevent human exposure to surgical smoke during any planned surgical procedure that is likely to generate surgical smoke. The policy shall include the use of a surgical smoke evacuation system.

~~(C) The director of health may adopt any rules the director considers necessary to implement this section. The rules shall be adopted in accordance with Chapter 119. of the Revised Code.~~

Sec. 3727.31. As used in sections 3727.31 to ~~3727.40~~ 3727.39 of the Revised Code:

(A) "Ancillary service" means a hospital item or service that a hospital customarily provides as part of a shoppable service.

(B) "Chargemaster" means the list maintained by a hospital

of each hospital item or service for which the hospital has established a charge.

(C) "De-identified maximum negotiated charge" means the highest charge that a hospital has negotiated with all third-party payors for a hospital item or service.

(D) "De-identified minimum negotiated charge" means the lowest charge that a hospital has negotiated with all third-party payors for a hospital item or service.

(E) "Discounted cash price" means the charge that applies to an individual who pays cash, or a cash equivalent, for a hospital item or service.

(F) "Federal price transparency law" means section 2718(e) of the "Public Health Service Act," 42 U.S.C. 300gg-18, and hospital price transparency rules adopted by the United States department of health and human services and the United States centers for medicare and medicaid services implementing that section, including the rules and requirements under 45 C.F.R. 180.

(G) "Hospital" has the same meaning as in section 3722.01 of the Revised Code.

(H) "Hospital items or services" means all items or services, including individual items or services and service packages, that may be provided by a hospital to a patient in connection with an inpatient admission or an outpatient department visit, as applicable, for which the hospital has established a standard charge, including all of the following:

(1) Supplies and procedures;

(2) Room and board;

(3) Use of the hospital and other areas, the charges for which are generally referred to as facility fees;

(4) Services of physicians and non-physician practitioners, employed by the hospital, the charges for which are generally referred to as professional fees;

(5) Any other item or service for which a hospital has established a standard charge.

(I) "Gross charge" means the charge for a hospital item or service that is reflected on a hospital's chargemaster, absent any discounts.

(J) "Machine-readable format" means a digital representation of information in a file that can be imported or read into a computer system for further processing. "Machine-readable format" ~~includes .XML, .JSON, and .CSV~~ includes .XML, .JSON, and .CSV formats.

(K) "Payor-specific negotiated charge" means the charge that a hospital has negotiated with a third-party payor for a hospital item or service.

(L) "Personal data" means any information that is linked or reasonably linkable to an identified or identifiable person in this state. "Personal data" does not include either of the following:

(1) Publicly available information;

(2) Personal data that has been de-identified or aggregated using commercially reasonable methods such that neither the associated person, nor a device linked to that person, can be reasonably identified.

(M) "Process" or "processing" means any operation or set

of operations that are performed on personal data, whether or not by automated means, including the collection, use, storage, disclosure, analysis, deletion, transfer, or modification of personal data.

(N) "Publicly available information" means information that is lawfully made available from federal, state, or local government records or widely available media.

(O) "Service package" means an aggregation of individual hospital items or services into a single service with a single charge.

(P) "Shoppable service" means a service that may be scheduled by a health care consumer in advance.

(Q) "Standard charge" means the regular rate established by the hospital for a hospital item or service provided to a specific group of paying patients. "Standard charge" includes all of the following:

(1) The gross charge;

(2) The payor-specific negotiated charge;

(3) The de-identified minimum negotiated charge;

(4) The de-identified maximum negotiated charge;

(5) The discounted cash price.

(R) "Targeted advertising" means displaying an advertisement that is selected based on personal data obtained from the use of a hospital's internet-based price estimator tool by a person in this state. "Targeted advertising" does not include any of the following:

(1) Advertising in response to the user's request for

information or feedback;

(2) Advertisements based on activities within a hospital's own web sites or online applications;

(3) Advertisements based on the context of a user's current search query, visit to a web site, or online application;

(4) Processing personal data solely for measuring or reporting advertising performance, reach, or frequency.

(S) "Third-party payor" means an entity that is, by statute, contract, or agreement, legally responsible for payment of a claim for a hospital item or service.

Sec. 3727.33. (A) A hospital shall maintain a list of all standard charges for all hospital items or services in accordance with this section. The hospital shall ensure that the list is available at all times to the public, including by posting the list electronically in the manner provided by this section.

(B) The standard charges contained in the list shall reflect the standard charges applicable to that location of the hospital, regardless of whether the hospital operates in more than one location or operates under the same license as another hospital.

(C) The list shall include the following information, as applicable:

(1) A description of each hospital item or service provided by the hospital;

(2) The following charges, expressed in dollar amounts, for each particular hospital item or service when provided in

either an inpatient setting or an outpatient department setting, as applicable:

(a) The gross charge;

(b) The de-identified minimum negotiated charge;

(c) The de-identified maximum negotiated charge;

(d) The discounted cash price;

(e) The payor-specific negotiated charge, listed by the name of the third-party payor and health plan associated with the charge and displayed in a manner that clearly associates the charge with each third-party payor and health plan;

(f) Any code used by the hospital for purposes of accounting or billing for the hospital item or service, including the current procedural terminology (CPT) code, healthcare common procedure coding system (HCPCS) code, diagnosis related group (DRG) code, national drug code (NDC), or other common identifier.

(D) The information contained in the list shall be published in a single digital file that is in a machine-readable format.

(E) The list shall be displayed in a prominent location on the home page of the hospital's publicly accessible internet web site or be accessible by selecting a dedicated link that is prominently displayed on that home page. If the hospital operates multiple locations and maintains a single internet web site, a separate list shall be posted for each location the hospital operates and shall be displayed in a manner that clearly associates the list with the applicable location.

(F) The list shall satisfy all of the following

conditions:

(1) Be available free of charge; without having to register or establish a user account or password; without having to submit personal identifying information, including any information pertaining to an individual's health care coverage or other benefits; and without having to overcome any other impediment in order to access the list, including such impediments as entering a code or completing any type of security measure known as challenge-response authentication;

(2) Be accessible to a common commercial operator of an internet search engine to the extent necessary for the search engine to index the list and display the list as a result in response to a search query of a user of the search engine;

(3) Be formatted in a manner prescribed by the template developed under division (G) of this section;

(4) Be digitally searchable;

(5) Use the following naming convention specified by the United States centers for medicare and medicaid services, specifically:

"<ein>_<hospital-name>_standardcharges.[jsonxmlcsv]."

(G) For purposes of division (F)(3) of this section, the director of health shall develop a template that each hospital shall use in formatting the list. In developing the template, the director shall do both of the following:

(1) Consider any applicable federal guidelines for formatting similar lists required by federal statutes or regulations and ensure that the design of the template enables health care consumers or other researchers to compare the

charges contained in the lists maintained by each hospital;

(2) Design the template to be substantially similar to the template used by the United States centers for medicare and medicaid services for purposes similar to those of sections 3727.31 to ~~3727.40~~ 3727.39 of the Revised Code, if the director determines that designing the template in that manner serves the purposes of this section and that the department of health benefits from the director developing and requiring that substantially similar design.

(H) At least once each year, the hospital shall update the list it maintains under this section. The hospital shall clearly indicate the date on which the list was most recently updated, either on the list or in a manner that is clearly associated with the list.

Sec. 3727.36. (A) No hospital shall do any of the following:

(1)(a) Fail to comply with the requirement to make public the list described in section 3727.33 of the Revised Code;

(b) Fail to comply with the requirements to make public ~~the~~ either the list or the internet-based price estimator tool described in section 3727.34 of the Revised Code.

(2)(a) Fail to maintain the list required by section 3727.33 of the Revised Code in accordance with the requirements of that section;

(b) Fail to maintain either the list or the internet-based price estimator tool required by section 3727.34 of the Revised Code in accordance with the requirements of that section.

(3) Fail in any other manner to comply with the

requirements that apply to a list and, if applicable, the internet-based price estimator tool, under sections 3727.31 to ~~3727.40~~ 3727.39 of the Revised Code.

(B) The director of health shall monitor each hospital's compliance with division (A) of this section. The monitoring may occur by any of the following methods:

(1) Reviewing any credible analysis prepared regarding compliance or noncompliance by hospitals;

(2) Auditing the internet web sites of hospitals for compliance;

(3) Confirming that each hospital submits updated lists as required by section 3727.35 of the Revised Code.

(C)(1) The director of health shall create and make publicly available a list that identifies each hospital that is not in compliance with division (A) of this section. The list of noncompliant hospitals shall include any hospital that has been sent a notice of violation under section 3727.37 of the Revised Code, is subject to an order imposing an administrative penalty under section 3727.38 of the Revised Code, has been sent any other written communication from the director regarding a violation of division (A) of this section, or otherwise has been determined by the director to be not in compliance with division (A) of this section.

(2) The list of noncompliant hospitals is a public record, as defined in section 149.43 of the Revised Code.

(3) After the director of health has determined that a hospital is not in compliance with division (A) of this section, the materials that consist of notices, orders, communications, and determinations under sections 3727.31 to ~~3727.40~~ 3727.39 of

the Revised Code are public records, as defined in section 149.43 of the Revised Code.

(D) Not later than ninety days after ~~the effective date of this section~~April 3, 2025, the director of health shall create the initial list of noncompliant hospitals and include the list on the internet web site maintained by the department of health. The director shall update the list and web site at least every thirty days thereafter.

Sec. 3727.38. (A)(1) Notwithstanding any conflicting provision of the Revised Code, the director of health shall impose an administrative penalty on a hospital if the hospital does both of the following:

(a) Violates division (A) of section 3727.36 of the Revised Code;

(b) Violates division (D) of section 3727.37 of the Revised Code.

(2) Each day a violation continues is considered a separate violation.

(B) In imposing an administrative penalty under this section, the director of health shall act in accordance with Chapter 119. of the Revised Code. The amount of the penalty to be imposed on a hospital shall be selected by the director, subject to the minimum amounts and considerations specified in division (C) of this section. For all penalties that are imposed, the director shall select amounts that are sufficient to ensure that hospitals comply with the requirements of sections 3727.31 to ~~3727.40~~ 3727.39 of the Revised Code.

(C)(1) An administrative penalty imposed under this section shall not be less than the following:

(a) In the case of a hospital with a bed count of thirty or fewer, three hundred dollars;

(b) In the case of a hospital with a bed count that is greater than thirty and equal to or fewer than five hundred fifty, ten dollars per bed;

(c) In the case of a hospital with a bed count that is greater than five hundred fifty, five thousand five hundred dollars.

(2) In setting the amount of the penalty to be imposed on a hospital, the director of health shall consider all of the following:

(a) Previous violations by the hospital's operator;

(b) The seriousness of the violation;

(c) The demonstrated good faith of the hospital's operator;

(d) Any other matters as justice may require.

(D) An administrative penalty collected under this section shall be deposited into the state treasury to the credit of the hospital price transparency fund created by section 3727.381 of the Revised Code.

Sec. 3727.381. There is hereby created in the state treasury the hospital price transparency fund, consisting of administrative penalties collected under section 3727.38 of the Revised Code. The director of health shall administer the fund. The amounts deposited shall be used for purposes of administering and enforcing sections 3727.31 to ~~3727.40~~ 3727.39 of the Revised Code, except that the director may use a portion for purposes of informing the public about the availability of

hospital price information and other consumer rights under those sections.

Sec. 3727.39. The director of health shall prepare reports and submit them in accordance with all of the following:

(A) On an annual basis, the director shall prepare a report on hospitals that are in violation of division (A) of section 3727.36 or division (D) of section 3727.37 of the Revised Code.

(B) Within sixty days after any change to the federal price transparency law, the director shall prepare a report of the director's recommendations for conforming sections 3727.31 to ~~3727.40~~ 3727.39 of the Revised Code with the change or, alternatively, stating that no conforming changes are necessary.

(C) The director shall submit the reports required by divisions (A) and (B) of this section to the general assembly in accordance with section 101.68 of the Revised Code, the chairperson of the standing committee of the house of representatives with primary responsibility for health legislation, the chairperson of the standing committee of the senate with primary responsibility for health legislation, and the governor.

Sec. 3727.70. As used in this section and sections 3727.71 to ~~3727.79~~ 3727.78 of the Revised Code:

(A) "Admission" means a patient's admission to a hospital on an inpatient basis by a health care professional specified in division (B)(1) of section 3727.06 of the Revised Code.

(B) "After-care" means assistance provided by a lay caregiver to a patient in the patient's residence after the patient's discharge and includes only the caregiving needs of

the patient at the time of discharge.

(C) "Discharge" means the discharge or release of a patient who has been admitted to a hospital on an inpatient basis from the hospital directly to the patient's residence. "Discharge" does not include the transfer of a patient to another facility or setting.

(D) "Discharging health care professional" means a health care professional who is authorized by division (B)(1) of section 3727.06 of the Revised Code to admit a patient to a hospital and who has assumed responsibility for directing the creation of the patient's discharge plan under section 3727.75 of the Revised Code.

(E) "Guardian" has the same meaning as in section 2133.01 of the Revised Code.

(F) "Lay caregiver" means an adult designated under section 3727.71 of the Revised Code to provide after-care to a patient.

(G) "Lay caregiver designation" means the designation of a lay caregiver for a patient as described in section 3727.71 of the Revised Code.

(H)(1) "Patient's residence" means either of the following:

(a) The dwelling that a patient or the patient's guardian considers to be the patient's home;

(b) The dwelling of a relative or other individual who has agreed to temporarily house the patient following discharge and who has communicated this fact to hospital staff.

(2) "Patient's residence" does not include any of the

following:

(a) A hospital;

(b) A nursing home, residential care facility, county home, or district home, as defined in section 3721.01 of the Revised Code;

(c) A veterans' home operated under Chapter 5907. of the Revised Code;

(d) A residential facility, as defined in section 5119.34 of the Revised Code;

(e) A residential facility, as defined in section 5123.19 of the Revised Code;

(f) A hospice care program, as defined in section 3712.01 of the Revised Code;

(g) A freestanding inpatient rehabilitation facility licensed under section 3702.30 of the Revised Code;

(h) Another facility similar to one specified in this division.

Sec. 3727.72. (A) If a patient or guardian makes a lay caregiver designation, the hospital shall do both of the following:

(1) To the extent the information is available, record in the patient's medical record the lay caregiver's name, address, telephone number, electronic mail address, and relationship to the patient;

(2) Request from the patient or guardian consent to disclose the patient's medical information to the lay caregiver in accordance with hospital policy and state and federal law.

(B) If a patient or guardian declines to make a lay caregiver designation, the hospital shall note that decision in the patient's medical record and have no other obligation under sections 3727.71 to ~~3727.79~~ 3727.78 of the Revised Code.

Sec. 3730.10. (A) The director of health shall adopt rules ~~in accordance with Chapter 119. of the Revised Code as necessary for the implementation and enforcement of this chapter. The rules shall~~ that include all of the following:

(1) Safety and sanitation standards and procedures to be followed to prevent the transmission of infectious diseases during the performance of tattooing and body piercing procedures;

(2) Standards and procedures to be followed for appropriate disinfection and sterilization of all invasive equipment or parts of equipment used in tattooing procedures, body piercing procedures, and ear piercing procedures performed with an ear piercing gun;

(3) Procedures for suspending and revoking approvals under section 3730.05 of the Revised Code.

(B) The rules adopted under division (A)(1) of this section shall establish universal blood and body fluid precautions to be used by any individual who performs tattooing or body piercing procedures. The precautions shall include all of the following:

(1) The appropriate use of hand washing;

(2) The handling and disposal of all needles and other sharp instruments used in tattooing or body piercing procedures;

(3) The wearing and disposal of gloves and other

protective garments and devices.

(C) The rules adopted under division (A) of this section may include standards and procedures to be followed by a business that offers tattooing or body piercing services to ensure that the individuals who perform tattooing or body piercing procedures for the business are adequately trained to perform the procedures properly.

Sec. 3731.02. (A) The state fire marshal shall make ~~such rules as are necessary to carry out this chapter, which shall include, but are not limited to,~~ rules establishing requirements to renew a license issued under this chapter and fees for licensure and renewal and for inspections of hotels. Except as provided in division (G) of section 3731.12 of the Revised Code, the state fire marshal and the assistant state fire marshals shall enforce this chapter.

(B) Except as otherwise provided in this division and divisions (C) and (D) of this section, the board of building standards shall adopt, pursuant to section 3781.10 of the Revised Code, rules that specify that the building code standards for SRO facilities shall be use group R-2. Any facility operating prior to October 16, 1996, in the nature of an SRO facility that met the building code standards for an SRO facility prior to that date, whether previously licensed as a hotel or not, and after October 16, 1996, licensed as an SRO facility under section 3731.03 of the Revised Code, shall be permitted under the rules to have a building code standard of either use group R-1 or use group R-2 if the facility meets the requirements for those use groups as specified in the Ohio building code adopted pursuant to section 3781.10 of the Revised Code. The requirements of this division apply to an SRO facility

that holds a license as an SRO facility on September 12, 2008, unless any of the following events occur on or after September 12, 2008:

(1) The owner of the SRO facility constructs or alters the facility.

(2) The owner of the SRO facility surrenders the license issued to that facility.

(3) The owner of the SRO facility changes the use or occupancy of that facility.

(4) The license issued to that SRO facility under this chapter is revoked or is not renewed.

(C) If any of the events described in divisions (B)(1) to (4) of this section occur, the owner of the structure shall comply with division (D) of this section to obtain a new license to operate as an SRO facility.

(D) Beginning on September 12, 2008, the state fire marshal shall not issue a new license to operate a facility as an SRO facility, and shall not renew such a license issued under this division, unless the SRO facility is constructed providing individual sleeping rooms for each guest; has, on a per-room or a communal basis within each building to be licensed as an SRO facility, permanent provisions for living, eating, cooking, and sanitation; and is constructed in accordance with the requirements specified for SRO facilities and is approved by the building official having jurisdiction over that facility to be an SRO facility. An SRO facility subject to this division shall only operate with, and shall properly maintain, individual sleeping rooms for each guest and shall only operate with, and shall properly maintain, on a per-room or communal basis,

permanent provisions available to all guests for living, eating, cooking, and sanitation.

(E) The state fire marshal may, pursuant to division (A) of this section, adopt rules establishing a fire code and sanitary standards compliance incentive program for persons required to procure a license for a hotel under section 3731.03 of the Revised Code. The rules may include provisions for the creation of a "Safe Stay Hotel" designation by the state fire marshal, the standards a licensed hotel must meet to achieve and maintain that designation, the procedures the state fire marshal shall use to publish and maintain a registry of hotels receiving that designation, and any monetary incentives offered by the state fire marshal to encourage a licensed hotel to achieve and maintain that designation. At a minimum, no hotel may be designated as a "Safe Stay Hotel" or maintain such a designation unless it meets the fire code and sanitary compliance standards established pursuant to this section for a continuous period of at least twenty-four months.

Nothing in this division shall be construed to limit the power of this state, the department of commerce, the state fire marshal, or any other political subdivision of the state to administer and enforce any other sections of this chapter or any other applicable laws, rules, and regulations. Nothing in this division shall be construed to require the state fire marshal to designate a hotel as a "Safe Stay Hotel" or require the state fire marshal to award a monetary incentive to a hotel in any manner that is inconsistent or in conflict with the rules adopted under this section or any other applicable laws, rules, or regulations.

Sec. 3731.03. (A) Every person in the business of

conducting a hotel or an SRO facility shall procure, in accordance with the requirements specified in this chapter and the rules adopted pursuant to it, a license for each hotel or SRO facility conducted or proposed to be conducted.

(B) No hotel or SRO facility shall be maintained, conducted, or advertised without a license. No person shall advertise, conduct, maintain, or operate any structure as a hotel or as an SRO facility without a license, and no person shall operate such a structure that is not equipped in the manner and conditions as required under this chapter. No person shall advertise, conduct, maintain, or operate a licensed hotel or licensed SRO facility in a manner that is inconsistent with the requirements of this chapter ~~or any rules adopted pursuant to it~~.

(C)(1) A structure licensed as an extended stay hotel on ~~the effective date of this amendment~~ September 12, 2008, may maintain that license by continuing to satisfy the requirements that were applicable to that extended stay hotel at the time the license was issued, unless any of the following events occur regarding that extended stay hotel:

(a) The owner of the extended stay hotel constructs or alters the hotel.

(b) The owner of the extended stay hotel surrenders the license issued to that hotel.

(c) The owner of the extended stay hotel changes the use or occupancy of that hotel.

(d) The license issued to that extended stay hotel under this chapter is revoked or is not renewed.

(2) If any of the events described in divisions (C)(1)(a)

to (d) of this section occur, the owner of the structure shall comply with division (C)(3) of this section to obtain a new license to operate as an extended stay hotel.

(3) Beginning on ~~the effective date of this amendment~~September 12, 2008, the state fire marshal shall not issue a new license to operate a facility as an extended stay hotel, and shall not renew such a license issued under division (C)(3) of this section, unless the facility satisfies the requirements to be an extended stay hotel as specified in division (A)(3) of section 3731.01 of the Revised Code.

(D) All licenses shall expire on the last day of December of each year and be renewed in accordance with the requirements for renewal established in rules adopted by the state fire marshal pursuant to division (A) of section 3731.02 of the Revised Code.

(E) A person who has received a license, upon the sale or disposition of the hotel or SRO facility or its removal to a new location, may, upon obtaining consent of the state fire marshal, have the license transferred. No license shall be transferred without both an inspection conducted by and the consent of the state fire marshal, and the state fire marshal shall not unreasonably withhold consent.

(F) A license to maintain and operate a hotel or an SRO facility shall not be issued to the keeper, owner, or lessee of any hotel or SRO facility where accommodations for assignation purposes are furnished, or to any keeper, owner, or lessee who has been convicted of keeping a place in violation of the law relating to houses of assignation or places of public nuisance.

(G)(1) No person licensed to maintain and operate a hotel

or SRO facility shall also maintain and operate an agricultural labor camp, apartment house, apartment, lodging house, rooming house, or hospital or college dormitory in the same structure as is located the licensed hotel or SRO facility, unless the agricultural labor camp, apartment house, apartment, lodging house, rooming house, or hospital or college dormitory has been constructed as, and been approved by the building official having jurisdiction as being, a separate building within the hotel or SRO facility structure in accordance with the requirements specified in the state nonresidential building code adopted pursuant to section 3781.10 of the Revised Code or is separated in a manner that satisfies the requirements for occupancy separation specified in that code.

(2) All hotel and SRO facility uses shall continue in accordance with their approval under the license issued by the state fire marshal unless a change in use or occupancy has been approved by the building official having jurisdiction over the hotel or SRO facility and the license has been revised by the state fire marshal.

(H) If an extended stay hotel license is revoked by the state fire marshal in accordance with section 3731.06 of the Revised Code, the owner of that structure shall not operate that structure in accordance with the use and occupancy classification for which the structure was approved or in accordance with the license issued under this chapter by the state fire marshal and shall not open that structure for use by the public until and unless the state fire marshal determines, in accordance with the requirements specified in the state nonresidential building code adopted pursuant to section 3781.10 of the Revised Code and the state fire code adopted pursuant to section 3737.82 of the Revised Code, that it is safe for the

structure to be operated. If, after the license is revoked, the owner wishes to operate that structure as a hotel, the owner shall comply with division (D) of section 3731.06 of the Revised Code.

(I) A license to maintain and operate an SRO facility shall permit the facility to offer rooms for thirty days or less if less than fifty per cent of its rooms are occupied for a period of thirty days or less.

Sec. 3734.02. (A) The director of environmental protection, in accordance with Chapter 119. of the Revised Code, shall adopt and may amend, suspend, or rescind rules having uniform application throughout the state governing ~~solid waste facilities and~~ the inspections of and issuance of permits and licenses for all solid waste facilities in order to ensure that the facilities will be located, maintained, and operated, and will undergo closure and post-closure care, in a sanitary manner so as not to create a nuisance, cause or contribute to water pollution, create a health hazard, or violate 40 C.F.R. 257.3-2 or 40 C.F.R. 257.3-8, as amended. The rules may include~~, without limitation,~~ financial assurance requirements for closure and post-closure care and corrective action and requirements for taking corrective action in the event of the surface or subsurface discharge or migration of explosive gases or leachate from a solid waste facility, or of ground water contamination resulting from the transfer or disposal of solid wastes at a facility, beyond the boundaries of any area within a facility that is operating or is undergoing closure or post-closure care where solid wastes were disposed of or are being disposed of. The rules shall not concern or relate to personnel policies, salaries, wages, fringe benefits, or other conditions of employment of employees of persons owning or operating solid

waste facilities. The director, in accordance with Chapter 119. of the Revised Code, shall adopt and may amend, suspend, or rescind rules governing the issuance, modification, revocation, suspension, or denial of variances from the director's solid waste rules, including~~, without limitation,~~ rules adopted under this chapter governing the management of scrap tires.

Variances shall be issued, modified, revoked, suspended, or rescinded in accordance with this division, rules adopted under it, and Chapter 3745. of the Revised Code. The director may order the person to whom a variance is issued to take such action within such time as the director may determine to be appropriate and reasonable to prevent the creation of a nuisance or a hazard to the public health or safety or the environment. Applications for variances shall contain such detail plans, specifications, and information regarding objectives, procedures, controls, and other pertinent data as the director may require. The director shall grant a variance only if the applicant demonstrates to the director's satisfaction that construction and operation of the solid waste facility in the manner allowed by the variance and any terms or conditions imposed as part of the variance will not create a nuisance or a hazard to the public health or safety or the environment. In granting any variance, the director shall state the specific provision or provisions whose terms are to be varied and also shall state specific terms or conditions imposed upon the applicant in place of the provision or provisions.

The director may hold a public hearing on an application for a variance or renewal of a variance at a location in the county where the operations that are the subject of the application for the variance are conducted. The director shall give not less than twenty days' notice of the hearing to the

applicant by certified mail or by another type of mail accompanied by a receipt. The director shall publish at least one notice of the hearing in a newspaper with general circulation in the county where the hearing is to be held or may instead provide public notice by publication on the environmental protection agency's web site. The director shall make available for public inspection at the principal office of the environmental protection agency a current list of pending applications for variances and a current schedule of pending variance hearings. The director shall make a complete stenographic record or electronic record of testimony and other evidence submitted at the hearing.

Within ten days after the hearing, the director shall make a written determination to issue, renew, or deny the variance and shall enter the determination and the basis for it into the record of the hearing. The director shall issue, renew, or deny an application for a variance or renewal of a variance within six months of the date upon which the director receives a complete application with all pertinent information and data required. No variance shall be issued, revoked, modified, or denied until the director has considered the relative interests of the applicant, other persons and property affected by the variance, and the general public. Any variance granted under this division shall be for a period specified by the director and may be renewed from time to time on such terms and for such periods as the director determines to be appropriate. No application shall be denied and no variance shall be revoked or modified without a written order stating the findings upon which the denial, revocation, or modification is based. A copy of the order shall be sent to the applicant or variance holder by certified mail or by another type of mail accompanied by a

receipt.

(B) The director shall prescribe and furnish the forms necessary to administer and enforce this chapter. The director may cooperate with and enter into agreements with other state, local, or federal agencies to carry out the purposes of this chapter. The director may exercise all incidental powers necessary to carry out the purposes of this chapter.

(C) Except as provided in this division and divisions (N)(2) and (3) of this section, no person shall establish a new solid waste facility or infectious waste treatment facility, or modify an existing solid waste facility or infectious waste treatment facility, without submitting an application for a permit with accompanying detail plans, specifications, and information regarding the facility and method of operation and receiving a permit issued by the director, except that no permit shall be required under this division to install or operate a solid waste facility for sewage sludge treatment or disposal when the treatment or disposal is authorized by a current permit issued under Chapter 3704. or 6111. of the Revised Code.

No person shall continue to operate a solid waste facility for which the director has disapproved plans and specifications required to be filed by an order issued under division (A)(3) of section 3734.05 of the Revised Code, after the date prescribed for commencement of closure of the facility in the order issued under division (A)(4) of that section denying the permit application or approval.

On and after the effective date of the rules adopted under division (A) of this section and division (D) of section 3734.12 of the Revised Code governing solid waste transfer facilities, no person shall establish a new, or modify an existing, solid

waste transfer facility without first submitting an application for a permit with accompanying engineering detail plans, specifications, and information regarding the facility and its method of operation to the director and receiving a permit issued by the director.

No person shall establish a new compost facility or continue to operate an existing compost facility that accepts exclusively source separated yard wastes without submitting a completed registration for the facility to the director in accordance with rules adopted under divisions (A) and (N)(3) of this section.

This division does not apply to a generator of infectious wastes that does any of the following:

(1) Treats, by methods, techniques, and practices established by rules adopted under division (B)(2)(a) of section 3734.021 of the Revised Code, any of the following:

(a) Infectious wastes that are generated on any premises that are owned or operated by the generator;

(b) Infectious wastes that are generated by a generator who has staff privileges at a hospital as defined in section 3727.01 of the Revised Code;

(c) Infectious wastes that are generated in providing care to a patient by an emergency medical services organization as defined in section 4765.01 of the Revised Code.

(2) Holds a license or renewal of a license to operate a crematory facility issued under Chapter 4717. and a permit issued under Chapter 3704. of the Revised Code;

(3) Treats or disposes of dead animals or parts thereof,

or the blood of animals, and is subject to any of the following:

(a) Inspection under the "Federal Meat Inspection Act," 81 Stat. 584 (1967), 21 U.S.C.A. 603, as amended;

(b) Chapter 918. of the Revised Code;

(c) Chapter 953. of the Revised Code.

(D) Neither this chapter nor any rules adopted under it apply to single-family residential premises; to infectious wastes generated by individuals for purposes of their own care or treatment; to the temporary storage of solid wastes, other than scrap tires, prior to their collection for disposal; to the storage of one hundred or fewer scrap tires unless they are stored in such a manner that, in the judgment of the director or the board of health of the health district in which the scrap tires are stored, the storage causes a nuisance, a hazard to public health or safety, or a fire hazard; or to the collection of solid wastes, other than scrap tires, by a political subdivision or a person holding a franchise or license from a political subdivision of the state; to composting, as defined in section 1511.01 of the Revised Code, conducted in accordance with section 1511.022 of the Revised Code; or to any person who is licensed to transport raw rendering material to a compost facility pursuant to section 953.23 of the Revised Code.

(E)(1) As used in this division:

(a) "On-site facility" means a facility that stores, treats, or disposes of hazardous waste that is generated on the premises of the facility.

(b) "Off-site facility" means a facility that stores, treats, or disposes of hazardous waste that is generated off the premises of the facility and includes such a facility that is

also an on-site facility.

(c) "Satellite facility" means any of the following:

(i) An on-site facility that also receives hazardous waste from other premises owned by the same person who generates the waste on the facility premises;

(ii) An off-site facility operated so that all of the hazardous waste it receives is generated on one or more premises owned by the person who owns the facility;

(iii) An on-site facility that also receives hazardous waste that is transported uninterruptedly and directly to the facility through a pipeline from a generator who is not the owner of the facility.

(2) Except as provided in division (E)(3) of this section, no person shall establish or operate a hazardous waste facility, or use a solid waste facility for the storage, treatment, or disposal of any hazardous waste, without a hazardous waste facility installation and operation permit issued in accordance with section 3734.05 of the Revised Code and subject to the payment of an application fee not to exceed one thousand five hundred dollars, payable upon application for a hazardous waste facility installation and operation permit and upon application for a renewal permit issued under division (H) of section 3734.05 of the Revised Code, to be credited to the hazardous waste facility management fund created in section 3734.18 of the Revised Code. The term of a hazardous waste facility installation and operation permit shall not exceed ten years.

In addition to the application fee, there is hereby levied an annual permit fee to be paid by the permit holder upon the anniversaries of the date of issuance of the hazardous waste

facility installation and operation permit and of any subsequent renewal permits and to be credited to the hazardous waste facility management fund. Annual permit fees totaling forty thousand dollars or more for any one facility may be paid on a quarterly basis with the first quarterly payment each year being due on the anniversary of the date of issuance of the hazardous waste facility installation and operation permit and of any subsequent renewal permits. The annual permit fee shall be determined for each permit holder by the director in accordance with the following schedule:

	1	2	3
A	TYPE OF BASIC MANAGEMENT UNIT	TYPE OF FACILITY	FEE
B	Storage facility using:		
C	Containers	On-site, off-site, and satellite	$500
D	Tanks	On-site, off-site, and satellite	500
E	Waste pile	On-site, off-site, and satellite	3,000
F	Surface impoundment	On-site and satellite	8,000
G		Off-site	10,000
H	Disposal facility using:		
I	Deep well injection	On-site and satellite	15,000

J		Off-site	25,000
K	Landfill	On-site and satellite	25,000
L		Off-site	40,000
M	Land application	On-site and satellite	2,500
N		Off-site	5,000
O	Surface impoundment	On-site and satellite	10,000
P		Off-site	20,000
Q	Treatment facility using:		
R	Tanks	On-site, off-site, and satellite	700
S	Surface impoundment	On-site and satellite	8,000
T		Off-site	10,000
U	Incinerator	On-site and satellite	5,000
V		Off-site	10,000
W	Other forms of treatment	On-site, off-site, and satellite	1,000

A hazardous waste disposal facility that disposes of hazardous waste by deep well injection and that pays the annual permit fee established in section 6111.046 of the Revised Code is not subject to the permit fee established in this division

for disposal facilities using deep well injection unless the director determines that the facility is not in compliance with applicable requirements established under this chapter and rules adopted under it.

In determining the annual permit fee required by this section, the director shall not require additional payments for multiple units of the same method of storage, treatment, or disposal or for individual units that are used for both storage and treatment. A facility using more than one method of storage, treatment, or disposal shall pay the permit fee indicated by the schedule for each such method.

The director shall not require the payment of that portion of an annual permit fee of any permit holder that would apply to a hazardous waste management unit for which a permit has been issued, but for which construction has not yet commenced. Once construction has commenced, the director shall require the payment of a part of the appropriate fee indicated by the schedule that bears the same relationship to the total fee that the number of days remaining until the next anniversary date at which payment of the annual permit fee is due bears to three hundred sixty-five.

The director, by rules adopted in accordance with Chapters 119. and 3745. of the Revised Code, shall prescribe procedures for collecting the annual permit fee established by this division ~~and may prescribe other requirements necessary to carry out this division~~.

(3) The prohibition against establishing or operating a hazardous waste facility without a hazardous waste facility installation and operation permit does not apply to either of the following:

(a) A facility that is operating in accordance with a permit renewal issued under division (H) of section 3734.05 of the Revised Code, a revision issued under division (I) of that section as it existed prior to August 20, 1996, or a modification issued by the director under division (I) of that section on and after August 20, 1996;

(b) Except as provided in division (J) of section 3734.05 of the Revised Code, a facility that will operate or is operating in accordance with a permit by rule, or that is not subject to permit requirements, under rules adopted by the director. In accordance with Chapter 119. of the Revised Code, the director shall adopt, and subsequently may amend, suspend, or rescind, rules for the purposes of division (E)(3)(b) of this section. Any rules so adopted shall be consistent with and equivalent to regulations pertaining to interim status adopted under the "Resource Conservation and Recovery Act of 1976," 90 Stat. 2806, 42 U.S.C.A. 6921, as amended, except as otherwise provided in this chapter.

If a modification is requested or proposed for a facility described in division (E)(3)(a) or (b) of this section, division (I)(7) of section 3734.05 of the Revised Code applies.

(F) No person shall store, treat, or dispose of hazardous waste identified or listed under this chapter and rules adopted under it, regardless of whether generated on or off the premises where the waste is stored, treated, or disposed of, or transport or cause to be transported any hazardous waste identified or listed under this chapter and rules adopted under it to any other premises, except at or to any of the following:

(1) A hazardous waste facility operating under a permit issued in accordance with this chapter;

(2) A facility in another state operating under a license or permit issued in accordance with the "Resource Conservation and Recovery Act of 1976," 90 Stat. 2806, 42 U.S.C.A. 6921, as amended;

(3) A facility in another nation operating in accordance with the laws of that nation;

(4) A facility holding a permit issued pursuant to Title I of the "Marine Protection, Research, and Sanctuaries Act of 1972," 86 Stat. 1052, 33 U.S.C.A. 1401, as amended;

(5) A hazardous waste facility as described in division (E)(3)(a) or (b) of this section.

(G) The director, by order, may exempt any person generating, collecting, storing, treating, disposing of, or transporting solid wastes, infectious wastes, or hazardous waste, or processing solid wastes that consist of scrap tires, in such quantities or under such circumstances that, in the determination of the director, are unlikely to adversely affect the public health or safety or the environment from any requirement to obtain a registration certificate, permit, or license or comply with the manifest system or other requirements of this chapter. Such an exemption shall be consistent with and equivalent to any regulations adopted by the administrator of the United States environmental protection agency under the "Resource Conservation and Recovery Act of 1976," 90 Stat. 2806, 42 U.S.C.A. 6921, as amended, except as otherwise provided in this chapter.

(H) No person shall engage in filling, grading, excavating, building, drilling, or mining on land where a hazardous waste facility, or a solid waste facility, was

operated without prior authorization from the director, who shall establish the procedure for granting such authorization by rules adopted in accordance with Chapter 119. of the Revised Code.

A public utility that has main or distribution lines above or below the land surface located on an easement or right-of-way across land where a solid waste facility was operated may engage in any such activity within the easement or right-of-way without prior authorization from the director for purposes of performing emergency repair or emergency replacement of its lines; of the poles, towers, foundations, or other structures supporting or sustaining any such lines; or of the appurtenances to those structures, necessary to restore or maintain existing public utility service. A public utility may enter upon any such easement or right-of-way without prior authorization from the director for purposes of performing necessary or routine maintenance of those portions of its existing lines; of the existing poles, towers, foundations, or other structures sustaining or supporting its lines; or of the appurtenances to any such supporting or sustaining structure, located on or above the land surface on any such easement or right-of-way. Within twenty-four hours after commencing any such emergency repair, replacement, or maintenance work, the public utility shall notify the director or the director's authorized representative of those activities and shall provide such information regarding those activities as the director or the director's representative may request. Upon completion of the emergency repair, replacement, or maintenance activities, the public utility shall restore any land of the solid waste facility disturbed by those activities to the condition existing prior to the commencement of those activities.

(I) No owner or operator of a hazardous waste facility, in the operation of the facility, shall cause, permit, or allow the emission therefrom of any particulate matter, dust, fumes, gas, mist, smoke, vapor, or odorous substance that, in the opinion of the director, unreasonably interferes with the comfortable enjoyment of life or property by persons living or working in the vicinity of the facility, or that is injurious to public health. Any such action is hereby declared to be a public nuisance.

(J) Notwithstanding any other provision of this chapter, in the event the director finds an imminent and substantial danger to public health or safety or the environment that creates an emergency situation requiring the immediate treatment, storage, or disposal of hazardous waste, the director may issue a temporary emergency permit to allow the treatment, storage, or disposal of the hazardous waste at a facility that is not otherwise authorized by a hazardous waste facility installation and operation permit to treat, store, or dispose of the waste. The emergency permit shall not exceed ninety days in duration and shall not be renewed. The director shall adopt, and may amend, suspend, or rescind, rules in accordance with Chapter 119. of the Revised Code governing the issuance, modification, revocation, and denial of emergency permits.

(K) Except for infectious wastes generated by a person who produces fewer than fifty pounds of infectious wastes at a premises during any one month, no owner or operator of a sanitary landfill shall knowingly accept for disposal, or dispose of, any infectious wastes that have not been treated to render them noninfectious.

(L) The director, in accordance with Chapter 119. of the

Revised Code, shall adopt, and may amend, suspend, or rescind, rules having uniform application throughout the state establishing a training and certification program that shall be required for employees of boards of health who are responsible for enforcing the solid waste and infectious waste provisions of this chapter and rules adopted under them and for persons who are responsible for the operation of solid waste facilities or infectious waste treatment facilities. The rules shall provide all of the following, without limitation:

(1) The program shall be administered by the director and shall consist of a course on new solid waste and infectious waste technologies, enforcement procedures, and rules;

(2) The course shall be offered on an annual basis;

(3) Those persons who are required to take the course under division (L) of this section shall do so triennially;

(4) Persons who successfully complete the course shall be certified by the director;

(5) Certification shall be required for all employees of boards of health who are responsible for enforcing the solid waste or infectious waste provisions of this chapter and rules adopted under them and for all persons who are responsible for the operation of solid waste facilities or infectious waste treatment facilities;

(6)(a) All employees of a board of health who, on the effective date of the rules adopted under this division, are responsible for enforcing the solid waste or infectious waste provisions of this chapter and the rules adopted under them shall complete the course and be certified by the director not later than January 1, 1995;

(b) All employees of a board of health who, after the effective date of the rules adopted under division (L) of this section, become responsible for enforcing the solid waste or infectious waste provisions of this chapter and rules adopted under them and who do not hold a current and valid certification from the director at that time shall complete the course and be certified by the director within two years after becoming responsible for performing those activities.

No person shall fail to obtain the certification required under this division.

(M) The director shall not issue a permit under section 3734.05 of the Revised Code to establish a solid waste facility, or to modify a solid waste facility operating on December 21, 1988, in a manner that expands the disposal capacity or geographic area covered by the facility, that is or is to be located within the boundaries of a state park established or dedicated under Chapter 1546. of the Revised Code, a state park purchase area established under section 1546.06 of the Revised Code, any unit of the national park system, or any property that lies within the boundaries of a national park or recreation area, but that has not been acquired or is not administered by the secretary of the United States department of the interior, located in this state, or any candidate area located in this state and identified for potential inclusion in the national park system in the edition of the "national park system plan" submitted under paragraph (b) of section 8 of "The Act of August 18, 1970," 84 Stat. 825, 16 U.S.C.A. 1a-5, as amended, current at the time of filing of the application for the permit, unless the facility or proposed facility is or is to be used exclusively for the disposal of solid wastes generated within the park or recreation area and the director determines that the

facility or proposed facility will not degrade any of the natural or cultural resources of the park or recreation area. The director shall not issue a variance under division (A) of this section and rules adopted under it, or issue an exemption order under division (G) of this section, that would authorize any such establishment or expansion of a solid waste facility within the boundaries of any such park or recreation area, state park purchase area, or candidate area, other than a solid waste facility exclusively for the disposal of solid wastes generated within the park or recreation area when the director determines that the facility will not degrade any of the natural or cultural resources of the park or recreation area.

(N)(1) The rules adopted under division (A) of this section, other than those governing variances, do not apply to scrap tire collection, storage, monocell, monofill, and recovery facilities. Those facilities are subject to and governed by rules adopted under sections 3734.70 to 3734.73 of the Revised Code, as applicable.

(2) Division (C) of this section does not apply to scrap tire collection, storage, monocell, monofill, and recovery facilities. The establishment and modification of those facilities are subject to sections 3734.75 to 3734.78 and section 3734.81 of the Revised Code, as applicable.

(3) The director may adopt, amend, suspend, or rescind rules under division (A) of this section creating an alternative system for authorizing the establishment, operation, or modification of a solid waste compost facility in lieu of the requirement that a person seeking to establish, operate, or modify a solid waste compost facility apply for and receive a permit under division (C) of this section and section 3734.05 of

the Revised Code and a license under division (A)(1) of that section. The rules may include requirements governing, without limitation, the classification of solid waste compost facilities, the submittal of operating records for solid waste compost facilities, and the creation of a registration or notification system in lieu of the issuance of permits and licenses for solid waste compost facilities. The rules shall specify the applicability of divisions (A)(1) and (2)(a) of section 3734.05 of the Revised Code to a solid waste compost facility.

(O)(1) As used in this division, "secondary aluminum waste" means waste material or byproducts, when disposed of, containing aluminum generated from secondary aluminum smelting operations and consisting of dross, salt cake, baghouse dust associated with aluminum recycling furnace operations, or dry-milled wastes.

(2) The owner or operator of a sanitary landfill shall not dispose of municipal solid waste that has been commingled with secondary aluminum waste.

(3) The owner or operator of a sanitary landfill may dispose of secondary aluminum waste, but only in a monocell or monofill that has been permitted for that purpose in accordance with this chapter and rules adopted under it.

(P)(1) As used in divisions (P) and (Q) of this section:

(a) "Natural background" means two picocuries per gram or the actual number of picocuries per gram as measured at an individual solid waste facility, subject to verification by the director of health.

(b) "Drilling operation" includes a production operation

as defined in section 1509.01 of the Revised Code.

(2) The owner or operator of a solid waste facility shall not accept for transfer or disposal technologically enhanced naturally occurring radioactive material if that material contains or is contaminated with radium-226, radium-228, or any combination of radium-226 and radium-228 at concentrations equal to or greater than five picocuries per gram above natural background.

(3) The owner or operator of a solid waste facility may receive and process for purposes other than transfer or disposal technologically enhanced naturally occurring radioactive material that contains or is contaminated with radium-226, radium-228, or any combination of radium-226 and radium-228 at concentrations equal to or greater than five picocuries per gram above natural background, provided that the owner or operator has obtained and maintains all other necessary authorizations, including any authorization required by rules adopted by the director of health under section 3748.04 of the Revised Code.

(4) The director of environmental protection may adopt rules in accordance with Chapter 119. of the Revised Code governing the receipt, acceptance, processing, handling, management, and disposal by solid waste facilities of material that contains or is contaminated with radioactive material, including, without limitation, technologically enhanced naturally occurring radioactive material that contains or is contaminated with radium-226, radium-228, or any combination of radium-226 and radium-228 at concentrations less than five picocuries per gram above natural background. Rules adopted by the director may include at a minimum both of the following:

(a) Requirements in accordance with which the owner or

operator of a solid waste facility must monitor leachate and ground water for radium-226, radium-228, and other radionuclides;

(b) Requirements in accordance with which the owner or operator of a solid waste facility must develop procedures to ensure that technologically enhanced naturally occurring radioactive material accepted at the facility neither contains nor is contaminated with radium-226, radium-228, or any combination of radium-226 and radium-228 at concentrations equal to or greater than five picocuries per gram above natural background.

(Q) Notwithstanding any other provision of this section, the owner or operator of a solid waste facility shall not receive, accept, process, handle, manage, or dispose of technologically enhanced naturally occurring radioactive material associated with drilling operations without first obtaining representative analytical results to determine compliance with divisions (P)(2) and (3) of this section and rules adopted under it.

Sec. 3734.021. (A) Infectious wastes shall be segregated, managed, treated, and disposed of in accordance with rules adopted under this section.

(B) The director of environmental protection, in accordance with Chapter 119. of the Revised Code, shall adopt rules ~~necessary or appropriate to protect human health or safety or the environment~~ that do both of the following:

(1) Establish standards for generators of infectious wastes that include, without limitation, the following requirements and authorizations that:

(a) All generators of infectious wastes:

(i) Either treat all specimen cultures and cultures of viable infectious agents on the premises where they are generated to render them noninfectious by methods, techniques, or practices prescribed by rules adopted under division (B)(2)(a) of this section before they are transported off that premises for disposal or ensure that such wastes are treated to render them noninfectious at an infectious waste treatment facility off that premises prior to disposal of the wastes;

(ii) Transport and dispose of infectious wastes, if a generator produces fewer than fifty pounds of infectious wastes during any one month that are subject to and packaged and labeled in accordance with federal requirements, in the same manner as solid wastes. Such generators who treat specimen cultures and cultures of viable infectious agents on the premises where they are generated shall not be considered treatment facilities as "treatment" and "facility" are defined in section 3734.01 of the Revised Code.

(iii) Dispose of infectious wastes subject to and treated in accordance with rules adopted under division (B)(1)(a)(i) of this section in the same manner as solid wastes;

(iv) May take wastes generated in providing care to a patient by an emergency medical services organization, as defined in section 4765.01 of the Revised Code, to and leave them at a hospital, as defined in section 3727.01 of the Revised Code, for treatment at a treatment facility owned or operated by the hospital or, in conjunction with infectious wastes generated by the hospital, at another treatment facility regardless of whether the wastes were generated in providing care to the patient at the scene of an emergency or during the

transportation of the patient to a hospital;

(v) May take wastes generated by an individual for purposes of the individual's own care or treatment to and leave them at a hospital, as defined in section 3727.01 of the Revised Code, for treatment at a treatment facility owned or operated by the hospital or, in conjunction with infectious wastes generated by the hospital, at another treatment facility.

(b) Each generator of fifty pounds or more of infectious wastes during any one month:

(i) Register with the environmental protection agency as a generator of infectious wastes and obtain a registration certificate. The registration certificate applies to all the premises owned or operated by the generator in this state where infectious wastes are generated and shall list the address of each such premises. If a generator owns or operates facilities for the treatment of infectious wastes it generates, the certificate shall list the address and method of treatment used at each such facility.

A generator registration certificate is valid for three years from the date of issuance and shall be renewed for a term of three years upon the generator's submission of an application for renewal.

The rules may establish a system of staggered renewal dates with approximately one-third of such certificates subject to renewal each year. The applicable renewal date shall be prescribed on each registration certificate.

(ii) Segregate infectious wastes from other wastes at the point of generation. Nothing in this section and rules adopted under it prohibits a generator of infectious wastes from

designating and managing any wastes, in addition to those defined as infectious wastes under section 3734.01 of the Revised Code, as infectious wastes. After designating any such other wastes as infectious, the generator shall manage those wastes in compliance with the requirements of this chapter and rules adopted under it applicable to the management of infectious wastes.

(iii) Either treat the infectious wastes that it generates at a facility owned or operated by the generator by methods, techniques, or practices prescribed by rules adopted under division (B)(2)(a) of this section to render them noninfectious, or designate the wastes for treatment off that premises at an infectious waste treatment facility holding a license issued under division (B) of section 3734.05 of the Revised Code, at an infectious waste treatment facility that is located in another state that is in compliance with applicable state and federal laws, or at a treatment facility authorized by rules adopted under division (B)(2)(d) of this section, prior to disposal of the wastes. After being treated to render them noninfectious, the wastes shall be disposed of at a solid waste disposal facility holding a license issued under division (A) of section 3734.05 of the Revised Code or at a disposal facility in another state that is in compliance with applicable state and federal laws.

(iv) Not compact or grind any type of infectious wastes prior to treatment in accordance with rules adopted under division (B)(2)(a) of this section;

(v) May discharge untreated liquid or semiliquid infectious wastes consisting of blood, blood products, body fluids, and excreta into a disposal system, as defined in

section 6111.01 of the Revised Code, unless the discharge of those wastes into a disposal system is inconsistent with the terms and conditions of the permit for the system issued under Chapter 6111. of the Revised Code;

(vi) May transport or cause to be transported infectious wastes that have been treated to render them noninfectious in the same manner as solid wastes are transported.

(2) Establish standards for owners and operators of infectious waste treatment facilities that include, without limitation, the following requirements and authorizations that:

(a) Require treatment of all wastes received to be performed in accordance with methods, techniques, and practices approved by the director;

(b) Govern the location, design, construction, and operation of infectious waste treatment facilities. The rules adopted under division (B)(2)(b) of this section shall require that a new infectious waste incineration facility be located so that the incinerator unit and all areas where infectious wastes are handled on the premises where the facility is proposed to be located are at least three hundred feet inside the property line of the tract of land on which the facility is proposed to be located and are at least one thousand feet from any domicile, school, prison, or jail that is in existence on the date on which the application for the permit to establish the incinerator is submitted under division (B)(2)(b) of section 3734.05 of the Revised Code.

(c) Establish quality control and testing procedures to ensure compliance with the rules adopted under division (B)(2)(b) of this section;

(d) Authorize infectious wastes to be treated at a facility that holds a license or renewal of a license to operate a crematory facility issued under Chapter 4717., and a permit issued under Chapter 3704., of the Revised Code to the extent that the treatment of those wastes is consistent with that permit and its terms and conditions. The rules adopted under divisions (B)(2)(b) and (c) of this section do not apply to a facility holding such a license and permit.

In adopting the rules required by divisions (B)(2)(a) to (d) of this section, the director shall consider and, to the maximum feasible extent, utilize existing standards and guidelines established by professional and governmental organizations having expertise in the fields of infection control and infectious wastes management.

(e) Require shipping papers to accompany shipments of wastes that have been treated to render them noninfectious. The shipping papers shall include only the following elements:

(i) The name of the owner or operator of the facility where the wastes were treated and the address of the treatment facility;

(ii) A certification by the owner or operator of the treatment facility where the wastes were treated indicating that the wastes have been treated by the methods, techniques, and practices prescribed in rules adopted under division (B)(2)(a) of this section.

(C) This section and rules adopted under it do not apply to the treatment or disposal of wastes consisting of dead animals or parts thereof, or the blood of animals:

(1) By the owner of the animal after slaughter by the

owner on the owner's premises to obtain meat for consumption by the owner and the members of the owner's household;

(2) In accordance with Chapter 941. of the Revised Code; or

(3) By persons who are subject to any of the following:

(a) Inspection under the "Federal Meat Inspection Act," 81 Stat. 584 (1967), 21 U.S.C.A. 603, as amended;

(b) Chapter 918. of the Revised Code;

(c) Chapter 953. of the Revised Code.

(D) As used in this section, "generator" means a person who produces infectious wastes at a specific premises.

(E) Rules adopted under this section shall not concern or relate to personnel policies, salaries, wages, fringe benefits, or other conditions of employment of employees of persons owning or operating infectious waste treatment facilities.

(F)(1) The director, in accordance with Chapter 119. of the Revised Code, shall adopt rules governing the issuance, modification, revocation, suspension, and denial of variances from the rules adopted under division (B) of this section. Variances shall be issued, modified, revoked, suspended, or denied in accordance with division (F) of this section, rules adopted under it, and Chapter 3745. of the Revised Code.

(2) A person who desires to obtain a variance or renew a variance from the rules adopted under division (B) of this section shall submit to the director an application as prescribed by the director. The application shall contain detail plans, specifications, and information regarding objectives, procedures, controls, and any other information that the

director may require. The director shall issue, renew, or deny a variance or renewal of a variance within six months of the date on which the director receives a complete application with all required information and data.

(3) The director may hold a public hearing on an application submitted under division (F) of this section for a variance at a location in the county in which the operations that are the subject of the application for a variance or renewal of variance are conducted. Not less than twenty days before the hearing, the director shall provide to the applicant notice of the hearing by certified mail or by another type of mail that is accompanied by a receipt and shall publish notice of the hearing at least one time in a newspaper of general circulation in the county in which the hearing is to be held or may instead provide public notice by publication on the environmental protection agency's web site. The director shall make a complete stenographic record or electronic record of testimony and other evidence submitted at the hearing. Not later than ten days after the hearing, the director shall make a written determination to issue, renew, or deny the variance and shall enter the determination and the basis for it into the record of the hearing.

(4) A variance shall not be issued, modified, revoked, or denied under division (F) of this section until the director has considered the relative interests of the applicant, other persons and property that will be affected by the variance, and the general public. The director shall grant a variance only if the applicant demonstrates to the director's satisfaction that the requested action will not create a nuisance or a hazard to the health or safety of the public or to the environment. In granting a variance, the director shall state the specific

provision or provisions whose terms are to be varied and also shall state specific terms or conditions imposed on the applicant in place of the provision or provisions.

(5) A variance granted under division (F) of this section shall be for a period specified by the director and may be renewed from time to time on terms and for periods that the director determines to be appropriate. The director may order the person to whom a variance has been issued to take action within the time that the director determines to be appropriate and reasonable to prevent the creation of a nuisance or a hazard to the health or safety of the public or to the environment.

(6) An application submitted under division (F) of this section shall not be denied and a variance shall not be revoked or modified under that division without a written order of the director stating the findings on which the denial, revocation, or modification is based. A copy of the order shall be sent to the applicant or holder of a variance by certified mail or by another type of mail that is accompanied by a receipt.

(7) The director shall make available for public inspection at the principal office of the environmental protection agency a current list of pending applications for variances submitted under division (F) of this section and a current schedule of pending variance hearings under it.

Sec. 3734.026. The director of environmental protection shall adopt rules in accordance with Chapter 119. of the Revised Code establishing procedures for remitting fees levied under section 3734.024 of the Revised Code to the treasurers or other appropriate fiscal officers of municipal corporations and to the fiscal officers of townships. The rules also shall establish the dates for remitting the fees to those officers~~ and may establish~~

~~any other requirements that the director considers necessary or appropriate to implement or administer sections 3734.024 and 3734.025 of the Revised Code~~.

Sec. 3734.05. (A)(1) Except as provided in divisions (A)(6) and (7) of this section, no person shall operate or maintain a solid waste facility without a license issued under this division by the board of health of the health district in which the facility is located or by the director of environmental protection when the health district in which the facility is located is not on the approved list under section 3734.08 of the Revised Code.

During the month of December, but before the first day of January of the next year, every person proposing to continue to operate an existing solid waste facility shall procure a license under this division to operate the facility for that year from the board of health of the health district in which the facility is located or, if the health district is not on the approved list under section 3734.08 of the Revised Code, from the director. The application for such a license shall be submitted to the board of health or to the director, as appropriate, on or before the last day of September of the year preceding that for which the license is sought. In addition to the application fee prescribed in division (A)(2) of this section, a person who submits an application after that date shall pay an additional ten per cent of the amount of the application fee for each week that the application is late. Late payment fees accompanying an application submitted to the board of health shall be credited to the special fund of the health district created in division (B) of section 3734.06 of the Revised Code, and late payment fees accompanying an application submitted to the director shall be credited to the general revenue fund. A person who has

received a license, upon sale or disposition of a solid waste facility, and upon consent of the board of health and the director, may have the license transferred to another person. The board of health or the director may include such terms and conditions in a license or revision to a license as are appropriate to ensure compliance with this chapter and rules adopted under it. The terms and conditions may establish the authorized maximum daily waste receipts for the facility. Limitations on maximum daily waste receipts shall be specified in cubic yards of volume for the purpose of regulating the design, construction, and operation of solid waste facilities. Terms and conditions included in a license or revision to a license by a board of health shall be consistent with, and pertain only to the subjects addressed in, the rules adopted under division (A) of section 3734.02 and division (D) of section 3734.12 of the Revised Code.

(2)(a) Except as provided in divisions (A)(2)(b), (6), and (7) of this section, each person proposing to open a new solid waste facility or to modify an existing solid waste facility shall submit an application for a permit with accompanying detail plans and specifications to the environmental protection agency for required approval under the rules adopted by the director pursuant to division (A) of section 3734.02 of the Revised Code and applicable rules adopted under division (D) of section 3734.12 of the Revised Code at least two hundred seventy days before proposed operation of the facility and shall concurrently make application for the issuance of a license under division (A)(1) of this section with the board of health of the health district in which the proposed facility is to be located.

(b) On and after the effective date of the rules adopted

under division (A) of section 3734.02 of the Revised Code and division (D) of section 3734.12 of the Revised Code governing solid waste transfer facilities, each person proposing to open a new solid waste transfer facility or to modify an existing solid waste transfer facility shall submit an application for a permit with accompanying engineering detail plans, specifications, and information regarding the facility and its method of operation to the environmental protection agency for required approval under those rules at least two hundred seventy days before commencing proposed operation of the facility and concurrently shall make application for the issuance of a license under division (A)(1) of this section with the board of health of the health district in which the facility is located or proposed.

(c) Each application for a permit under division (A)(2)(a) or (b) of this section shall be accompanied by a nonrefundable application fee of four hundred dollars that shall be credited to the general revenue fund. Each application for an annual license under division (A)(1) or (2) of this section shall be accompanied by a nonrefundable application fee of one hundred dollars. If the application for an annual license is submitted to a board of health on the approved list under section 3734.08 of the Revised Code, the application fee shall be credited to the special fund of the health district created in division (B) of section 3734.06 of the Revised Code. If the application for an annual license is submitted to the director, the application fee shall be credited to the general revenue fund. If a permit or license is issued, the amount of the application fee paid shall be deducted from the amount of the permit fee due under division (P) of section 3745.11 of the Revised Code or the amount of the license fee due under division (A)(1), (2), (3), (4), or (5) of section 3734.06 of the Revised Code.

(d) As used in divisions (A)(2)(d), (e), and (f) of this section, "modify" means any of the following:

(i) Any increase of more than ten per cent in the total capacity of a solid waste facility;

(ii) Any expansion of the limits of solid waste placement at a solid waste facility;

(iii) Any increase in the depth of excavation at a solid waste facility;

(iv) Any change in the technique of waste receipt or type of waste received at a solid waste facility that may endanger human health, as determined by the director by rules adopted in accordance with Chapter 119. of the Revised Code.

Not later than forty-five days after submitting an application under division (A)(2)(a) or (b) of this section for a permit to open a new or modify an existing solid waste facility, the applicant, in conjunction with an officer or employee of the environmental protection agency, shall hold a public meeting on the application within the county in which the new or modified solid waste facility is or is proposed to be located or within a contiguous county.

Not less than thirty days before holding the public meeting on the application, the applicant shall publish notice of the meeting in each newspaper of general circulation that is published in the county in which the facility is or is proposed to be located. If no newspaper of general circulation is published in the county, the applicant shall publish the notice in a newspaper of general circulation in the county. The notice shall contain the date, time, and location of the public meeting and a general description of the proposed new or modified

facility.

Not later than five days after publishing the notice, the applicant shall send by certified mail a copy of the notice and the date the notice was published to the director and the legislative authority of each municipal corporation, township, and county, and to the chief executive officer of each municipal corporation, in which the facility is or is proposed to be located.

At the public meeting, the applicant shall provide information and describe the application and respond to comments or questions concerning the application, and the officer or employee of the agency shall describe the permit application process. At the public meeting, any person may submit written or oral comments on or objections to the application.

Not more than thirty days after the public meeting, the applicant shall provide the director with a copy of a transcript of the full meeting, copies of any exhibits, displays, or other materials presented by the applicant at the meeting, and the original copy of any written comments submitted at the meeting.

(e) Except as provided in division (A)(2)(f) of this section, prior to taking an action, other than a proposed or final denial, upon an application submitted under division (A)(2)(a) of this section for a permit to open a new or modify an existing solid waste facility, the director shall hold a public information session and a public hearing on the application within the county in which the new or modified solid waste facility is or is proposed to be located or within a contiguous county. If the application is for a permit to open a new solid waste facility, the director shall hold the hearing not less than fourteen days after the information session. If the

application is for a permit to modify an existing solid waste facility, the director may hold both the information session and the hearing on the same day unless any individual affected by the application requests in writing that the information session and the hearing not be held on the same day, in which case the director shall hold the hearing not less than fourteen days after the information session. The director shall publish notice of the public information session or public hearing not less than thirty days before holding the information session or hearing, as applicable. The notice shall be published in each newspaper of general circulation that is published in the county in which the facility is or is proposed to be located or by publication on the environmental protection agency's official web site. The notice shall contain the date, time, and location of the information session or hearing, as applicable, and a general description of the proposed new or modified facility. At the public information session, an officer or employee of the environmental protection agency shall describe the status of the permit application and be available to respond to comments or questions concerning the application. At the public hearing, any person may submit written or oral comments on or objections to the approval of the application. The applicant, or a representative of the applicant who has knowledge of the location, construction, and operation of the facility, shall attend the information session and public hearing to respond to comments or questions concerning the facility directed to the applicant or representative by the officer or employee of the environmental protection agency presiding at the information session and hearing.

(f) The solid waste management policy committee of a county or joint solid waste management district may adopt a

resolution requesting expeditious consideration of a specific application submitted under division (A)(2)(a) of this section for a permit to modify an existing solid waste facility within the district. The resolution shall make the finding that expedited consideration of the application without the public information session and public hearing under division (A)(2)(e) of this section is in the public interest and will not endanger human health, as determined by the director by rules adopted in accordance with Chapter 119. of the Revised Code. Upon receiving such a resolution, the director, at the director's discretion, may issue a final action upon the application without holding a public information session or public hearing pursuant to division (A)(2)(e) of this section.

(3) The director may issue an order in accordance with Chapter 3745. of the Revised Code to the owner or operator of a solid waste facility requiring the person to submit to the director updated engineering detail plans, specifications, and information regarding the facility and its method of operation for approval under rules adopted under division (A) of section 3734.02 of the Revised Code and applicable rules adopted under division (D) of section 3734.12 of the Revised Code if, in the director's judgment, conditions at the facility constitute a substantial threat to public health or safety or are causing or contributing to or threatening to cause or contribute to air or water pollution or soil contamination. Any person who receives such an order shall submit the updated engineering detail plans, specifications, and information to the director within one hundred eighty days after the effective date of the order.

(4) The director shall act upon any updated engineering plans, specifications, and information submitted under division (A)(3) of this section within one hundred eighty days after

receiving them. If the director issues an order disapproving the plans, specifications, and information submitted under division (A)(3) of this section, the order shall include all of the following requirements:

(a) That the owner or operator submit a plan for closure and post-closure care of the facility to the director for approval within six months after issuance of the order;

(b) That the owner or operator cease accepting solid wastes for disposal or transfer at the facility; and

(c) The owner or operator commence closure of the facility not later than one year after issuance of the order.

If the director determines that closure of the facility within that one-year period would result in the unavailability of sufficient solid waste management facility capacity within the county or joint solid waste management district in which the facility is located to dispose of or transfer the solid waste generated within the district, the director in the order of disapproval may postpone commencement of closure of the facility for such period of time as the director finds necessary for the board of county commissioners or directors of the district to secure access to or for there to be constructed within the district sufficient solid waste management facility capacity to meet the needs of the district, provided that the director shall certify in the director's order that postponing the date for commencement of closure will not endanger ground water or any property surrounding the facility, allow methane gas migration to occur, or cause or contribute to any other type of environmental damage.

If an emergency need for disposal capacity that may affect

public health and safety exists as a result of closure of a facility under division (A)(4) of this section, the director may issue an order designating another solid waste facility to accept the wastes that would have been disposed of at the facility to be closed.

(5) If the director determines that standards more stringent than those applicable in rules adopted under division (A) of section 3734.02 of the Revised Code and division (D) of section 3734.12 of the Revised Code, or standards pertaining to subjects not specifically addressed by those rules, are necessary to ensure that a solid waste facility constructed at the proposed location will not cause a nuisance, cause or contribute to water pollution, or endanger public health or safety, the director may issue a permit for the facility with such terms and conditions as the director finds necessary to protect public health and safety and the environment. If a permit is issued, the director shall state in the order issuing it the specific findings supporting each such term or condition.

(6) Divisions (A)(1) and (2)(a) of this section do not apply to a solid waste compost facility that accepts exclusively source separated yard wastes and that is registered under division (C) of section 3734.02 of the Revised Code or, unless otherwise provided in rules adopted under division (N)(3) of section 3734.02 of the Revised Code, to a solid waste compost facility if the director has adopted rules establishing an alternative system for authorizing the establishment, operation, or modification of a solid waste compost facility under that division.

(7) Divisions (A)(1) to (5) of this section do not apply to scrap tire collection, storage, monocell, monofill, and

recovery facilities. The approval of plans and specifications, as applicable, and the issuance of registration certificates, permits, and licenses for those facilities are subject to sections 3734.75 to 3734.78 of the Revised Code, as applicable, and section 3734.81 of the Revised Code.

(B)(1) No person shall operate or maintain an infectious waste treatment facility without a license issued by the board of health of the health district in which the facility is located or by the director when the health district in which the facility is located is not on the approved list under section 3734.08 of the Revised Code.

(2)(a) During the month of December, but before the first day of January of the next year, every person proposing to continue to operate an existing infectious waste treatment facility shall procure a license to operate the facility for that year from the board of health of the health district in which the facility is located or, if the health district is not on the approved list under section 3734.08 of the Revised Code, from the director. The application for such a license shall be submitted to the board of health or to the director, as appropriate, on or before the last day of September of the year preceding that for which the license is sought. In addition to the application fee prescribed in division (B)(2)(c) of this section, a person who submits an application after that date shall pay an additional ten per cent of the amount of the application fee for each week that the application is late. Late payment fees accompanying an application submitted to the board of health shall be credited to the special infectious waste fund of the health district created in division (C) of section 3734.06 of the Revised Code, and late payment fees accompanying an application submitted to the director shall be credited to

the general revenue fund. A person who has received a license, upon sale or disposition of an infectious waste treatment facility and upon consent of the board of health and the director, may have the license transferred to another person. The board of health or the director may include such terms and conditions in a license or revision to a license as are appropriate to ensure compliance with the infectious waste provisions of this chapter and rules adopted under them.

(b) Each person proposing to open a new infectious waste treatment facility or to modify an existing infectious waste treatment facility shall submit an application for a permit with accompanying detail plans and specifications to the environmental protection agency for required approval under the rules adopted by the director pursuant to section 3734.021 of the Revised Code two hundred seventy days before proposed operation of the facility and concurrently shall make application for a license with the board of health of the health district in which the facility is or is proposed to be located. Not later than ninety days after receiving a complete application under division (B)(2)(b) of this section for a permit to open a new infectious waste treatment facility or modify an existing infectious waste treatment facility to expand its treatment capacity, or receiving a complete application under division (A)(2)(a) of this section for a permit to open a new solid waste incineration facility, or modify an existing solid waste incineration facility to also treat infectious wastes or to increase its infectious waste treatment capacity, that pertains to a facility for which a notation authorizing infectious waste treatment is included or proposed to be included in the solid waste incineration facility's license pursuant to division (B)(3) of this section, the director shall

hold a public hearing on the application within the county in which the new or modified infectious waste or solid waste facility is or is proposed to be located or within a contiguous county. Not less than thirty days before holding the public hearing on the application, the director shall publish notice of the hearing in each newspaper that has general circulation and that is published in the county in which the facility is or is proposed to be located or by publication on the environmental protection agency's official web site. The notice shall contain the date, time, and location of the public hearing and a general description of the proposed new or modified facility. At the public hearing, any person may submit written or oral comments on or objections to the approval or disapproval of the application. The applicant, or a representative of the applicant who has knowledge of the location, construction, and operation of the facility, shall attend the public hearing to respond to comments or questions concerning the facility directed to the applicant or representative by the officer or employee of the environmental protection agency presiding at the hearing.

(c) Each application for a permit under division (B)(2)(b) of this section shall be accompanied by a nonrefundable application fee of four hundred dollars that shall be credited to the general revenue fund. Each application for an annual license under division (B)(2)(a) of this section shall be accompanied by a nonrefundable application fee of one hundred dollars. If the application for an annual license is submitted to a board of health on the approved list under section 3734.08 of the Revised Code, the application fee shall be credited to the special infectious waste fund of the health district created in division (C) of section 3734.06 of the Revised Code. If the application for an annual license is submitted to the director,

the application fee shall be credited to the general revenue fund. If a permit or license is issued, the amount of the application fee paid shall be deducted from the amount of the permit fee due under division (P) of section 3745.11 of the Revised Code or the amount of the license fee due under division (C) of section 3734.06 of the Revised Code.

(d) The director may issue an order in accordance with Chapter 3745. of the Revised Code to the owner or operator of an infectious waste treatment facility requiring the person to submit to the director updated engineering detail plans, specifications, and information regarding the facility and its method of operation for approval under rules adopted under section 3734.021 of the Revised Code if, in the director's judgment, conditions at the facility constitute a substantial threat to public health or safety or are causing or contributing to or threatening to cause or contribute to air or water pollution or soil contamination. Any person who receives such an order shall submit the updated engineering detail plans, specifications, and information to the director within one hundred eighty days after the effective date of the order.

(e) The director shall act on any updated engineering plans, specifications, and information submitted under division (B)(2)(d) of this section within one hundred eighty days after receiving them. If the director disapproves any such updated engineering plans, specifications, and information, the director shall include in the order disapproving the plans the requirement that the owner or operator cease accepting infectious wastes for treatment at the facility.

(3) Division (B) of this section does not apply to a generator of infectious wastes that meets any of the following

conditions:

(a) Treats, by methods, techniques, and practices established by rules adopted under division (B)(2)(a) of section 3734.021 of the Revised Code, any of the following wastes:

(i) Infectious wastes that are generated on any premises that are owned or operated by the generator;

(ii) Infectious wastes that are generated by a generator who has staff privileges at a hospital as defined in section 3727.01 of the Revised Code;

(iii) Infectious wastes that are generated in providing care to a patient by an emergency medical services organization as defined in section 4765.01 of the Revised Code.

(b) Holds a license or renewal of a license to operate a crematory facility issued under Chapter 4717. and a permit issued under Chapter 3704. of the Revised Code;

(c) Treats or disposes of dead animals or parts thereof, or the blood of animals, and is subject to any of the following:

(i) Inspection under the "Federal Meat Inspection Act," 81 Stat. 584 (1967), 21 U.S.C.A. 603, as amended;

(ii) Chapter 918. of the Revised Code;

(iii) Chapter 953. of the Revised Code.

Nothing in division (B) of this section requires a facility that holds a license issued under division (A) of this section as a solid waste facility and that also treats infectious wastes by the same method, technique, or process to obtain a license under division (B) of this section as an infectious waste treatment facility. However, the solid waste

facility license for the facility shall include the notation that the facility also treats infectious wastes.

The director shall not issue a permit to open a new solid waste incineration facility unless the proposed facility complies with the requirements for the location of new infectious waste incineration facilities established in rules adopted under division (B)(2)(b) of section 3734.021 of the Revised Code.

(C) Except for a facility or activity described in division (E)(3) of section 3734.02 of the Revised Code, a person who proposes to establish or operate a hazardous waste facility shall submit a complete application for a hazardous waste facility installation and operation permit and accompanying detail plans, specifications, and such information as the director may require to the environmental protection agency at least one hundred eighty days before the proposed beginning of operation of the facility. The applicant shall notify by certified mail the legislative authority of each municipal corporation, township, and county in which the facility is proposed to be located of the submission of the application within ten days after the submission or at such earlier time as the director may establish by rule. If the application is for a proposed new hazardous waste disposal or thermal treatment facility, the applicant also shall give actual notice of the general design and purpose of the facility to the legislative authority of each municipal corporation, township, and county in which the facility is proposed to be located at least ninety days before the permit application is submitted to the environmental protection agency.

In accordance with rules adopted under section 3734.12 of

the Revised Code, prior to the submission of a complete application for a hazardous waste facility installation and operation permit, the applicant shall hold at least one meeting in the township or municipal corporation in which the facility is proposed to be located, whichever is geographically closer to the proposed location of the facility. The meeting shall be open to the public and shall be held to inform the community of the proposed hazardous waste management activities and to solicit questions from the community concerning the activities.

(D)(1) Except as provided in section 3734.123 of the Revised Code, upon receipt of a complete application for a hazardous waste facility installation and operation permit under division (C) of this section, the director shall consider the application and accompanying information to determine whether the application complies with agency rules and the requirements of division (D)(2) of this section. After making a determination, the director shall issue either a draft permit or a notice of intent to deny the permit. The director, in accordance with rules adopted under section 3734.12 of the Revised Code or with rules adopted to implement Chapter 3745. of the Revised Code, shall provide public notice of the application and the draft permit or the notice of intent to deny the permit, provide an opportunity for public comments, and, if significant interest is shown, schedule a public meeting in the county in which the facility is proposed to be located and give public notice of the date, time, and location of the public meeting in a newspaper of general circulation in that county.

(2) The director shall not approve an application for a hazardous waste facility installation and operation permit or an application for a modification under division (I)(3) of this section unless the director finds and determines as follows:

(a) The nature and volume of the waste to be treated, stored, or disposed of at the facility;

(b) That the facility complies with the director's hazardous waste standards adopted pursuant to section 3734.12 of the Revised Code;

(c) That the facility represents the minimum adverse environmental impact, considering the state of available technology and the nature and economics of various alternatives, and other pertinent considerations;

(d) That the facility represents the minimum risk of all of the following:

(i) Fires or explosions from treatment, storage, or disposal methods;

(ii) Release of hazardous waste during transportation of hazardous waste to or from the facility;

(iii) Adverse impact on the public health and safety.

(e) That the facility will comply with this chapter and Chapters 3704. and 6111. of the Revised Code and all rules and standards adopted under them;

(f) That if the owner of the facility, the operator of the facility, or any other person in a position with the facility from which the person may influence the installation and operation of the facility has been involved in any prior activity involving transportation, treatment, storage, or disposal of hazardous waste, that person has a history of compliance with this chapter and Chapters 3704. and 6111. of the Revised Code and all rules and standards adopted under them, the "Resource Conservation and Recovery Act of 1976," 90 Stat. 2806,

42 U.S.C.A. 6921, as amended, and all regulations adopted under it, and similar laws and rules of other states if any such prior operation was located in another state that demonstrates sufficient reliability, expertise, and competency to operate a hazardous waste facility under the applicable provisions of this chapter and Chapters 3704. and 6111. of the Revised Code, the applicable rules and standards adopted under them, and terms and conditions of a hazardous waste facility installation and operation permit, given the potential for harm to the public health and safety and the environment that could result from the irresponsible operation of the facility. For off-site facilities, as defined in section 3734.41 of the Revised Code, the director may use the investigative reports of the attorney general prepared pursuant to section 3734.42 of the Revised Code as a basis for making a finding and determination under division (D)(2)(f) of this section.

(g) That the active areas within a new hazardous waste facility where acute hazardous waste as listed in 40 C.F.R. 261.33 (e), as amended, or organic waste that is toxic and is listed under 40 C.F.R. 261, as amended, is being stored, treated, or disposed of and where the aggregate of the storage design capacity and the disposal design capacity of all hazardous waste in those areas is greater than two hundred fifty thousand gallons, are not located or operated within any of the following:

(i) Two thousand feet of any residence, school, hospital, jail, or prison;

(ii) Any naturally occurring wetland;

(iii) Any flood hazard area if the applicant cannot show that the facility will be designed, constructed, operated, and

maintained to prevent washout by a one-hundred-year flood.

Division (D)(2)(g) of this section does not apply to the facility of any applicant who demonstrates to the director that the limitations specified in that division are not necessary because of the nature or volume of the waste and the manner of management applied, the facility will impose no substantial danger to the health and safety of persons occupying the structures listed in division (D)(2)(g)(i) of this section, and the facility is to be located or operated in an area where the proposed hazardous waste activities will not be incompatible with existing land uses in the area.

(h) That the facility will not be located within the boundaries of a state park established or dedicated under Chapter 1546. of the Revised Code, a state park purchase area established under section 1546.06 of the Revised Code, any unit of the national park system, or any property that lies within the boundaries of a national park or recreation area, but that has not been acquired or is not administered by the secretary of the United States department of the interior, located in this state, or any candidate area located in this state identified for potential inclusion in the national park system in the edition of the "national park system plan" submitted under paragraph (b) of section 8 of "The Act of August 18, 1970," 84 Stat. 825, 16 U.S.C.A. 1a-5, as amended, current at the time of filing of the application for the permit, unless the facility will be used exclusively for the storage of hazardous waste generated within the park or recreation area in conjunction with the operation of the park or recreation area. Division (D)(2)(h) of this section does not apply to the facility of any applicant for modification of a permit unless the modification application proposes to increase the land area included in the facility or

to increase the quantity of hazardous waste that will be treated, stored, or disposed of at the facility.

(3) Not later than one hundred eighty days after the end of the public comment period, the director, without prior hearing, shall issue or deny the permit in accordance with Chapter 3745. of the Revised Code. If the director approves an application for a hazardous waste facility installation and operation permit, the director shall issue the permit, upon such terms and conditions as the director finds are necessary to ensure the construction and operation of the hazardous waste facility in accordance with the standards of this section.

(E) No political subdivision of this state shall require any additional zoning or other approval, consent, permit, certificate, or condition for the construction or operation of a hazardous waste facility authorized by a hazardous waste facility installation and operation permit issued pursuant to this chapter, nor shall any political subdivision adopt or enforce any law, ordinance, or rule that in any way alters, impairs, or limits the authority granted in the permit.

(F) The director may issue a single hazardous waste facility installation and operation permit to a person who operates two or more adjoining facilities where hazardous waste is stored, treated, or disposed of if the application includes detail plans, specifications, and information on all facilities. For the purposes of this section, "adjoining" means sharing a common boundary, separated only by a public road, or in such proximity that the director determines that the issuance of a single permit will not create a hazard to the public health or safety or the environment.

(G) No person shall falsify or fail to keep or submit any

plans, specifications, data, reports, records, manifests, or other information required to be kept or submitted to the director by this chapter or the rules adopted under it.

(H)(1) Each person who holds an installation and operation permit issued under this section and who wishes to obtain a permit renewal shall submit a completed application for an installation and operation permit renewal and any necessary accompanying general plans, detail plans, specifications, and such information as the director may require to the director no later than one hundred eighty days prior to the expiration date of the existing permit or upon a later date prior to the expiration of the existing permit if the permittee can demonstrate good cause for the late submittal. The director shall consider the application and accompanying information, inspection reports of the facility, results of performance tests, a report regarding the facility's compliance or noncompliance with the terms and conditions of its permit and rules adopted by the director under this chapter, and such other information as is relevant to the operation of the facility and shall issue a draft renewal permit or a notice of intent to deny the renewal permit. The director, in accordance with rules adopted under this section or with rules adopted to implement Chapter 3745. of the Revised Code, shall give public notice of the application and draft renewal permit or notice of intent to deny the renewal permit, provide for the opportunity for public comments within a specified time period, schedule a public meeting in the county in which the facility is located if significant interest is shown, and give public notice of the public meeting.

(2) Within sixty days after the public meeting or close of the public comment period, the director, without prior hearing,

shall issue or deny the renewal permit in accordance with Chapter 3745. of the Revised Code. The director shall not issue a renewal permit unless the director determines that the facility under the existing permit has a history of compliance with this chapter, rules adopted under it, the existing permit, or orders entered to enforce such requirements that demonstrates sufficient reliability, expertise, and competency to operate the facility henceforth under this chapter, rules adopted under it, and the renewal permit. If the director approves an application for a renewal permit, the director shall issue the permit subject to the payment of the annual permit fee required under division (E) of section 3734.02 of the Revised Code and upon such terms and conditions as the director finds are reasonable to ensure that continued operation, maintenance, closure, and post-closure care of the hazardous waste facility are in accordance with the rules adopted under section 3734.12 of the Revised Code.

(3) An installation and operation permit renewal application submitted to the director that also contains or would constitute an application for a modification shall be acted upon by the director in accordance with division (I) of this section in the same manner as an application for a modification. In approving or disapproving the renewal portion of a permit renewal application containing an application for a modification, the director shall apply the criteria established under division (H)(2) of this section.

(4) An application for renewal or modification of a permit that does not contain an application for a modification as described in divisions (I)(3)(a) to (d) of this section shall not be subject to division (D)(2) of this section.

(I)(1) As used in this section, "modification" means a change or alteration to a hazardous waste facility or its operations that is inconsistent with or not authorized by its existing permit or authorization to operate. Modifications shall be classified as Class 1, 2, or 3 modifications~~ in accordance with rules adopted under division (K) of this section~~. Modifications classified as Class 3 modifications~~, in accordance with rules adopted under that division,~~ shall be further classified by the director as either Class 3 modifications that are to be approved or disapproved by the director under divisions (I)(3)(a) to (d) of this section or as Class 3 modifications that are to be approved or disapproved by the director under division (I)(5) of this section. Not later than thirty days after receiving a request for a modification under division (I)(4) of this section that is not listed in Appendix I to 40 C.F.R. 270.42~~ or in rules adopted under division (K) of this section~~, the director shall classify the modification and shall notify the owner or operator of the facility requesting the modification of the classification. Notwithstanding any other law to the contrary, a modification that involves the transfer of a hazardous waste facility installation and operation permit to a new owner or operator for any off-site facility as defined in section 3734.41 of the Revised Code shall be classified as a Class 3 modification. The transfer of a hazardous waste facility installation and operation permit to a new owner or operator for a facility that is not an off-site facility shall be classified as a Class 1 modification requiring prior approval of the director.

(2) Except as provided in section 3734.123 of the Revised Code, a hazardous waste facility installation and operation permit may be modified at the request of the director or upon

the written request of the permittee only if any of the following applies:

(a) The permittee desires to accomplish alterations, additions, or deletions to the permitted facility or to undertake alterations, additions, deletions, or activities that are inconsistent with or not authorized by the existing permit;

(b) New information or data justify permit conditions in addition to or different from those in the existing permit;

(c) The standards, criteria, or rules upon which the existing permit is based have been changed by new, amended, or rescinded standards, criteria, or rules, or by judicial decision after the existing permit was issued, and the change justifies permit conditions in addition to or different from those in the existing permit;

(d) The permittee proposes to transfer the permit to another person.

(3) The director shall approve or disapprove an application for a modification in accordance with division (D)(2) of this section ~~and rules adopted under division (K) of this section~~ for all of the following categories of Class 3 modifications:

(a) Authority to conduct treatment, storage, or disposal at a site, location, or tract of land that has not been authorized for the proposed category of treatment, storage, or disposal activity by the facility's permit;

(b) Modification or addition of a hazardous waste management unit, as defined in rules adopted under section 3734.12 of the Revised Code, that results in an increase in a facility's storage capacity of more than twenty-five per cent

over the capacity authorized by the facility's permit, an increase in a facility's treatment rate of more than twenty-five per cent over the rate so authorized, or an increase in a facility's disposal capacity over the capacity so authorized. The authorized disposal capacity for a facility shall be calculated from the approved design plans for the disposal units at that facility. In no case during a five-year period shall a facility's storage capacity or treatment rate be modified to increase by more than twenty-five per cent in the aggregate without the director's approval in accordance with division (D)(2) of this section. Notwithstanding any provision of division (I) of this section to the contrary, a request for modification of a facility's annual total waste receipt limit shall be classified and approved or disapproved by the director under division (I)(5) of this section.

(c) Authority to add any of the following categories of regulated activities not previously authorized at a facility by the facility's permit: storage at a facility not previously authorized to store hazardous waste, treatment at a facility not previously authorized to treat hazardous waste, or disposal at a facility not previously authorized to dispose of hazardous waste; or authority to add a category of hazardous waste management unit not previously authorized at the facility by the facility's permit. Notwithstanding any provision of division (I) of this section to the contrary, a request for authority to add or to modify an activity or a hazardous waste management unit for the purposes of performing a corrective action shall be classified and approved or disapproved by the director under division (I)(5) of this section.

(d) Authority to treat, store, or dispose of waste types listed or characterized as reactive or explosive, in rules

adopted under section 3734.12 of the Revised Code, or any acute hazardous waste listed in 40 C.F.R. 261.33(e), as amended, at a facility not previously authorized to treat, store, or dispose of those types of wastes by the facility's permit unless the requested authority is limited to wastes that no longer exhibit characteristics meeting the criteria for listing or characterization as reactive or explosive wastes, or for listing as acute hazardous waste, but still are required to carry those waste codes as established in rules adopted under section 3734.12 of the Revised Code because of the requirements established in 40 C.F.R. 261(a) and (e), as amended, that is, the "mixture," "derived-from," or "contained-in" regulations.

(4) A written request for a modification from the permittee shall be submitted to the director and shall contain such information as is necessary to support the request. Requests for modifications shall be acted upon by the director in accordance with this section and rules adopted under it.

(5) Class 1 modification applications that require prior approval of the director, as provided in division (I)(1) of this section ~~or as determined in accordance with rules adopted under division (K) of this section~~, Class 2 modification applications, and Class 3 modification applications that are not described in divisions (I)(3)(a) to (d) of this section shall be approved or disapproved by the director ~~in accordance with rules adopted under division (K) of this section~~. The board of county commissioners of the county, the board of township trustees of the township, and the city manager or mayor of the municipal corporation in which a hazardous waste facility is located shall receive notification of any application for a modification for that facility and shall be considered as interested persons with respect to the director's consideration of the application.

As used in division (I) of this section:

(a) "Owner" means the person who owns a majority or controlling interest in a facility.

(b) "Operator" means the person who is responsible for the overall operation of a facility.

The director shall approve or disapprove an application for a Class 1 modification that requires the director's approval within sixty days after receiving the request for modification. The director shall approve or disapprove an application for a Class 2 modification within three hundred days after receiving the request for modification. The director shall approve or disapprove an application for a Class 3 modification within three hundred sixty-five days after receiving the request for modification.

(6) The approval or disapproval by the director of a Class 1 modification application is not a final action that is appealable under Chapter 3745. of the Revised Code. The approval or disapproval by the director of a Class 2 modification or a Class 3 modification is a final action that is appealable under that chapter. In approving or disapproving a request for a modification, the director shall consider all comments pertaining to the request that are received during the public comment period and the public meetings. The administrative record for appeal of a final action by the director in approving or disapproving a request for a modification shall include all comments received during the public comment period relating to the request for modification, written materials submitted at the public meetings relating to the request, and any other documents related to the director's action.

(7) Notwithstanding any other provision of law to the contrary, a change or alteration to a hazardous waste facility described in division (E)(3)(a) or (b) of section 3734.02 of the Revised Code, or its operations, is a modification for the purposes of this section. An application for a modification at such a facility shall be submitted, classified, and approved or disapproved in accordance with divisions (I)(1) to (6) of this section in the same manner as a modification to a hazardous waste facility installation and operation permit.

(J)(1) Except as provided in division (J)(2) of this section, an owner or operator of a hazardous waste facility that is operating in accordance with a permit by rule under rules adopted by the director under division (E)(3)(b) of section 3734.02 of the Revised Code shall submit either a hazardous waste facility installation and operation permit application for the facility or a modification application, whichever is required under division (J)(1)(a) or (b) of this section, within one hundred eighty days after the director has requested the application or upon a later date if the owner or operator demonstrates to the director good cause for the late submittal.

(a) If the owner or operator does not have a hazardous waste facility installation and operation permit for any hazardous waste treatment, storage, or disposal activities at the facility, the owner or operator shall submit an application for such a permit to the director for the activities authorized by the permit by rule. Notwithstanding any other provision of law to the contrary, the director shall approve or disapprove the application for the permit in accordance with the procedures governing the approval or disapproval of permit renewals under division (H) of this section.

(b) If the owner or operator has a hazardous waste facility installation and operation permit for hazardous waste treatment, storage, or disposal activities at the facility other than those authorized by the permit by rule, the owner or operator shall submit to the director a request for modification in accordance with division (I) of this section. Notwithstanding any other provision of law to the contrary, the director shall approve or disapprove the modification application in accordance with division (I)(5) of this section.

(2) The owner or operator of a boiler or industrial furnace that is conducting thermal treatment activities in accordance with a permit by rule under rules adopted by the director under division (E)(3)(b) of section 3734.02 of the Revised Code shall submit a hazardous waste facility installation and operation permit application if the owner or operator does not have such a permit for any hazardous waste treatment, storage, or disposal activities at the facility or, if the owner or operator has such a permit for hazardous waste treatment, storage, or disposal activities at the facility other than thermal treatment activities authorized by the permit by rule, a modification application to add those activities authorized by the permit by rule, whichever is applicable, within one hundred eighty days after the director has requested the submission of the application or upon a later date if the owner or operator demonstrates to the director good cause for the late submittal. The application shall be accompanied by information necessary to support the request. The director shall approve or disapprove an application for a hazardous waste facility installation and operation permit in accordance with division (D) of this section and approve or disapprove an application for a modification in accordance with division (I)

(3) of this section, except that the director shall not disapprove an application for the thermal treatment activities on the basis of the criteria set forth in division (D)(2)(g) or (h) of this section.

(3) As used in division (J) of this section:

(a) "Modification application" means a request for a modification submitted in accordance with division (I) of this section.

(b) "Thermal treatment," "boiler," and "industrial furnace" have the same meanings as in rules adopted under section 3734.12 of the Revised Code.

~~(K) The director shall adopt, and may amend, suspend, or rescind, rules in accordance with Chapter 119. of the Revised Code in order to implement divisions (H) and (I) of this section. Except when in actual conflict with this section, rules governing the classification of and procedures for the modification of hazardous waste facility installation and operation permits shall be substantively and procedurally identical to the regulations governing hazardous waste facility permitting and permit modifications adopted under the "Resource Conservation and Recovery Act of 1976," 90 Stat. 2806, 42 U.S.C.A. 6921, as amended.~~

Sec. 3734.058. (A) Except as provided in division (B) of this section, no political subdivision of this state shall require any additional zoning or other approval, consent, permit, certificate, or condition for the operation of a byproduct disposal facility authorized by a byproduct disposal facility permit to install or modify issued under division (B) of former section 3734.054, division (B) or (C)(3) of former

section 3734.055, or division (B) of former section 3734.057 of the Revised Code, nor shall any political subdivision adopt or enforce any law, ordinance, resolution, or rule that in any way alters, impairs, or limits the authority granted in the permit.

(B)(1) Division (A) of this section does not apply to the issuance of an annual license for a byproduct disposal facility under division (A)(1) of section 3734.05 of the Revised Code; the issuance of orders under section 3709.20 or 3709.21 of the Revised Code to enforce the solid waste provisions of this chapter or rules adopted or terms and conditions of permits, licenses, or orders issued under those provisions; the inspection of any such facility for compliance with those provisions, any such terms and conditions, or any orders issued under section 3709.20 or 3709.21 of the Revised Code to enforce those provisions or any such terms and conditions; or the enforcement of those provisions, any such terms and conditions, or any orders issued under section 3709.20 or 3709.21 of the Revised Code to enforce those provisions or any such terms and conditions, by a board of health on the approved list under section 3734.08 of the Revised Code.

(2) Division (A) of this section does not alter, impair, or limit the authority of a board of health or political subdivision of this state that has been delegated any of the powers and duties of the director of environmental protection under Chapter 3704. of the Revised Code pursuant to division ~~(P)~~ (O) of section 3704.03 of the Revised Code to exercise the authority and perform the duties conferred upon the board or political subdivision by that delegation.

(C) As used in this section:

(1) "Byproduct disposal facility" means a solid waste

disposal facility that exclusively disposes of coal combustion wastes. "Byproduct disposal facility" does not include a coal mining and reclamation operation where coal combustion wastes are used in conducting the operation, or are disposed of, in compliance with Chapter 1513. of the Revised Code and rules adopted under it.

(2) "Coal combustion wastes" includes all of the following:

(a) Air pollution control wastes that are solid wastes, that result from the combustion of coal at a coal-fired electric generating facility owned, operated, or leased by an electric light company or a municipal power agency, and that are generated by air pollution control equipment installed or used at the electric generating facility for the purpose of complying with applicable emission standards or emission limitations established under the "Air Quality Act of 1967," 81 Stat. 485, 42 U.S.C.A. 1857, as amended, and regulations adopted under it or Chapter 3704. of the Revised Code and rules adopted under it;

(b) Air pollution control wastes that are solid wastes and that are generated in the operation of air pollution control equipment installed at a byproduct disposal facility for the purpose of complying with Chapter 3704. of the Revised Code and rules adopted under it;

(c) Water pollution control wastes that are solid wastes and that are generated in the operation of a disposal system or treatment works installed at a byproduct disposal facility for the purpose of complying with Chapter 6111. of the Revised Code and rules adopted under it;

(d) Any other similar types of solid wastes that are

produced in the operation of a coal-fired electric generating facility or in the operation of air pollution control equipment, disposal systems, or treatment works installed or used at such a facility and that are identified in rules adopted under division (A) of section 3734.02 of the Revised Code.

(3) "Disposal system" and "treatment works" have the same meanings as in section 6111.01 of the Revised Code.

(4) "Electric light company" has the same meaning as in section 4905.03 of the Revised Code.

(5) "Municipal power agency" means any Ohio nonprofit corporation, the members of which are municipal corporations that own and operate electric utility systems, that sells electricity to its members for resale.

Sec. 3734.123. (A) As used in this section and section 3734.124 of the Revised Code, "commercial hazardous waste incinerator" means an enclosed device that treats hazardous waste by means of controlled flame combustion and that accepts for treatment hazardous waste that is generated off the premises on which the device is located by any person other than the one who owns or operates the device or one who controls, is controlled by, or is under common control with the person who owns or operates the device. "Commercial hazardous waste incinerator" does not include any "boiler" or "industrial furnace" as those terms are defined in rules adopted under section 3734.12 of the Revised Code.

(B) Not sooner than three years after April 15, 1993, and triennially thereafter, the director of environmental protection shall prepare, publish, and issue as a final action an assessment of commercial hazardous waste incinerator capacity in

this state. However, after the issuance as a final action of a determination under division (A) of section 3734.124 of the Revised Code that terminates the restrictions established in division (C) of this section, the director shall cease preparing, publishing, and issuing the periodic assessments required under this division. The assessment shall determine the amount of commercial hazardous waste incinerator capacity needed to manage the hazardous waste expected to be generated in this state and imported into this state for incineration at commercial hazardous waste incinerators during the next succeeding twenty calendar years. The assessment shall include at least all of the following:

(1) A determination of the aggregate treatment capacity authorized at commercial hazardous waste incinerators located in this state;

(2) A determination of the quantity of hazardous waste generated in this state that is being treated at commercial hazardous waste incinerators located in this state and projections of the quantity of hazardous waste generated in this state that will be treated at those facilities;

(3) A determination of the quantity of hazardous waste generated outside this state that is being treated at commercial hazardous waste incinerators located in this state and projections of the quantity of hazardous waste generated outside this state that will be treated at those facilities;

(4) A determination of the quantity of hazardous waste generated in this state that is being treated at commercial hazardous waste incinerators located outside this state, and projections of the quantity of hazardous waste generated in this state that will be treated at those facilities;

(5) The amount of commercial hazardous waste incinerator capacity that the director reasonably anticipates will be needed during the first three years of the planning period to treat hazardous waste generated from the remediation of sites in this state that are on the national priority list required under the "Comprehensive Environmental Response, Compensation, and Liability Act of 1980," 94 Stat. 2767, 42 U.S.C.A. 9601, as amended; as a result of corrective actions implemented under the "Resource Conservation and Recovery Act of 1976," 90 Stat. 2806, 42 U.S.C.A. 6921, as amended; and as a result of clean-up activities conducted at sites listed on the master sites list prepared by the environmental protection agency;

(6) Based upon available data, provided that the data are reliable and are compatible with the data base of the environmental protection agency, an identification of any hazardous waste first listed as a hazardous waste in regulations adopted under the "Resource Conservation and Recovery Act of 1976," 90 Stat. 2806, 42 U.S.C.A. 6921, as amended, on or after April 15, 1993, and of any hazardous waste that has been proposed for such listing by publication of a notice in the federal register on or before December 1 of the year immediately preceding the triennial assessment;

(7) An analysis of other factors that may result in capacity changes over the period addressed by the assessment.

(C) Except as otherwise provided in section 3734.124 of the Revised Code, none of the following shall occur on or after April 15, 1993:

(1) The director shall not do any of the following:

(a) Issue any hazardous waste facility installation and

operation permit under division (D) of section 3734.05 of the Revised Code for the establishment of a new commercial hazardous waste incinerator, or issue any modified hazardous waste facility installation and operation permit under division (I) of that section that would authorize an increase in either the treatment capacity of a commercial hazardous waste incinerator or the quantity of hazardous waste authorized to be treated by it;

(b) Issue any permit pursuant to rules adopted under division ~~(F)~~ (E) of section 3704.03 of the Revised Code, division (J) of section 6111.03 of the Revised Code, or the solid waste provisions of this chapter and rules adopted under those provisions, that is necessary for the establishment, modification, or operation of any appurtenant facility or equipment that is necessary for the operation of a new commercial hazardous waste incinerator, or the modification of such an existing incinerator to increase either the treatment capacity of the incinerator or the quantity of hazardous waste that is authorized to be treated by it. Upon determining that an application for any permit pertains to the establishment, modification, or operation of any appurtenant facility or equipment, the director shall cease reviewing the application and return the application and accompanying materials to the applicant along with a written notice that division (C)(1)(b) of this section precludes the director from reviewing and acting upon the application.

(c) Issue any exemption order under division (G) of section 3734.02 of the Revised Code exempting the establishment of a new commercial hazardous waste incinerator; the modification of an existing facility to increase either the treatment capacity of the incinerator or the quantity of

hazardous waste that is authorized to be treated by it; or the establishment, modification, or operation of any facility or equipment appurtenant to a new or modified commercial hazardous waste incinerator, from divisions (C)(1)(a) or (b) or (C)(2) of this section.

(2) If the director determines that an application for a hazardous waste facility installation and operation permit submitted under division (D) of section 3734.05 of the Revised Code pertains to the establishment of a new commercial hazardous waste incinerator, or a request for a modification of an existing incinerator submitted under division (I) of that section pertains to an increase of either the treatment capacity of the incinerator or the quantity of hazardous waste that is authorized to be treated by it, the director shall cease reviewing the application or request and shall return it and the accompanying materials to the applicant along with a written notice that division (C)(2) of this section precludes the review of the application or request.

(D) Division (C) of this section does not apply to an application for a modified hazardous waste facility installation and operation permit under division (I) of section 3734.05 of the Revised Code for any hazardous waste incinerator in operation before April 15, 1993, if both of the following apply to the application:

(1) The application seeks to install an improved air emission control system designed to achieve compliance with 40 C.F.R. 63, Subpart EEE.

(2) The application does not seek to increase the treatment capacity of the hazardous waste incinerator or the quantity of waste to be treated by it.

(E) Division (C) of this section does not apply to an application for a modified hazardous waste facility installation and operation permit under division (I) of section 3734.05 of the Revised Code for any hazardous waste incinerator in operation before April 15, 1993, if all of the following apply to the application:

(1) The application seeks to increase the treatment capacity of the hazardous waste incineration operations or the quantity of waste to be treated by it.

(2) The hazardous waste incinerator is at or near its actual maximum operating capacity on ~~the effective date of this amendment~~ April 4, 2023.

(3) The application seeks to install an improved air emission control system designed to achieve compliance with 40 C.F.R. 63, Subpart EEE.

(4) The owner or operator of the hazardous waste incinerator has not been issued any other permit allowing for the expansion of the hazardous waste incinerator or construction of a new hazardous waste incinerator prior to ~~the effective date of this amendment~~ April 4, 2023.

Sec. 3734.124. (A) Promptly after issuing a periodic assessment under division (B) of section 3734.123 of the Revised Code, the director of environmental protection shall make a determination as to whether it is necessary or appropriate to continue the restrictions established in division (C) of section 3734.123 of the Revised Code during the period of time between the issuance of the assessment and the issuance of the next succeeding periodic assessment or as to whether it is necessary or appropriate to terminate the restrictions. The director shall

consider all of the following when making a determination under this division:

(1) The findings of the assessment;

(2) The findings of an evaluation conducted by the director, in consultation with the chairperson of the state emergency response commission created in section 3750.02 of the Revised Code, regarding the capability of this state to respond to the types and frequencies of releases of hazardous waste that are likely to occur at commercial hazardous waste incinerators;

(3) The effect that a new commercial hazardous waste incinerator may have on ambient air quality in this state;

(4) The findings of a review of relevant information regarding the impacts of commercial hazardous waste incinerators on human health and the environment, such as health studies and risk assessments;

(5) The findings of a review of the operational records of commercial hazardous waste incinerators operating in this state;

(6) The findings of any review of relevant information concerning the following:

(a) The cost of and access to commercial hazardous waste incinerator capacity;

(b) The length of time and the regulatory review process necessary to fully permit a commercial hazardous waste incinerator;

(c) Access to long-term capital investment to fund the building of a commercial hazardous waste incinerator in this state;

(d) Efforts by generators of hazardous waste accepted by commercial hazardous waste incinerators to reduce the amount of hazardous waste that they generate.

(7) Regulatory and legislative concerns that may include, without limitation, the provisions of paragraphs (a) and (b) of 40 C.F.R. 271.4, as they existed on April 15, 1993.

If, after considering all of the information and concerns that the director is required to consider under divisions (A)(1) to (7) of this section, the director determines that it is necessary or appropriate to terminate the restrictions established in division (C) of section 3734.123 of the Revised Code in order to protect human health or safety or the environment, the director shall issue as a final action a written determination to that effect. If the director determines that it is necessary or appropriate for those purposes to continue the restrictions until the issuance of the next succeeding periodic assessment under division (B) of section 3734.123 of the Revised Code, the director shall issue as a final action a written determination to that effect. After the issuance as a final action of a determination under this division that it is necessary or appropriate to terminate the restrictions established in division (C) of section 3734.123 of the Revised Code, the director shall cease making the periodic determinations required under this division.

(B) Beginning three years after April 15, 1993, but only on and after the date of issuance as final actions of an assessment under division (B) of section 3734.123 of the Revised Code and a determination under division (A) of this section that it is necessary or appropriate to terminate the restrictions established in division (C) of section 3734.123 of the Revised

Code, the director may do any of the following:

(1) To the extent otherwise authorized thereunder, issue any permit pursuant to rules adopted under division ~~(F)~~ (E) of section 3704.03 of the Revised Code, division (J) of section 6111.03 of the Revised Code, or the solid waste provisions of this chapter and rules adopted under those provisions, that is necessary for the establishment, modification, or operation of any appurtenant facility or equipment that is necessary for the operation of a new commercial hazardous waste incinerator, or for the modification of an existing incinerator to increase either the treatment capacity of the incinerator or the quantity of hazardous waste authorized to be treated by it;

(2) To the extent otherwise authorized in division (G) of section 3734.02 of the Revised Code, issue an order exempting the establishment of a new commercial hazardous waste incinerator; the modification of an existing incinerator to increase either the treatment capacity of the incinerator or the quantity of hazardous waste that is authorized to be treated by it; or the establishment, modification, or operation of any facility or equipment appurtenant to a new or modified commercial hazardous waste incinerator, from division (C)(1)(a) or (b) or (C)(2) of section 3734.123 of the Revised Code;

(3) Approve or disapprove an application for a hazardous waste facility installation and operation permit, and issue a permit, under division (D) of section 3734.05 of the Revised Code for a new commercial hazardous waste incinerator;

(4) Approve or disapprove under division (I) of section 3734.05 of the Revised Code a request to modify the permit of an existing commercial hazardous waste incinerator to increase either the treatment capacity of the incinerator or the quantity

of hazardous waste authorized to be treated by it.

Sec. 3734.40. The general assembly hereby finds and declares the following to be the public policy of this state:

(A) That the off-site treatment, storage, and disposal of hazardous waste and the off-site disposal of solid wastes, including incineration, and transfer of solid wastes are critical components of the economic structure of this state and, when properly controlled and regulated, make substantial contributions to the general welfare, health, and prosperity of the state and its inhabitants by minimizing the serious health and environmental threats inherent in the management of these wastes;

(B) That the regulatory provisions of this chapter are designed to extend strict state regulation to those persons involved in the operations of these permitted activities so as to foster and justify the public confidence and trust in the credibility and integrity of the conduct of these activities;

(C) That the solid and hazardous waste management industries in this state can attain, maintain, and retain integrity, public confidence, and trust, and promote the general public interest, only under a system of control and regulation that precludes the participation therein of persons with known criminal records and excludes or removes from any position of authority or responsibility any person known to be so deficient in reliability, expertise, or competence with specific reference to the solid or hazardous waste management industries that ~~his~~the person's participation in them would create or enhance the danger of unsound, unfair, or illegal practices, methods, and activities in the conduct of the business of the industries;

(D) That strict licensing standards will help ensure that members of the waste management industry in this state will continue to maintain standards of professionalism and responsibility;

(E) That it therefore is vital to the interests of this state to prevent either direct or indirect entry into the operations of the off-site solid waste disposal and transfer and the off-site hazardous waste treatment, storage, and disposal, industries of persons who are not competent and reliable or who have pursued economic gains in an occupational manner or context violative of the criminal code or civil public policies of this state, and it is to the end of excluding such persons from those industries that the regulatory and investigatory powers and duties provided in sections 3734.41 to ~~3734.47~~ 3734.46 of the Revised Code shall be exercised to the fullest extent consistent with law.

Sec. 3734.41. As used in sections 3734.41 to ~~3734.47~~ 3734.46 of the Revised Code:

(A) "Applicant" means any person seeking a permit or license for an off-site facility and any person or business concern operating such a facility for an applicant.

(B) "Application" means the forms and accompanying documents filed in connection with the applicant's request for a permit.

(C) "Business concern" means any corporation, association, firm, partnership, trust, or other form of commercial organization.

(D) "Disclosure statement" means a statement submitted to the director of environmental protection and the attorney

general by an applicant. The statement shall include all of the following:

(1) The full name, business address, and social security number of the applicant or, if the applicant is a business concern, of all officers, directors, partners, or key employees thereof and all individuals or business concerns holding any equity in or debt liability of that business concern or, if the business concern is a publicly traded corporation, all individuals or business concerns holding more than five per cent of the equity in or debt liability of that business concern, except that when the debt liability is held by a chartered lending institution, the applicant need supply only the name and business address of the lending institution;

(2) The full name, business address, and social security number of all officers, directors, or partners of any business concern disclosed in the statement and the names and addresses of all persons holding any equity in or debt liability of any business concern so disclosed or, if the business concern is a publicly traded corporation, all individuals or business concerns holding more than five per cent of the equity in or debt liability of that business concern, except that when the debt liability is held by a chartered lending institution, the applicant need supply only the name and business address of the lending institution;

(3) The full name and business address of any company in which the applicant holds an equity interest and that collects, transfers, transports, treats, stores, or disposes of solid wastes, infectious wastes, or hazardous waste or processes solid wastes that consist of scrap tires;

(4) A description of the experience and credentials,

including any past or present permits or licenses, for the collection, transfer, transportation, treatment, storage, or disposal of solid wastes, infectious wastes, or hazardous waste, or the processing of solid wastes that consist of scrap tires, possessed by the applicant or, if the applicant is a business concern, by the officers, directors, partners, or key employees thereof;

(5) A listing and explanation of any civil or criminal prosecution by government agencies, administrative enforcement actions resulting in the imposition of sanctions, or license revocations or denials issued by any state or federal authority in the ten years immediately preceding the filing of the application, that are pending or have resulted in a finding or a settlement of a violation of any law or rule or regulation relating to the collection, transfer, transportation, treatment, storage, or disposal of solid wastes, infectious wastes, or hazardous waste, or the processing of solid wastes that consist of scrap tires, or of any other environmental protection statute, by the applicant or, if the applicant is a business concern, by the business concern or any officer, director, partner, or key employee thereof. For the purposes of division (D)(5) of this section, violations of any law or rule relating to the transportation of solid wastes, infectious wastes, or hazardous waste do not include violations that also apply to the transportation of commodities that are not wastes.

(6) A listing and explanation of any judgment of liability or conviction that was rendered pursuant to any state or federal law or local ordinance resulting in the imposition of a sanction against the applicant or, if the applicant is a business concern, against the business concern or any officer, director, partner, or key employee thereof;

(7) A listing of any agency outside this state that has or has had regulatory responsibility over the applicant in connection with its collection, transfer, transportation, treatment, storage, or disposal of solid wastes, infectious wastes, or hazardous waste or processing of solid wastes that consist of scrap tires.

(E) "Key employee" means any individual, other than a public official or employee as defined in division (B) of section 102.01 of the Revised Code who is required to file a statement under section 102.02 of the Revised Code, employed by the applicant or the licensee in a supervisory capacity or empowered to make discretionary decisions with respect to the solid waste, infectious waste, or hazardous waste operations of the business concern, but does not include any employee exclusively engaged in the physical or mechanical collection, transfer, transportation, treatment, storage, or disposal of solid wastes, infectious wastes, or hazardous waste or processing of solid wastes that consist of scrap tires. If the applicant or permittee has entered into a contract with another person to operate the facility that is the subject of the permit or license or application for a permit or license, "key employee" also includes those employees of the contractor who act in a supervisory capacity, or are empowered to make discretionary decisions, with respect to the operation of the solid, infectious, or hazardous waste facility. An officer or director of a business concern required to file a disclosure statement under section 3734.42 of the Revised Code who meets the definition of "key employee" shall be considered a key employee for purposes of the filing and disclosure requirements of sections 3734.42 to ~~3734.47~~ 3734.46 of the Revised Code.

(F) "License" means the annual license required by section

3734.05 of the Revised Code for an off-site solid waste disposal or transfer facility or an off-site infectious waste treatment facility.

(G) "Off-site facility" means a facility that is located off the premises where the solid wastes, infectious wastes, or hazardous waste is generated, but does not include any such facility that exclusively disposes of wastes that are generated from the combustion of coal, or from the combustion of primarily coal in combination with scrap tires, that is not combined in any way with garbage or any such facility that is owned and operated by the generator of the waste and that exclusively stores, processes, or disposes of or transfers solid wastes, exclusively treats infectious wastes, or exclusively disposes of hazardous waste, generated at one or more premises owned by the generator.

(H) "Permit" means a permit to install a new off-site solid waste disposal facility, including an incineration facility, or a new transfer facility issued under section 3734.05 of the Revised Code; a permit to install a new off-site solid waste facility that is a scrap tire storage, monocell, monofill, or recovery facility issued under section 3734.76, 3734.77, or 3734.78 of the Revised Code, as applicable; a permit to install a new off-site infectious waste treatment facility issued under section 3734.05 of the Revised Code; and a permit to install and operate a new off-site hazardous waste treatment, storage, or disposal facility issued under section 3734.05 of the Revised Code.

(I) "Permittee" means any person who has received a permit or license for an off-site facility.

Sec. 3734.42. (A)(1) Every applicant for a permit shall

file a disclosure statement, on a form developed by the attorney general, with the director of environmental protection and the attorney general at the same time the applicant files an application for the permit with the director.

(2) Any individual required to be listed in the disclosure statement shall be fingerprinted for identification and investigation purposes in accordance with procedures established by the attorney general. An individual required to be fingerprinted under this section shall not be required to be fingerprinted more than once under this section.

(3) The attorney general, within one hundred eighty days after receipt of the disclosure statement from an applicant for a permit, shall prepare and transmit to the director an investigative report on the applicant, based in part upon the disclosure statement, except that this deadline may be extended for a reasonable period of time, for good cause, by the director or the attorney general. In preparing this report, the attorney general may request and receive criminal history information from the federal bureau of investigation and any other law enforcement agency or organization. The attorney general may provide such confidentiality regarding the information received from a law enforcement agency as may be imposed by that agency as a condition for providing that information to the attorney general.

(4) The review of the application by the director shall include a review of the disclosure statement and investigative report.

(B) All applicants and permittees shall provide any assistance or information requested by the director or the attorney general and shall cooperate in any inquiry or

investigation conducted by the attorney general and any inquiry, investigation, or hearing conducted by the director. If, upon issuance of a formal request to answer any inquiry or produce information, evidence, or testimony, any applicant or permittee, any officer, director, or partner of any business concern, or any key employee of the applicant or permittee refuses to comply, the permit of the applicant or permittee may be denied or revoked by the director.

(C) The attorney general may charge and collect such fees from applicants and permittees as are necessary to cover the costs of administering and enforcing the investigative procedures authorized in sections 3734.41 to ~~3734.47~~ 3734.46 of the Revised Code. The attorney general shall transmit moneys collected under this division to the treasurer of state to be credited to the solid and hazardous waste background investigations fund, which is hereby created in the state treasury. Moneys in the fund shall be used solely for paying the attorney general's costs of administering and enforcing the investigative procedures authorized in sections 3734.41 to ~~3734.47~~ 3734.46 of the Revised Code.

(D) An appropriate applicant, a permittee, or a prospective owner shall submit to the attorney general, on a form provided by the attorney general, the following information within the periods specified:

(1) Information required to be included in the disclosure statement for any new officer, director, partner, or key employee, to be submitted within ninety days from the addition of the officer, director, partner, or key employee;

(2) Information required to be included in a disclosure statement regarding the addition of any new business concern to

be submitted within ninety days from the addition of the new business concern.

(E)(1) The attorney general shall enter in the database established under section 109.5721 of the Revised Code the name, the fingerprints, and other relevant information concerning each officer, director, partner, or key employee of an applicant, permittee, or prospective owner.

(2) For purposes of section 109.5721 of the Revised Code, annually on a date assigned by the attorney general, an applicant, permittee, or prospective owner shall provide the attorney general with a list of both of the following:

(a) Each officer, director, partner, or key employee of the applicant, permittee, or prospective owner and the person's address and social security number;

(b) Any officer, director, partner, or key employee of the applicant, permittee, or prospective owner who has left a position previously held with the applicant, permittee, or prospective owner during the previous one-year period and the person's social security number.

(3) Annually, the attorney general shall update the database established under section 109.5721 of the Revised Code to reflect the information provided by an applicant, permittee, or prospective owner under divisions (E)(2)(a) and (b) of this section.

(4) Notwithstanding division (C) of this section, the attorney general shall charge and collect fees from an applicant, permittee, or prospective owner that is required to submit information under this division in accordance with rules adopted under section 109.5721 of the Revised Code. The fees

shall not exceed fees that are charged to any other person who is charged fees for purposes of the database established under that section and who is not an officer, director, partner, or key employee of an applicant, permittee, or prospective owner under this section.

(F)(1) Every five years, the attorney general shall request from the federal bureau of investigation any information regarding a criminal conviction with respect to each officer, director, partner, or key employee of an applicant, permittee, or prospective owner. The attorney general may take any actions necessary for purposes of this division, including, as necessary, requesting the submission of any necessary documents authorizing the release of information.

(2) Every five years, an applicant, permittee, or prospective owner shall submit an affidavit listing all of the following regarding a business concern required to be listed in the applicant's, permittee's, or prospective owner's disclosure statement:

(a) Any administrative enforcement order issued to the business concern in connection with any violation of any federal or state environmental protection laws, rules, or regulations during the previous five-year period;

(b) Any civil action in which the business concern was determined to be liable or was the subject of injunctive relief or another type of civil relief in connection with any violation of any federal or state environmental protection laws, rules, or regulations during the previous five-year period;

(c) Any criminal conviction for a violation of any federal or state environmental protection laws, rules, or regulations

that has been committed knowingly or recklessly by the business concern during the previous five-year period.

(G) With respect to an applicant, permittee, or prospective owner, the attorney general shall notify the director of environmental protection of any crime ascertained under division (E) or (F) of this section that is a disqualifying offense under section 9.79 of the Revised Code. The attorney general shall provide the notification not later than thirty days after the crime was ascertained.

(H) The failure to provide information under this section may constitute the basis for the revocation of a permit or license, the denial of a permit or license application, the denial of a renewal of a permit or license, or the disapproval of a change in ownership as described in division (I) of this section. Prior to a denial, revocation, or disapproval, the director shall notify the applicant, permittee, or prospective owner of the director's intention to do so. The director shall give the applicant, permittee, or prospective owner fourteen days from the date of the notice to explain why the information was not provided. The director shall consider the explanation when determining whether to revoke the permit or license, deny the permit or license application or renewal, or disapprove the change in ownership.

Nothing in this section affects the rights of the director or the attorney general granted under sections 3734.40 to ~~3734.47~~ 3734.46 of the Revised Code to request information from a person at any other time.

(I)(1) Whenever there is a change in ownership of any operating off-site solid waste facility, any operating off-site infectious waste facility, or any operating off-site hazardous

waste facility, the prospective owner shall file a disclosure statement with the attorney general and the director at least one hundred eighty days prior to the proposed change in ownership. In addition, whenever there is a change in ownership of any operating on-site solid waste facility, any operating on-site infectious waste facility, or any operating on-site hazardous waste facility and the prospective owner intends to operate the facility as an off-site facility by accepting wastes other than wastes generated by the facility owner, the prospective owner shall file a disclosure statement with the attorney general and the director. The prospective owner shall file the disclosure statement at least one hundred eighty days prior to the proposed change in ownership.

Upon receipt of the disclosure statement, the attorney general shall prepare an investigative report and transmit it to the director. The director shall review the disclosure statement and investigative report to determine whether the statement or report contains information that if submitted with a permit application would require a denial of the permit pursuant to section 3734.44 of the Revised Code. If the director determines that the statement or report contains such information, the director shall disapprove the change in ownership.

(2) If the parties to a change in ownership decide to proceed with the change prior to the action of the director on the disclosure statement and investigative report, the parties shall include in all contracts or other documents reflecting the change in ownership language expressly making the change in ownership subject to the approval of the director and expressly negating the change if it is disapproved by the director pursuant to division (I)(1) of this section.

(3) As used in this section, "change in ownership" includes a change of the individuals or entities who own a solid waste facility, infectious waste facility, or hazardous waste facility. "Change in ownership" does not include a legal change in a business concern's name when its ownership otherwise remains the same. "Change in ownership" also does not include a personal name change of officers, directors, partners, or key employees contained in a disclosure statement.

Sec. 3734.43. (A) As used in this section, "documentary material" means the original or any copy of any writings, drawings, graphs, charts, photographs, phonorecords, and other data compilation from which intelligence, relevant to any investigation conducted to determine if any person is or has been engaged in a violation of this chapter, may be perceived with or without the use of detection devices.

(B) Whenever the attorney general has reasonable cause to believe that any individual or business concern may be in possession, custody, or control of any documentary material or may have knowledge of any fact relevant to any investigation of an applicant or permittee authorized in sections 3734.41 to ~~3734.47~~ 3734.46 of the Revised Code, the attorney general or ~~his~~the attorney general's designated representative may issue in writing and cause to be served upon any individual or business concern or the representative or agent of the individual or business concern an investigative demand requiring the individual or business concern to produce the documentary material for inspection and copying or reproduction, to answer under oath and in writing written interrogatories, or to appear and testify under oath before the attorney general or ~~his~~the attorney general's duly authorized representative, or requiring the individual or business concern to do any combination of

these three demands.

(C) Each investigative demand shall:

(1) Describe the conduct under investigation and state the provisions of law applicable thereto;

(2) If it is a demand for production of documentary material:

(a) Describe with reasonable particularity the documentary material to be produced;

(b) Prescribe a return date that will provide a reasonable period of time within which the material may be assembled and made available for inspection and copying or reproduction;

(c) Identify the custodian to whom the material shall be made available and the location at which the material is to be produced.

(3) If it is a demand for answers to written interrogatories:

(a) Identify the representative of the attorney general to whom such answers shall be made;

(b) Prescribe a date by which the answers shall be presented.

(4) If it is a demand for the giving of oral testimony:

(a) Prescribe a date, time, and place at which oral testimony will be taken;

(b) Identify the representative of the attorney general who will conduct the oral examination.

(D) No investigative demand shall:

(1) Contain any requirement that would be unreasonable if contained in a subpoena or subpoena duces tecum issued by a court in aid of a grand jury investigation;

(2) Except as provided in division (H) of this section, require any answers to written interrogatories, the giving of any oral testimony, or the production of any documentary material that would be privileged from disclosure if demanded by a subpoena or subpoena duces tecum issued by a court in aid of a grand jury investigation.

(E) Service of any investigative demand may be made and is complete by either of the following:

(1) Mailing a copy of the demand by certified mail addressed to the individual or business concern to be served at ~~his~~the individual's or ~~its~~business concern's principal office, place of business, or residence;

(2) Delivering a copy of the demand to the individual or business concern or the representative or agent of the individual or business concern.

(F) Any individual or business concern served with a demand under this section may be represented by counsel at the taking of that individual's or business concern's testimony.

(G) Except as otherwise provided in this section, the taking of oral testimony, answering of written interrogatories, and production of documentary material under this section shall in all respects follow the procedures established by the discovery provisions of the Rules of Civil Procedure.

(H)(1) Whenever an individual or business concern served with a demand under this section refuses on the basis of the individual's privilege against self-incrimination to provide any

oral testimony, to answer any written interrogatories, or to produce any documentary material, the attorney general or ~~his~~the attorney general's designated representative may file a written request with a court of common pleas, and the court, unless it finds that to do so would not further the administration of justice, shall compel that individual to provide the oral testimony, to answer the written interrogatories, or to produce the documentary material if all of the following apply:

(a) The attorney general or ~~his~~the attorney general's designated representative makes a written request to the court of common pleas to order the individual to provide oral testimony, to answer written interrogatories, or produce documentary material, notwithstanding ~~his~~the individual's claim of privilege;

(b) The written request is made to a court of common pleas in the county in which the individual resides, transacts business, or is otherwise found, except that if the individual transacts business in more than one county, the request shall be made in the county in which the individual maintains ~~his~~the individual's principal place of business;

(c) The court of common pleas informs the individual that by providing oral testimony, answering written interrogatories, or producing documentary material ~~he~~the individual will receive immunity under division (H)(2) of this section.

(2) If, but for division (H) of this section, the individual would have been privileged to withhold any oral testimony, answers to written interrogatories, or documentary material given in these proceedings and ~~he~~the individual complies with an order under division (H)(1) of this section compelling ~~him~~the individual to provide testimony, answers, or

material, that answer, testimony, or evidence or any evidence directly or indirectly derived therefrom may not be used against ~~him~~the individual in any prosecution for a crime or offense concerning which ~~he~~the individual gave the answer, testified, or produced evidence if the answer, testimony, or evidence is responsive to the question propounded.

(3) An individual granted immunity under division (H) of this section may be subjected to a criminal penalty for any violation of section 2921.11, 2921.12, or 2921.13 of the Revised Code, or for contempt committed in providing oral testimony, answers to written interrogatories, or documentary material in compliance with the order.

(I) Within twenty days after service of an investigative demand upon any individual or business concern under this section or at any time before the compliance date specified in the demand, whichever period is shorter, the individual or business concern may file in the court of common pleas in the county in which ~~he~~the individual or business concern resides, transacts business, or is otherwise found, and serve upon the attorney general, a request for an order of the court modifying or setting aside the demand, except that if the individual or business concern transacts business in more than one county, the request shall be filed in the county in which the individual or business concern maintains ~~his~~the individual's or business concern's principal place of business or in any other county that may be agreed upon by the individual or business concern and the attorney general or ~~his~~the attorney general's designated representative. If the court finds that the noncompliance was in bad faith or for the purpose of delay, it may order the individual or business concern to pay to the attorney general the reasonable expenses incurred in defending the investigative

demand, including attorneys' fees, and may invoke the sanctions provided by Civil Rule 37.

(J) No individual or business concern shall, with intent to avoid, evade, prevent, or obstruct compliance in whole or in part by any individual or business concern with any investigative demand made under this section, remove from any place, conceal, withhold, destroy, mutilate, alter, or by any other means falsify any documentary material that is the subject of any investigative demand served upon any individual or business concern.

(K) The attorney general is responsible for the custody, use, and necessary preservation of the documentary material made available pursuant to a demand and for its return as provided by this section.

(L) All documentary material, answers to written interrogatories, and transcripts of oral testimony that are provided pursuant to any investigative demand are compiled as if in reasonable anticipation of a civil or criminal action or proceeding and shall be confidential and not subject to disclosure. Unless otherwise ordered by a court of common pleas, no such documentary material, answers to written interrogatories, or transcripts of oral testimony shall be available for examination or copying by, nor shall the contents thereof be disclosed to, any individual other than an authorized representative of the attorney general without the consent of the individual or business concern that provided the material, answers, or testimony, except that the documentary material, answers to written interrogatories, or oral testimony may be used in any grand jury investigation or in the conduct of any case or other official proceeding involving the issuance of a

license or permit required under this chapter or involving an alleged violation of this chapter. Materials compiled pursuant to investigative procedures under this section are discoverable only to the extent authorized by the rules of any administrative or judicial tribunal in which any proceeding under this chapter is pending. No employee of the office of the attorney general shall purposely make available for examination or copying documentary material, answers to written interrogatories, or transcripts of oral testimony provided pursuant to an investigative demand, nor disclose the contents thereof, except as provided by this section.

(M) When copies of documentary material made available pursuant to an investigative demand are no longer required for use in a pending proceeding or, absent any pending proceeding, are no longer required in connection with the investigation for which they were demanded, or at the end of twenty-four months after the date when the material was made available, whichever is earlier, all copies of the material shall be returned unless a request to extend the period beyond twenty-four months has been filed in the court of common pleas in which a request for an order compelling compliance pursuant to division (H) of this section could be filed. This division does not require the return of any copies of the documentary material that have passed into the control of any court or grand jury.

(N) Notwithstanding any provision of the Revised Code, public officers and their deputies, assistants, clerks, subordinates, and employees shall render and furnish to the attorney general or ~~his~~the attorney general's designated representatives when so requested all information and assistance in their possession or within their power. The attorney general or ~~his~~the attorney general's authorized representatives shall

provide the same degree of confidentiality for any information received under this section as the public officer or employee from whom it is obtained is required by law to provide with respect to the information.

(O) When any request is filed in any court of common pleas under this section, the court shall have jurisdiction to hear and determine the matter presented. In any proceeding brought pursuant to this section, upon a showing by the attorney general that the information sought is potentially relevant to an investigation authorized herein, the court shall order the individual or business concern to provide the information requested by the attorney general.

(P) Nothing in this section impairs the authority of the attorney general to file any complaint alleging a violation of this chapter that is not described in the demand, nor prevents the use of any evidence obtained through this section or otherwise in such an action.

(Q) Nothing in this section impairs the authority of the attorney general or ~~his~~the attorney general's representatives to lay before any grand jury impaneled in this state any evidence obtained through this section or otherwise concerning any alleged violation of this chapter, to invoke the power of the courts to compel the production of any evidence before any such grand jury, to institute any proceeding for the enforcement of any order or process issued in execution of such power, or to punish disobedience of any such order or process by any person.

(R) Any judicial proceeding to challenge or enforce an investigative demand made by the attorney general against an individual or business concern who neither resides in nor transacts business in this state shall be initiated in the court

of common pleas of Franklin county.

Sec. 3734.57. (A) The following fees are hereby levied on the transfer or disposal of solid wastes in this state:

(1) Seventy-one cents per ton through June 30, 2028, eleven cents of the proceeds of which shall be deposited in the state treasury to the credit of the hazardous waste facility management fund created in section 3734.18 of the Revised Code and sixty cents of the proceeds of which shall be deposited in the state treasury to the credit of the hazardous waste clean-up fund created in section 3734.28 of the Revised Code;

(2) An additional ninety cents per ton through June 30, 2028, the proceeds of which shall be deposited in the state treasury to the credit of the waste management fund created in section 3734.061 of the Revised Code;

(3) An additional two dollars and eighty-one cents per ton through June 30, 2028, the proceeds of which shall be deposited in the state treasury to the credit of the environmental protection fund created in section 3745.015 of the Revised Code;

(4) An additional twenty-five cents per ton through June 30, 2028, the proceeds of which shall be deposited in the state treasury to the credit of the soil and water conservation district assistance fund created in section 940.15 of the Revised Code;

(5) An additional eight cents per ton through June 30, 2028, the proceeds of which shall be deposited in the state treasury to the credit of the national priority list remedial support fund created in section 3734.579 of the Revised Code.

In the case of solid wastes that are taken to a solid waste transfer facility located in this state prior to being

transported for disposal at a solid waste disposal facility located in this state or outside of this state, the fees levied under this division shall be collected by the owner or operator of the transfer facility as a trustee for the state. The amount of fees required to be collected under this division at such a transfer facility shall equal the total tonnage of solid wastes received at the facility multiplied by the fees levied under this division. In the case of solid wastes that are not taken to a solid waste transfer facility located in this state prior to being transported to a solid waste disposal facility, the fees shall be collected by the owner or operator of the solid waste disposal facility as a trustee for the state. The amount of fees required to be collected under this division at such a disposal facility shall equal the total tonnage of solid wastes received at the facility that was not previously taken to a solid waste transfer facility located in this state multiplied by the fees levied under this division. Fees levied under this division do not apply to materials separated from a mixed waste stream for recycling by a generator or materials removed from the solid waste stream through recycling, as "recycling" is defined in rules adopted under section 3734.02 of the Revised Code.

The owner or operator of a solid waste transfer facility or disposal facility, as applicable, shall prepare and file with the director of environmental protection each month a return indicating the total tonnage of solid wastes received at the facility during that month and the total amount of the fees required to be collected under this division during that month. In addition, the owner or operator of a solid waste disposal facility shall indicate on the return the total tonnage of solid wastes received from transfer facilities located in this state during that month for which the fees were required to be

collected by the transfer facilities. The monthly returns shall be filed on a form prescribed by the director. Not later than thirty days after the last day of the month to which a return applies, the owner or operator shall mail to the director the return for that month together with the fees required to be collected under this division during that month as indicated on the return or may submit the return and fees electronically in a manner approved by the director. If the return is filed and the amount of the fees due is paid in a timely manner as required in this division, the owner or operator may retain a discount of three-fourths of one per cent of the total amount of the fees that are required to be paid as indicated on the return.

The owner or operator may request an extension of not more than thirty days for filing the return and remitting the fees, provided that the owner or operator has submitted such a request in writing to the director together with a detailed description of why the extension is requested, the director has received the request not later than the day on which the return is required to be filed, and the director has approved the request. If the fees are not remitted within thirty days after the last day of the month to which the return applies or are not remitted by the last day of an extension approved by the director, the owner or operator shall not retain the three-fourths of one per cent discount and shall pay an additional ten per cent of the amount of the fees for each month that they are late. For purposes of calculating the late fee, the first month in which fees are late begins on the first day after the deadline has passed for timely submitting the return and fees, and one additional month shall be counted every thirty days thereafter.

The owner or operator of a solid waste facility may request a refund or credit of fees levied under this division

and remitted to the director that have not been paid to the owner or operator. Such a request shall be made only if the fees have not been collected by the owner or operator, have become a debt that has become worthless or uncollectable for a period of six months or more, and may be claimed as a deduction, including a deduction claimed if the owner or operator keeps accounts on an accrual basis, under the "Internal Revenue Code of 1954," 68A Stat. 50, 26 U.S.C. 166, as amended, and regulations adopted under it. Prior to making a request for a refund or credit, an owner or operator shall make reasonable efforts to collect the applicable fees. A request for a refund or credit shall not include any costs resulting from those efforts to collect unpaid fees.

A request for a refund or credit of fees shall be made in writing, on a form prescribed by the director, and shall be supported by evidence that may be required in rules adopted by the director under this chapter. After reviewing the request, and if the request and evidence submitted with the request indicate that a refund or credit is warranted, the director shall grant a refund to the owner or operator or shall permit a credit to be taken by the owner or operator on a subsequent monthly return submitted by the owner or operator. The amount of a refund or credit shall not exceed an amount that is equal to ninety days' worth of fees owed to an owner or operator by a particular debtor of the owner or operator. A refund or credit shall not be granted by the director to an owner or operator more than once in any twelve-month period for fees owed to the owner or operator by a particular debtor.

If, after receiving a refund or credit from the director, an owner or operator receives payment of all or part of the fees, the owner or operator shall remit the fees with the next

monthly return submitted to the director together with a written explanation of the reason for the submittal.

For purposes of computing the fees levied under this division or division (B) of this section, any solid waste transfer or disposal facility that does not use scales as a means of determining gate receipts shall use a conversion factor of three cubic yards per ton of solid waste or one cubic yard per ton for baled waste, as applicable.

The fees levied under this division and divisions (B) and (C) of this section are in addition to all other applicable fees and taxes and shall be paid by the customer or a political subdivision to the owner or operator of a solid waste transfer or disposal facility. In the alternative, the fees shall be paid by a customer or political subdivision to a transporter of waste who subsequently transfers the fees to the owner or operator of such a facility. The fees shall be paid notwithstanding the existence of any provision in a contract that the customer or a political subdivision may have with the owner or operator or with a transporter of waste to the facility that would not require or allow such payment regardless of whether the contract was entered prior to or after October 16, 2009. For those purposes, "customer" means a person who contracts with, or utilizes the solid waste services of, the owner or operator of a solid waste transfer or disposal facility or a transporter of solid waste to such a facility.

(B) For the purposes specified in division (G) of this section, the solid waste management policy committee of a county or joint solid waste management district may levy fees upon the following activities:

(1) The disposal at a solid waste disposal facility

located in the district of solid wastes generated within the district;

(2) The disposal at a solid waste disposal facility within the district of solid wastes generated outside the boundaries of the district, but inside this state;

(3) The disposal at a solid waste disposal facility within the district of solid wastes generated outside the boundaries of this state.

The solid waste management plan of the county or joint district approved under section 3734.521 or 3734.55 of the Revised Code and any amendments to it, or the resolution adopted under this division, as appropriate, shall establish the rates of the fees levied under divisions (B)(1), (2), and (3) of this section, if any, and shall specify whether the fees are levied on the basis of tons or cubic yards as the unit of measurement. A solid waste management district that levies fees under this division on the basis of cubic yards shall do so in accordance with division (A) of this section.

The fee levied under division (B)(1) of this section shall be not less than one dollar per ton nor more than two dollars per ton, the fee levied under division (B)(2) of this section shall be not less than two dollars per ton nor more than four dollars per ton, and the fee levied under division (B)(3) of this section shall be not more than the fee levied under division (B)(1) of this section.

Prior to the approval of the solid waste management plan of a district under section 3734.55 of the Revised Code, the solid waste management policy committee of a district may levy fees under this division by adopting a resolution establishing

the proposed amount of the fees. Upon adopting the resolution, the committee shall deliver a copy of the resolution to the board of county commissioners of each county forming the district and to the legislative authority of each municipal corporation and township under the jurisdiction of the district and shall prepare and publish the resolution and a notice of the time and location where a public hearing on the fees will be held. Upon adopting the resolution, the committee shall deliver written notice of the adoption of the resolution; of the amount of the proposed fees; and of the date, time, and location of the public hearing to the director and to the fifty industrial, commercial, or institutional generators of solid wastes within the district that generate the largest quantities of solid wastes, as determined by the committee, and to their local trade associations. The committee shall make good faith efforts to identify those generators within the district and their local trade associations, but the nonprovision of notice under this division to a particular generator or local trade association does not invalidate the proceedings under this division. The publication shall occur at least thirty days before the hearing. After the hearing, the committee may make such revisions to the proposed fees as it considers appropriate and thereafter, by resolution, shall adopt the revised fee schedule. Upon adopting the revised fee schedule, the committee shall deliver a copy of the resolution doing so to the board of county commissioners of each county forming the district and to the legislative authority of each municipal corporation and township under the jurisdiction of the district. Within sixty days after the delivery of a copy of the resolution adopting the proposed revised fees by the policy committee, each such board and legislative authority, by ordinance or resolution, shall approve or disapprove the revised fees and deliver a copy of the

ordinance or resolution to the committee. If any such board or legislative authority fails to adopt and deliver to the policy committee an ordinance or resolution approving or disapproving the revised fees within sixty days after the policy committee delivered its resolution adopting the proposed revised fees, it shall be conclusively presumed that the board or legislative authority has approved the proposed revised fees. The committee shall determine if the resolution has been ratified in the same manner in which it determines if a draft solid waste management plan has been ratified under division (B) of section 3734.55 of the Revised Code.

The committee may amend the schedule of fees levied pursuant to a resolution adopted and ratified under this division by adopting a resolution establishing the proposed amount of the amended fees. The committee may repeal the fees levied pursuant to such a resolution by adopting a resolution proposing to repeal them. Upon adopting such a resolution, the committee shall proceed to obtain ratification of the resolution in accordance with this division.

Not later than fourteen days after declaring the new fees to be ratified or the fees to be repealed under this division, the committee shall notify by certified mail the owner or operator of each solid waste disposal facility that is required to collect the fees of the ratification and the amount of the fees or of the repeal of the fees. Collection of any fees shall commence or collection of repealed fees shall cease on the first day of the second month following the month in which notification is sent to the owner or operator.

Fees levied under this division also may be established, amended, or repealed by a solid waste management policy

committee through the adoption of a new district solid waste management plan, the adoption of an amended plan, or the amendment of the plan or amended plan in accordance with sections 3734.55 and 3734.56 of the Revised Code or the adoption or amendment of a district plan in connection with a change in district composition under section 3734.521 of the Revised Code.

Not later than fourteen days after the director issues an order approving a district's solid waste management plan, amended plan, or amendment to a plan or amended plan that establishes, amends, or repeals a schedule of fees levied by the district, the committee shall notify by certified mail the owner or operator of each solid waste disposal facility that is required to collect the fees of the approval of the plan or amended plan, or the amendment to the plan, as appropriate, and the amount of the fees, if any. In the case of an initial or amended plan approved under section 3734.521 of the Revised Code in connection with a change in district composition, other than one involving the withdrawal of a county from a joint district, the committee, within fourteen days after the change takes effect pursuant to division (E) of that section, shall notify by certified mail the owner or operator of each solid waste disposal facility that is required to collect the fees that the change has taken effect and of the amount of the fees, if any. Collection of any fees shall commence or collection of repealed fees shall cease on the first day of the second month following the month in which notification is sent to the owner or operator.

If, in the case of a change in district composition involving the withdrawal of a county from a joint district, the director completes the actions required under section 3734.522 of the Revised Code, forty-five days or more before the

beginning of a calendar year, the policy committee of each of the districts resulting from the change that obtained the director's approval of an initial or amended plan in connection with the change, within fourteen days after the director's completion of the required actions, shall notify by certified mail the owner or operator of each solid waste disposal facility that is required to collect the district's fees that the change is to take effect on the first day of January immediately following the issuance of the notice and of the amount of the fees or amended fees levied under divisions (B)(1) to (3) of this section pursuant to the district's initial or amended plan as so approved or, if appropriate, the repeal of the district's fees by that initial or amended plan. Collection of any fees set forth in such a plan or amended plan shall commence on the first day of January immediately following the issuance of the notice. If such an initial or amended plan repeals a schedule of fees, collection of the fees shall cease on that first day of January.

If, in the case of a change in district composition involving the withdrawal of a county from a joint district, the director completes the actions required under section 3734.522 of the Revised Code, less than forty-five days before the beginning of a calendar year, the director, on behalf of each of the districts resulting from the change that obtained the director's approval of an initial or amended plan in connection with the change proceedings, shall notify by certified mail the owner or operator of each solid waste disposal facility that is required to collect the district's fees that the change is to take effect on the first day of January immediately following the mailing of the notice and of the amount of the fees or amended fees levied under divisions (B)(1) to (3) of this section pursuant to the district's initial or amended plan as so

approved or, if appropriate, the repeal of the district's fees by that initial or amended plan. Collection of any fees set forth in such a plan or amended plan shall commence on the first day of the second month following the month in which notification is sent to the owner or operator. If such an initial or amended plan repeals a schedule of fees, collection of the fees shall cease on the first day of the second month following the month in which notification is sent to the owner or operator.

If the schedule of fees that a solid waste management district is levying under divisions (B)(1) to (3) of this section is amended or repealed, the fees in effect immediately prior to the amendment or repeal shall continue to be collected until collection of the amended fees commences or collection of the repealed fees ceases, as applicable, as specified in this division. In the case of a change in district composition, money so received from the collection of the fees of the former districts shall be divided among the resulting districts in accordance with section 3734.522 of the Revised Code and the agreements entered into under division (B) of section 343.01 of the Revised Code to establish the former and resulting districts and any amendments to those agreements.

For the purposes of the provisions of division (B) of this section establishing the times when newly established or amended fees levied by a district are required to commence and the collection of fees that have been amended or repealed is required to cease, "fees" or "schedule of fees" includes, in addition to fees levied under divisions (B)(1) to (3) of this section, those levied under section 3734.573 or 3734.574 of the Revised Code.

(C) For the purposes of defraying the added costs to a municipal corporation or township of maintaining roads and other public facilities and of providing emergency and other public services, and compensating a municipal corporation or township for reductions in real property tax revenues due to reductions in real property valuations resulting from the location and operation of a solid waste disposal facility within the municipal corporation or township, a municipal corporation or township in which such a solid waste disposal facility is located may levy a fee of not more than twenty-five cents per ton on the disposal of solid wastes at a solid waste disposal facility located within the boundaries of the municipal corporation or township regardless of where the wastes were generated.

The legislative authority of a municipal corporation or township may levy fees under this division by enacting an ordinance or adopting a resolution establishing the amount of the fees. Upon so doing the legislative authority shall mail a certified copy of the ordinance or resolution to the board of county commissioners or directors of the county or joint solid waste management district in which the municipal corporation or township is located or, if a regional solid waste management authority has been formed under section 343.011 of the Revised Code, to the board of trustees of that regional authority, the owner or operator of each solid waste disposal facility in the municipal corporation or township that is required to collect the fee by the ordinance or resolution, and the director of environmental protection. Although the fees levied under this division are levied on the basis of tons as the unit of measurement, the legislative authority, in its ordinance or resolution levying the fees under this division, may direct that

the fees be levied on the basis of cubic yards as the unit of measurement based upon a conversion factor of three cubic yards per ton generally or one cubic yard per ton for baled wastes.

Not later than five days after enacting an ordinance or adopting a resolution under this division, the legislative authority shall so notify by certified mail the owner or operator of each solid waste disposal facility that is required to collect the fee. Collection of any fee levied on or after March 24, 1992, shall commence on the first day of the second month following the month in which notification is sent to the owner or operator.

(D)(1) The fees levied under divisions (A), (B), and (C) of this section do not apply to the disposal of solid wastes that:

(a) Are disposed of at a facility owned by the generator of the wastes when the solid waste facility exclusively disposes of solid wastes generated at one or more premises owned by the generator regardless of whether the facility is located on a premises where the wastes are generated;

(b) Are generated from the combustion of coal, or from the combustion of primarily coal, regardless of whether the disposal facility is located on the premises where the wastes are generated;

(c) Are asbestos or asbestos-containing materials or products disposed of at a construction and demolition debris facility that is licensed under Chapter 3714. of the Revised Code or at a solid waste facility that is licensed under this chapter.

(2) Except as provided in section 3734.571 of the Revised

Code, any fees levied under division (B)(1) of this section apply to solid wastes originating outside the boundaries of a county or joint district that are covered by an agreement for the joint use of solid waste facilities entered into under section 343.02 of the Revised Code by the board of county commissioners or board of directors of the county or joint district where the wastes are generated and disposed of.

(3) When solid wastes, other than solid wastes that consist of scrap tires, are burned in a disposal facility that is an incinerator or energy recovery facility, the fees levied under divisions (A), (B), and (C) of this section shall be levied upon the disposal of the fly ash and bottom ash remaining after burning of the solid wastes and shall be collected by the owner or operator of the sanitary landfill where the ash is disposed of.

(4) When solid wastes are delivered to a solid waste transfer facility, the fees levied under divisions (B) and (C) of this section shall be levied upon the disposal of solid wastes transported off the premises of the transfer facility for disposal and shall be collected by the owner or operator of the solid waste disposal facility where the wastes are disposed of.

(5) The fees levied under divisions (A), (B), and (C) of this section do not apply to sewage sludge that is generated by a waste water treatment facility holding a national pollutant discharge elimination system permit and that is disposed of through incineration, land application, or composting or at another resource recovery or disposal facility that is not a landfill.

(6) The fees levied under divisions (A), (B), and (C) of this section do not apply to solid wastes delivered to a solid

waste composting facility for processing. When any unprocessed solid waste or compost product is transported off the premises of a composting facility and disposed of at a landfill, the fees levied under divisions (A), (B), and (C) of this section shall be collected by the owner or operator of the landfill where the unprocessed waste or compost product is disposed of.

(7) When solid wastes that consist of scrap tires are processed at a scrap tire recovery facility, the fees levied under divisions (A), (B), and (C) of this section shall be levied upon the disposal of the fly ash and bottom ash or other solid wastes remaining after the processing of the scrap tires and shall be collected by the owner or operator of the solid waste disposal facility where the ash or other solid wastes are disposed of.

(8) The director of environmental protection may issue an order exempting from the fees levied under this section solid wastes, including, but not limited to, scrap tires, that are generated, transferred, or disposed of as a result of a contract providing for the expenditure of public funds entered into by the administrator or regional administrator of the United States environmental protection agency, the director of environmental protection, or the director of administrative services on behalf of the director of environmental protection for the purpose of remediating conditions at a hazardous waste facility, solid waste facility, or other location at which the administrator or regional administrator or the director of environmental protection has reason to believe that there is a substantial threat to public health or safety or the environment or that the conditions are causing or contributing to air or water pollution or soil contamination. An order issued by the director of environmental protection under division (D)(8) of this section

shall include a determination that the amount of the fees not received by a solid waste management district as a result of the order will not adversely impact the implementation and financing of the district's approved solid waste management plan and any approved amendments to the plan. Such an order is a final action of the director of environmental protection.

(E) The fees levied under divisions (B) and (C) of this section shall be collected by the owner or operator of the solid waste disposal facility where the wastes are disposed of as a trustee for the county or joint district and municipal corporation or township where the wastes are disposed of. Moneys from the fees levied under division (B) of this section shall be forwarded to the board of county commissioners or board of directors of the district in accordance with rules adopted under division (H) of this section. Moneys from the fees levied under division (C) of this section shall be forwarded to the treasurer or such other officer of the municipal corporation as, by virtue of the charter, has the duties of the treasurer or to the fiscal officer of the township, as appropriate, in accordance with those rules.

(F) Moneys received by the treasurer or other officer of the municipal corporation under division (E) of this section shall be paid into the general fund of the municipal corporation. Moneys received by the fiscal officer of the township under that division shall be paid into the general fund of the township. The treasurer or other officer of the municipal corporation or the township fiscal officer, as appropriate, shall maintain separate records of the moneys received from the fees levied under division (C) of this section.

(G) Moneys received by the board of county commissioners

or board of directors under division (E) of this section or section 3734.571, 3734.572, 3734.573, or 3734.574 of the Revised Code shall be paid to the county treasurer, or other official acting in a similar capacity under a county charter, in a county district or to the county treasurer or other official designated by the board of directors in a joint district and kept in a separate and distinct fund to the credit of the district. If a regional solid waste management authority has been formed under section 343.011 of the Revised Code, moneys received by the board of trustees of that regional authority under division (E) of this section shall be kept by the board in a separate and distinct fund to the credit of the district. Moneys in the special fund of the county or joint district arising from the fees levied under division (B) of this section and the fee levied under division (A) of section 3734.573 of the Revised Code shall be expended by the board of county commissioners or directors of the district in accordance with the district's solid waste management plan or amended plan approved under section 3734.521, 3734.55, or 3734.56 of the Revised Code exclusively for the following purposes:

(1) Preparation of the solid waste management plan of the district under section 3734.54 of the Revised Code, monitoring implementation of the plan, and conducting the periodic review and amendment of the plan required by section 3734.56 of the Revised Code by the solid waste management policy committee;

(2) Implementation of the approved solid waste management plan or amended plan of the district, including, without limitation, the development and implementation of solid waste recycling or reduction programs;

(3) Providing financial assistance to boards of health

within the district, if solid waste facilities are located within the district, for enforcement of this chapter and rules, orders, and terms and conditions of permits, licenses, and variances adopted or issued under it, other than the hazardous waste provisions of this chapter and rules adopted and orders and terms and conditions of permits issued under those provisions;

(4) Providing financial assistance to each county within the district to defray the added costs of maintaining roads and other public facilities and of providing emergency and other public services resulting from the location and operation of a solid waste facility within the county under the district's approved solid waste management plan or amended plan;

(5) Pursuant to contracts entered into with boards of health within the district, if solid waste facilities contained in the district's approved plan or amended plan are located within the district, for paying the costs incurred by those boards of health for collecting and analyzing samples from public or private water wells on lands adjacent to those facilities;

(6) Developing and implementing a program for the inspection of solid wastes generated outside the boundaries of this state that are disposed of at solid waste facilities included in the district's approved solid waste management plan or amended plan;

(7) Providing financial assistance to boards of health within the district for the enforcement of section 3734.03 of the Revised Code or to local law enforcement agencies having jurisdiction within the district for enforcing anti-littering laws and ordinances;

(8) Providing financial assistance to boards of health of health districts within the district that are on the approved list under section 3734.08 of the Revised Code to defray the costs to the health districts for the participation of their employees responsible for enforcement of the solid waste provisions of this chapter and rules adopted and orders and terms and conditions of permits, licenses, and variances issued under those provisions in the training and certification program as required by rules adopted under division (L) of section 3734.02 of the Revised Code;

(9) Providing financial assistance to individual municipal corporations and townships within the district to defray their added costs of maintaining roads and other public facilities and of providing emergency and other public services resulting from the location and operation within their boundaries of a composting, energy or resource recovery, incineration, or recycling facility that either is owned by the district or is furnishing solid waste management facility or recycling services to the district pursuant to a contract or agreement with the board of county commissioners or directors of the district;

(10) Payment of any expenses that are agreed to, awarded, or ordered to be paid under section 3734.35 of the Revised Code and of any administrative costs incurred pursuant to that section. In the case of a joint solid waste management district, if the board of county commissioners of one of the counties in the district is negotiating on behalf of affected communities, as defined in that section, in that county, the board shall obtain the approval of the board of directors of the district in order to expend moneys for administrative costs incurred.

(11) Providing financial assistance to individual

counties, boards of health, municipal corporations, and townships for the costs of mitigating impacts to public health, safety, and welfare of solid waste disposal or transfer facilities within the applicable political subdivision.

Prior to the approval of the district's solid waste management plan under section 3734.55 of the Revised Code, moneys in the special fund of the district arising from the fees shall be expended for those purposes in the manner prescribed by the solid waste management policy committee by resolution.

(H) The director shall adopt rules in accordance with Chapter 119. of the Revised Code prescribing procedures for collecting and forwarding the fees levied under divisions (B) and (C) of this section to the boards of county commissioners or directors of county or joint solid waste management districts and to the treasurers or other officers of municipal corporations and the fiscal officers of townships. The rules also shall prescribe the dates for forwarding the fees to the boards and officials ~~and may prescribe any other requirements the director considers necessary or appropriate to implement and administer divisions (A), (B), and (C) of this section~~.

Sec. 3734.574. (A)(1) A county or joint solid waste management district that is levying fees under division (B) of section 3734.57 of the Revised Code on October 29, 1993, pursuant to a resolution adopted under that division and former Section 25 of Am. Sub. S.B. 359 of the 119th general assembly, or one that is levying those fees pursuant to such a resolution and for which the director of environmental protection disapproves the initial solid waste management plan of the district under section 3734.55 of the Revised Code on or after October 29, 1993, may continue to levy those fees until the

district abolishes them under division (D) of this section, the director issues an order under division (F) of this section requiring the district to cease levying the fees, or the district obtains approval of its own plan under section 3734.521 or 3734.56 of the Revised Code and collection of the fees established in the approved plan commences in accordance with division (B) of section 3734.57 of the Revised Code.

(2) A county or joint solid waste management district that is levying fees under division (B) of section 3734.57 of the Revised Code or division (A) of section 3734.573 of the Revised Code under an initial or amended solid waste management plan approved under section 3734.521, 3734.55, or 3734.56 of the Revised Code when the director issues an order under division (D) of section 3734.521 of the Revised Code or division (A) or (B) of section 3734.56 of the Revised Code requiring the district to implement an amended plan prepared by the director, may continue to levy those fees until the district abolishes them under division (D) of this section, the director issues an order under division (F) of this section requiring the district to cease levying the fees, or the district obtains approval of its own plan or amended plan under section 3734.521 or 3734.56 of the Revised Code and collection of the fees established in the approved plan or amended plan commences in accordance with division (B) of section 3734.57 of the Revised Code.

(B) The solid waste management policy committee of a county or joint district described in division (A)(1) of this section may levy a fee under division (A) of section 3734.573 of the Revised Code by adopting and obtaining ratification of a resolution establishing the amount of the fee. The policy committee of such a district that, after December 1, 1993, concurrently proposes to levy a fee under division (A) of

section 3734.573 of the Revised Code and to amend the fees that the district is levying under division (B) of section 3734.57 of the Revised Code may adopt and obtain ratification of one resolution to do both. A county or joint district that is ordered under division (D) of section 3734.521 of the Revised Code to implement an initial plan prepared by the director may levy fees under division (B) of section 3734.57 of the Revised Code or division (A) of section 3734.573 of the Revised Code by adopting and obtaining ratification of a resolution specifying which of the fees are to be levied and their amounts. The requirements and procedures set forth in division (B) of section 3734.57 of the Revised Code governing the adoption of resolutions levying fees under that division, the ratification of those resolutions, and the notification of owners and operators of solid waste facilities required to collect fees under those divisions govern the adoption and ratification of resolutions levying fees under this division and the notification of owners and operators required to collect the fees levied under this division, except as otherwise specifically provided in division (C) of this section. Any such district may levy fees under this division until the district abolishes the fees under division (D) of this section, the director issues an order under division (F) of this section requiring the district to cease levying the fees, or the district obtains approval of its own plan or amended plan under section 3734.521 or 3734.56 of the Revised Code and collection of the fees established in the approved plan or amended plan commences in accordance with division (B) of section 3734.57 of the Revised Code.

(C) Any resolution adopted under division (B) of this section that proposes to levy a fee under division (A) of

section 3734.573 of the Revised Code that exceeds five dollars per ton shall be ratified in accordance with the provisions of division (B) of section 3734.57 of the Revised Code, except that such a resolution shall be approved by a combination of municipal corporations and townships with a combined population within the boundaries of the district comprising at least seventy-five per cent, rather than at least sixty per cent, of the total population of the district.

(D) The policy committee of a county or joint district may amend fees levied by the district under division (A) or (B) of this section by adopting and obtaining ratification of a resolution establishing the proposed amount of the amended fees. The committee may abolish any of those fees or any amended fees established under this division by adopting and obtaining ratification of a resolution repealing them. A district that is proposing at the same time to amend or abolish the fees levied under divisions (A) and (B) of this section may adopt one resolution proposing the amendment or repeal of all of the fees. The requirements and procedures under division (B) and, if applicable, division (C) of this section govern the adoption and ratification of a resolution authorized to be adopted under this division and the notification of owners and operators of solid waste facilities required to collect the fees. Collection of the fees so amended or abolished commences or ceases in accordance with division (B) of section 3734.57 of the Revised Code.

(E) Not later than thirty days before the beginning of each calendar quarter, the board of county commissioners or board of directors of a district that is levying fees under division (A) or (B) of this section shall submit to the director a proposed budget for the expenditure of moneys from the special fund of the district created under division (G) of section

3734.57 of the Revised Code. The proposed budget shall be submitted on a form prescribed by the director.

The director may disapprove in whole or in part such a proposed quarterly budget for any of the following reasons:

(1) The proposed budget includes expenditures for any purpose other than those authorized under division (G) of section 3734.57 of the Revised Code;

(2) The director reasonably estimates that there will be insufficient moneys in the special fund created to meet the proposed expenditures;

(3) The board failed to submit the proposed budget to the director at least thirty days prior to the beginning of the calendar quarter to which it pertains;

(4) The board failed to submit the latest report of quarterly expenditures from the fund that it was required to submit under section 3734.575 of the Revised Code within thirty days after the end of the calendar quarter to which it pertains;

(5) The district is materially failing to comply with the implementation schedule contained in the plan or amended plan of the district prepared and ordered to be implemented under section 3734.521, 3734.55, or 3734.56 of the Revised Code;

(6) There have been repeated inconsistencies between the expenditures projected in the proposed budgets submitted under division (E) of this section and actual expenditures from the fund.

If the director does not disapprove a proposed quarterly budget prior to the first day of the calendar quarter to which it pertains, it is conclusively presumed that the proposed

budget has not been disapproved.

Nothing in division (E) of this section precludes the board of county commissioners or directors of a district from making necessary expenditures to meet unforeseen circumstances that occur during a calendar quarter that were not provided for in the proposed budget for that quarter. Prior to making any such expenditure, the board shall notify the director of the nature of the unforeseen circumstances and of the amount of the expenditure needed to meet them. The board shall include an explanation of the nature of the unforeseen circumstances and of the necessity and amount of the expenditures to meet them in the quarterly expenditure report for the quarter in which the expenditures were made that is submitted to the director under section 3734.575 of the Revised Code.

(F) If the director finds that the board of county commissioners or directors of a district that is levying fees under division (A) or (B) of this section is in material and continued noncompliance with the implementation schedule contained in the plan or amended plan of the district prepared and ordered to be implemented under section 3734.521, 3734.55, or 3734.56 of the Revised Code, or if repeated whole or partial disapprovals of the proposed quarterly budgets of the district have occurred under division (E) of this section, the director may issue an order to the board terminating the collection of all of the fees levied by the district under division (A) or (B) of this section.

Notwithstanding section 119.06 of the Revised Code, the director may issue an order under this division or disapprove in whole or in part a proposed budget under division (E) of this section by issuance of a final action that is effective upon

issuance without the necessity to hold any adjudication hearing in connection with the order or disapproval and without the issuance of a proposed action under section 3745.07 of the Revised Code.

~~(G) The director, in accordance with Chapter 119. of the Revised Code, may adopt, amend, suspend, and rescind such rules as the director considers to be necessary or appropriate to implement or administer this section or division (D) of section 3734.55 of the Revised Code.~~

~~(H)~~ (G) Moneys received by a district levying fees under division (A) or (B) of this section shall be credited to the special fund of the district created in division (G) of section 3734.57 of the Revised Code and shall be used exclusively for the purposes set forth in division (G) of that section in the manner prescribed by the solid waste management policy committee of the district by resolution and for the purposes of section 3734.551 of the Revised Code.

Sec. 3734.74. The director of environmental protection, in accordance with Chapter 119. of the Revised Code, shall adopt and may amend or rescind rules ~~governing the transportation of scrap tires and the registration of persons engaged in the transportation of scrap tires. The rules shall~~ that do all of the following:

(A) Require that, before transporting scrap tires, a person shall register as a scrap tire transporter with the director;

(B) Require that, before being issued a registration certificate under section 3734.83 of the Revised Code, a transporter submit a surety bond, a letter of credit, or other

financial assurance acceptable to the director, as specified by the director in the rules, in an amount of not more than ten thousand dollars as the director considers necessary to cover the costs of cleanup of tires improperly accumulated or discarded by the transporter and to cover liability for sudden accidental occurrences that result in damage or injury to persons or property or to the environment;

~~(B)~~ (C) Establish a system of shipping papers to accompany shipments of scrap tires. The shipping paper for each shipment shall include at least all of the following information:

(1) The name and address of each transporter who transported the shipment of scrap tires;

(2) The number of the registration certificate issued under section 3734.83 of the Revised Code for each transporter who transported the shipment of scrap tires, the signature of the individual transporting the scrap tires for each transporter, and the date or dates on which they were transported;

(3) The quantity in weight or volume of the scrap tires being transported;

(4) The address of the scrap tire collection, storage, monocell, monofill, or recovery facility, or other premises, where the scrap tires were deposited, or of any other registered transporter with whom the scrap tires were deposited, and the signature of the individual accepting receipt of the scrap tires for the facility or other transporter.

The rules adopted under division (B) of this section shall require that the shipping papers be prepared on a form prescribed by the director and that all shipping papers be

retained by a registered transporter for not less than three years.

~~(C)~~ (D) Require that each registered transporter submit a report to the director not later than the thirty-first day of January of each year concerning all shipments of scrap tires transported by the transporter during the preceding calendar year. The report shall include at least the following information:

(1) The total quantity in weight or volume of scrap tires transported by the registered transporter;

(2) The total quantity in weight or volume of scrap tires transported to each collection, storage, monocell, monofill, or recovery facility, or other premises, or deposited with another registered transporter.

Sec. 3734.902. (A) The tax commissioner shall administer sections 3734.90 to 3734.9014 of the Revised Code~~ and may adopt such rules as he finds necessary for the administration and enforcement of the fee~~.

(B) The requirements, authorizations, procedures, limitations, and penalties set forth in Chapter 5703. of the Revised Code, except for those set forth in sections 5703.50 to 5703.54 of the Revised Code, apply to the administration, collection, payment, and enforcement of the fee levied under sections 3734.90 to 3734.9014 of the Revised Code in the same manner and with the same effect as in the case of the other laws that the department of taxation is required to administer and enforce.

(C) Sections 3734.10, 3734.101, and 3734.13 do not apply to the enforcement of sections 3734.90 to 3734.9014 of the

Revised Code~~ and rules adopted under division (A) of this section~~.

Sec. 3734.904. (A) By the twentieth day of each month, each person required to pay the fee imposed by section 3734.901 of the Revised Code shall file with the tax commissioner a return as prescribed by the tax commissioner and shall make payment of the full amount of the fee due for the preceding month. The return shall be signed by the person required to file it, or an authorized employee, officer, or agent. The return shall be deemed filed when received by the tax commissioner.

(B) Any person required by this section to file a return who fails to file such a return within the period prescribed may be required to pay an additional charge of fifty dollars or ten per cent of the fee required to be paid for the reporting period, whichever is greater. The commissioner may collect the additional charge by assessment pursuant to section 3734.907 of the Revised Code. The commissioner may remit all or a portion of the additional charge~~ and may adopt rules relating thereto~~.

(C) If any fee due is not paid timely in accordance with this section, the person liable for the fee shall pay interest, calculated at the rate per annum as prescribed by section 5703.47 of the Revised Code, from the date the fee payment was due to the date of payment or to the date an assessment is issued, whichever occurs first. Interest shall be paid in the same manner as the fee, and the commissioner may collect the interest by assessment pursuant to section 3734.907 of the Revised Code.

(D) If, in the estimation of the tax commissioner, the average liability of the person liable for the fee is such as not to merit monthly filing, the commissioner may authorize the

person to file and pay at less frequent intervals. Returns are due by the twentieth day of the month following the close of the applicable reporting period authorized under this division.

(E) All money collected by the tax commissioner under this section shall be paid to the treasurer of state as revenue arising from the fee imposed by section 3734.901 of the Revised Code.

Sec. 3734.99. (A) Except as otherwise provided in divisions (B), (C), (D), (E), (F), (G), and (H) of this section, whoever recklessly violates any section of this chapter, except section 3734.025, 3734.18, 3734.57, 3734.572, 3734.573, 3734.574, or 3734.60 of the Revised Code, recklessly violates section 3734.03 of the Revised Code with regard to scrap tires, or recklessly violates an order issued under division (B) of section 3734.13 of the Revised Code regarding a violation of the provisions of this chapter governing scrap tires, is guilty of a felony and shall be fined at least ten thousand dollars, but not more than twenty-five thousand dollars, or imprisoned for at least two years, but not more than four years, or both. Whoever violates section 3734.025, 3734.18, 3734.57, 3734.572, 3734.573, or 3734.574 of the Revised Code shall be fined not more than ten thousand dollars. Each day of violation constitutes a separate offense.

(B) Whoever violates division (G) of section 3734.05 of the Revised Code with respect to a report required pursuant to a plan approved under division (A) of section 3734.041 of the Revised Code or violates division (D) of section 3734.13 of the Revised Code with respect to an order issued pursuant to division (C) or (D) of section 3734.041 of the Revised Code is guilty of a felony and shall be fined at least ten thousand

dollars, but not more than twenty-five thousand dollars, or imprisoned for at least two years, but not more than four years, or both. Each day of violation constitutes a separate offense.

(C) Except as otherwise provided in division (G) or (H) of this section, upon a second or subsequent conviction of a violation of any section of this chapter, except section 3734.025, 3734.18, 3734.57, 3734.572, 3734.573, 3734.574, or 3734.60 or a rule adopted under division (B) of section 3734.122 of the Revised Code, the offender shall be fined at least twenty thousand dollars, but not more than fifty thousand dollars per day of violation, or imprisoned for at least two years, but not more than four years, or both.

(D) Whoever knowingly violates a rule adopted under division (B) of section 3734.122 of the Revised Code shall be fined not more than twenty-five thousand dollars for each day of violation, or imprisoned for not more than one year, or both.

(E) Except as otherwise provided in divisions (F) and (G) of this section, whoever recklessly violates division (B) of section 3734.029 of the Revised Code or any provision of this chapter governing scrap tires is guilty of a misdemeanor of the first degree.

(F) Whoever knowingly violates an order issued under division (A) of section 3734.13 regarding a violation of the provisions of this chapter governing scrap tires or division (B) of section 3734.029, division (B) or (C) of section 3734.75, division (B) or (C) of section 3734.76, division (B) or (C) of section 3734.77, division (B) or (C) of section 3734.78, section 3734.81, division (A) of section 3734.83, or a term or condition of a permit or license issued under section 3734.76, 3734.77, 3734.78, or 3734.81 of the Revised Code is guilty of a felony

and shall be fined at least ten thousand dollars, but not more than twenty-five thousand dollars, or imprisoned for at least two years, but not more than four years, or both. Each day of violation constitutes a separate offense.

(G) Upon a second or subsequent conviction of a violation of any provision of this chapter specified in division (E) or (F) of this section, the offender is guilty of a felony and shall be fined at least twenty thousand dollars, but not more than fifty thousand dollars per day of violation, or imprisoned for at least two years, but not more than four years, or both.

(H) Whoever knowingly violates any provision of section 3734.904, 3734.906, 3734.907, 3734.908, 3734.9011, 3734.9012, or 3734.9013 of the Revised Code~~, or any rule adopted by the tax commissioner under section 3734.902 or 3734.904 of the Revised Code,~~ is guilty of a misdemeanor of the first degree on a first offense; on each subsequent offense, the person is guilty of a felony of the fourth degree.

Sec. 3737.07. (A) As used in this section:

(1) "Authority having jurisdiction" means an organization, office, agency, or individual responsible for enforcing the requirements under this section.

(2) "NFPA 101" means the standards for life safety code published by the national fire protection association, which includes the NFPA 80 standards for fire doors and other opening protectives.

(3) "Protective door assembly" or "protective door assemblies" means any of the following:

(a) Doors with panic hardware or fire exit hardware;

(b) Door assemblies in exit enclosures;

(c) Electricity controlled egress doors;

(d) Door assemblies with special locking arrangements, such as delayed egress, sensor release egress doors, and elevator lobby doors.

(4) "Qualified inspector" means a person, who by possession of a recognized degree, certificate, professional standing, or skill, and who, by knowledge, training, and experience, has demonstrated the ability to deal with the subject matter, the work, or the project.

(5) "School building" means a structure used for the instruction of students by a school governing authority.

(6) "School governing authority" means any of the following:

(a) The board of education of a school district;

(b) The governing authority of a chartered nonpublic school;

(c) The governing authority of a community school established under Chapter 3314. of the Revised Code;

(d) The governing body of a STEM school established under Chapter 3328. of the Revised Code;

(e) The board of trustees of a college-preparatory boarding school established under Chapter 3328. of the Revised Code.

(B) Each school governing authority in this state shall do both of the following:

(1) Cause all protective door assemblies in school

buildings used by the school governing authority for instruction of students to be inspected and tested every twelve months in accordance with division (C) of this section;

(2) Verify that such protective door assemblies are in compliance with the following standards:

(a) If the protective door assembly was installed in 2015 or after, the 2015 NFPA 101, or other standards required by the board of building standards;

(b) If the protective door assembly was installed prior to 2015, the NFPA 101 that was in effect on the date the protective door assembly was installed or, if the protective door assembly was installed before the NFPA 101 was published and in effect, the building code standards in effect at the time of installation.

(C)(1) A school governing authority shall cause all of the protective door assemblies in school buildings used for the instruction of students to be inspected and tested every twelve months by a qualified inspector to confirm proper operation and full closure.

(2) If a protective door assembly is not in compliance with the applicable standards described in division (B)(2) of this section, then the school governing authority shall take all steps necessary to make the protective door assembly compliant.

(D) After the inspection of a protective door assembly in a school building, the qualified inspector shall provide a report to the school governing authority indicating any of the following:

(1) That the protective door assembly is in compliance with the applicable standards described in division (B)(2) of

this section and no further inspection is required respecting that protective door assembly for the next twelve months;

(2) That the protective door assembly is not in compliance with the applicable standards;

(3) That the protective door assembly is not in compliance with the applicable standards and there is a serious risk for fire or life safety hazard.

(E) Each school governing authority shall maintain records verifying annual inspections.

(F) If one or more protective door assemblies in a school building are not in compliance with the applicable standards described in division (B)(2) of this section, as indicated in a report under division (D)(2), (D)(3), (G)(2), or (G)(3) of this section, then the school governing authority shall do both of the following:

(1) Take all steps necessary to make each such protective door assembly compliant with the applicable standards;

(2) Cause another inspection of each such protective door assembly immediately after completing those steps.

(G) After each inspection of a protective door assembly in the school building under division (F)(2) of this section has been completed, the qualified inspector shall provide a report to the school governing authority indicating any of the following:

(1) That the protective door assembly is in compliance with the applicable standards described in division (B)(2) of this section and no further inspection is required respecting that protective door assembly for the next twelve months;

(2) That the protective door assembly is not in compliance with the applicable standards;

(3) That the protective door assembly is not in compliance with the applicable standards and there is a serious risk for fire or life safety hazard.

(H)(1) Beginning eighteen months after ~~the effective date of this section~~ October 24, 2024, the authority having jurisdiction shall annually cause an inspection of the records retained by each school governing authority under division (E) of this section. If a protective door assembly in a school building is not fully compliant with the applicable standards within eighteen months after a report issued under division (D)(2) of this section, or within one hundred eighty days after a report issued under division (D)(3) of this section, and the school governing authority is not actively taking steps to achieve compliance, then the authority having jurisdiction shall issue a citation pursuant to section 3737.42 of the Revised Code. Each protective door assembly that is not in compliance with the applicable standards, and which the respecting school governing authority is not actively taking steps to achieve compliance with those standards, is a separate violation and is subject to an additional citation.

(2) If a citation is issued under division (H)(1) of this section and section 3737.42 of the Revised Code, the school governing authority shall post the citation issued concerning the protective door assembly on a public web site managed by the school governing authority. The school governing authority may remove the citation posted under this division once the protective door assembly is made compliant with the applicable standards and an inspection confirms such compliance.

(I) No authority having jurisdiction shall do either of the following:

(1) Issue a citation pursuant to this section and section 3737.42 of the Revised Code to a school governing authority that is actively taking steps to reach compliance with the applicable standards, regardless of whether full compliance is reached for all protective door assemblies in the school building;

(2) Assess a civil penalty or any fine associated with a citation issued pursuant to this section.

(J) A qualified inspector that inspects more than one protective door assembly under division (D) or (G) of this section in the same school building may combine the results of such inspections into one report, so long as the report clearly indicates which protective door assemblies are in compliance with the applicable standards and which are not.

(K)(1) The fire marshal shall adopt rules, in accordance with Chapter 119. of the Revised Code, that ~~are necessary to implement the requirements of this section.~~

~~(2) The fire marshal shall work in conjunction with the board of building standards to implement such requirements.~~

~~(3) The rules shall~~ require that protective door assemblies are inspected in accordance with this section and that the protective door assemblies continue to meet the compliance standards required at the time of installation.

(2) The fire marshal shall work in conjunction with the board of building standards to implement this section.

~~(L)~~ (K) Notwithstanding any provision of this section, a temporary door-locking device in compliance with the rules

adopted by the fire marshal is not in conflict with this section.

~~(M)~~ (L) Any citation issued pursuant to this section may be appealed under section 3737.43 of the Revised Code.

Sec. 3737.17. (A) As used in this section, a "qualifying small government" means any of the following:

(1) A township that has a population of not more than five thousand or, regardless of its population, is located in a county that has a population of less than one hundred thousand;

(2) A municipal corporation that has a population of not more than seven thousand five hundred;

(3) A fire district, joint fire district, or fire and ambulance district that shares territory exclusively with townships or municipal corporations that meet the conditions of division (A)(1) or (2) of this section.

(B) The state fire marshal shall administer a small government fire department services revolving loan program under which the state fire marshal makes loans to qualifying small governments for the following purposes:

(1) To expedite purchases of major equipment for fire fighting, ambulance, emergency medical, or rescue services;

(2) To expedite projects for the construction or renovation of fire department buildings.

A loan for either purpose under the small government fire department services revolving loan program is not to carry interest, and is to be repaid within a term of not longer than twenty years. A qualifying small government is not eligible to receive a loan for a project or purchase under the program

unless the qualifying small government contributes to the project or purchase an amount equal to at least five per cent of the loan amount.

(C) A qualifying small government may apply to the state fire marshal for a loan under the small government fire department services revolving loan program. In its application, the qualifying small government shall explain how it qualifies for the loan, describe the project or purchase for which it is requesting a loan, state the amount of the loan it requests, and state the amount it is prepared to contribute to the project or purchase. The qualifying small government shall provide additional information to support its application for a loan under the program as requested by the state fire marshal.

~~(D) The state fire marshal, in accordance with Chapter 119. of the Revised Code, shall adopt rules for the administration of the small government fire department services revolving loan program.~~

~~(E)~~ (D) There is hereby created in the state treasury the small government fire department services revolving loan fund, into which shall be deposited repayments by qualifying small governments of loans authorized under this section. The fund also shall consist of appropriated money. Investment earnings on money in the fund shall be credited to the fund. The state fire marshal shall use the money credited to the fund to make loans to qualifying small governments as described in this section. The state fire marshal may loan money from repaid loans credited to the fund at any time to qualifying small governments in accordance with this section.

~~(F)~~ (E) If the director of commerce determines that the cash balance in the small government fire department services

revolving loan fund is insufficient to implement the program established under this section, the director may certify the amount needed, which cannot exceed the amount appropriated to the program for the biennium period for which the certification is made, to the director of budget and management. Upon certification, the director of budget and management may transfer from the state fire marshal's fund established in section 3737.71 of the Revised Code to the small government fire department services revolving loan fund any amount up to, but not exceeding, the amount certified by the director of commerce.

Sec. 3737.82. The fire marshal shall adopt a state fire code which shall consist of rules relating to all aspects of fire safety. The rules shall be the minimum standards for safeguarding life and property from fire and explosion, and the fire marshal may, in adopting these rules, incorporate by reference existing published standards as well as amendments thereto subsequently published by the same authority. The fire code shall ~~include, but not be limited to,~~ contain rules relating to the movable contents of any building, or class of buildings, the transportation, storage, location, and use of flammable or explosive materials, the procedures to be employed by persons in the event of fire, and the installation and location of fire protection equipment~~, and other similar matters~~. The fire code may contain rules applicable to particular classes of existing buildings or structures as the use and occupancy of such buildings or structures suggest are necessary. The fire marshal may amend, modify, or repeal any rule of the state fire code.

Sec. 3737.842. (A) The state fire marshal shall adopt rules that conform with technical bulletin 133, state of California bureau of home furnishings and thermal insulation,

establishing flammability testing procedures and flammability standards for seating furniture used in public occupancies ~~and rules he considers necessary for the administration and enforcement of this section~~. The rules shall not require any manufacturer of seating furniture to conduct such tests itself, but shall require that any seating furniture manufactured on or after ~~the effective date of this section~~April 10, 1993, for use in public occupancies in this state comply with the flammability standards, and may require the submission of authenticated research reports to the state fire marshal verifying that the seating furniture meets the flammability standards. The state fire marshal may inspect any testing of seating furniture conducted under rules adopted under this division as ~~he~~the fire marshal considers necessary.

(B) The manufacturer of any seating furniture sold in this state on or after ~~the effective date of this section~~April 10, 1993, for use in a public occupancy that conforms to the flammability standards adopted by rule under division (A) of this section shall attach a permanent label to the article, in plain view, stating the following:

"Notice

This article is manufactured for use in public occupancies and meets the flammability requirements of California bureau of home furnishings and thermal insulation technical bulletin 133. However, care should be exercised near open flame and with burning cigarettes."

The label shall be no less than two inches by three inches and the type shall be in all capital letters and no smaller than one-eighth inch in height.

(C) No person shall sell for use in a public occupancy or use in a public occupancy any seating furniture manufactured on or after ~~the effective date of this section~~April 10, 1993, that does not conform with the flammability standards adopted by rule under division (A) of this section or the labeling requirement in division (B) of this section.

(D) Whenever the state fire marshal, an assistant fire marshal, or a certified fire safety inspector has reason to believe a violation of division (C) of this section has occurred or is occurring, ~~he~~the fire marshal, assistant fire marshal, or certified fire safety inspector may seek enforcement of the prohibition contained in that division through use of the procedures established in sections 3737.41 to 3737.51 of the Revised Code.

Sec. 3737.88. (A)(1) The fire marshal shall have responsibility for implementation of the underground storage tank program and corrective action program for releases of petroleum from underground storage tanks established by the "Resource Conservation and Recovery Act of 1976," 90 Stat. 2795, 42 U.S.C.A. 6901, as amended. To implement the programs, the fire marshal may adopt, amend, and rescind such rules, conduct such inspections, require annual registration of underground storage tanks, issue such citations and orders to enforce those rules, enter into environmental covenants in accordance with sections 5301.80 to 5301.92 of the Revised Code, and perform such other duties, as are consistent with those programs. The fire marshal, by rule, may delegate the authority to conduct inspections of underground storage tanks to certified fire safety inspectors.

(2) In the place of any rules regarding release

containment and release detection for underground storage tanks adopted under division (A)(1) of this section, the fire marshal, by rule, shall designate areas as being sensitive for the protection of human health and the environment and adopt alternative rules regarding release containment and release detection methods for new and upgraded underground storage tank systems located in those areas. In designating such areas, the fire marshal shall take into consideration such factors as soil conditions, hydrogeology, water use, and the location of public and private water supplies. Not later than July 11, 1990, the fire marshal shall file the rules required under this division with the secretary of state, director of the legislative service commission, and joint committee on agency rule review in accordance with divisions (B) and (C) of section 119.03 of the Revised Code.

(3) Notwithstanding sections 3737.87 to 3737.89 of the Revised Code, a person who is not a responsible person, as determined by the fire marshal pursuant to this chapter, may conduct a voluntary action in accordance with Chapter 3746. of the Revised Code and rules adopted under it for either of the following:

(a) A class C release;

(b) A release, other than a class C release, that is subject to the rules adopted by the fire marshal under division (B) of section 3737.882 of the Revised Code pertaining to a corrective action, provided that both of the following apply:

(i) The voluntary action also addresses hazardous substances or petroleum that is not subject to the rules adopted under division (B) of section 3737.882 of the Revised Code pertaining to a corrective action.

(ii) The fire marshal has not issued an administrative order concerning the release or referred the release to the attorney general for enforcement.

The director of environmental protection, pursuant to section 3746.12 of the Revised Code, may issue a covenant not to sue to any person who properly completes a voluntary action with respect to any such release in accordance with Chapter 3746. of the Revised Code and rules adopted under it.

(B) Before adopting any rule under this section or section 3737.881 or 3737.882 of the Revised Code, the fire marshal shall file written notice of the proposed rule with the chairperson of the state fire council, and, within sixty days after notice is filed, the council may file responses to or comments on and may recommend alternative or supplementary rules to the fire marshal. At the end of the sixty-day period or upon the filing of responses, comments, or recommendations by the council, the fire marshal may adopt the rule filed with the council or any alternative or supplementary rule recommended by the council.

(C) The state fire council may recommend courses of action to be taken by the fire marshal in carrying out the fire marshal's duties under this section. The council shall file its recommendations in the office of the fire marshal, and, within sixty days after the recommendations are filed, the fire marshal shall file with the chairperson of the council comments on, and proposed action in response to, the recommendations.

(D) For the purpose of sections 3737.87 to 3737.89 of the Revised Code, the fire marshal shall adopt, and may amend and rescind, rules identifying or listing hazardous substances. The rules shall be consistent with and equivalent in scope, coverage, and content to regulations identifying or listing

hazardous substances adopted under the "Comprehensive Environmental Response, Compensation, and Liability Act of 1980," 94 Stat. 2779, 42 U.S.C.A. 9602, as amended, except that the fire marshal shall not identify or list as a hazardous substance any hazardous waste identified or listed in rules adopted under division (A) of section 3734.12 of the Revised Code.

(E) Except as provided in division (A)(3) of this section, the fire marshal shall have exclusive jurisdiction to regulate the storage, treatment, and disposal of petroleum contaminated soil generated from corrective actions undertaken in response to releases of petroleum from underground storage tank systems. ~~The fire marshal may adopt, amend, or rescind such rules as the fire marshal considers to be necessary or appropriate to regulate the storage, treatment, or disposal of petroleum contaminated soil so generated.~~

(F) The fire marshal shall adopt, amend, and rescind rules under sections 3737.88 to 3737.882 of the Revised Code in accordance with Chapter 119. of the Revised Code.

Sec. 3737.90. (A) There is hereby created the petroleum underground storage tank release compensation board consisting of the treasurer of state and the directors of commerce and environmental protection as members ex officio, or their designees, and nine members to be appointed by the governor with the advice and consent of the senate. No more than five of the appointed members shall be affiliated with the same political party. Of the appointed members, one shall represent the interests of petroleum refiners, one shall represent the interests of petroleum marketers, one shall represent the interests of retail petroleum dealers, one shall represent the

interests of local governments, one shall have experience in casualty and fire or pollution liability insurance, two shall represent the interests of businesses that own petroleum underground storage tanks and are not primarily engaged in the sale of petroleum, and two shall be professional engineers registered under Chapter 4733. of the Revised Code with experience in geology or environmental engineering who shall represent the interests of the public and shall not be associated with the petroleum industry.

Of the initial appointments to the board, three shall be for a term ending July 11, 1990, three shall be for a term ending July 11, 1991, and three shall be for a term ending July 11, 1992. Thereafter, terms of office shall be for three years, with each term ending on the same day of the same month as did the term that it succeeds. Each member shall hold office from the date of ~~his~~the member's appointment until the end of the term for which ~~he~~the member was appointed. Members may be reappointed. Vacancies shall be filled in the manner provided for original appointments. Any member appointed to fill a vacancy occurring prior to the expiration date of the term for which ~~his~~the member's predecessor was appointed shall hold office as a member for the remainder of that term. A member shall continue in office subsequent to the expiration date of ~~his~~the member's term until ~~his~~the member's successor takes office or until a period of sixty days has elapsed, whichever occurs first. Appointed members of the board shall be compensated on a per diem basis in accordance with division (J) of section 124.15 of the Revised Code for each day of actual attendance at meetings of the board. Members shall receive their actual and necessary expenses incurred in the performance of their duties as members of the board.

The petroleum underground storage tank release compensation board is a body both corporate and politic in this state, and the carrying out of its purposes and the exercise by it of the powers conferred by sections 3737.90 to 3737.98 of the Revised Code shall be held to be, and are hereby determined to be, essential governmental functions and public purposes of the state.

Each appointed member of the board shall give a surety bond to the state in the penal sum of not less than twenty-five thousand dollars as determined by the board. The ~~chairman~~chairperson of the board shall give a bond in the penal sum of not less than fifty thousand dollars as determined by the board. Each surety bond shall be conditioned upon the faithful performance of the duties of the office, be executed by a surety company authorized to transact business in this state, be approved by the governor, and be filed in the office of the secretary of state. The surety bonds shall be given at such time as is established by the board, provided that they shall be given prior to the issuance of any revenue bonds by the board under sections 3737.90 to 3737.948 of the Revised Code.

The board shall meet at least quarterly and shall hold such additional meetings as are necessary to implement and administer sections 3737.90 to 3737.98 of the Revised Code. Additional meetings may be called in accordance with rules adopted under this section. The board shall annually select from among its members a ~~chairman~~chairperson and a ~~vice-chairman~~vice-chairperson.

A majority of the members of the board constitutes a quorum for the transaction of any business of the board.

(B) The board may:

(1) In accordance with Chapter 119. of the Revised Code, adopt, amend, and rescind rules establishing procedures for calling special meetings of the board;

(2) In accordance with Chapter 119. of the Revised Code, adopt, amend, and rescind ~~such other rules as are necessary or appropriate to implement and administer sections 3737.90 to 3737.98 of the Revised Code, including, without limitation,~~ rules for the administration of the petroleum underground storage tank linked deposit program established under sections 3737.95 to 3737.98 of the Revised Code; rules establishing priorities for the payment of claims under section 3737.92 of the Revised Code on the petroleum underground storage tank financial assurance fund created in section 3737.91 of the Revised Code based upon a consideration of the date that a claim is originally filed and the threat posed to human health and the environment by the release to which the claim applies; and rules providing for the payment of any such claims in installments, when appropriate. The rules adopted under division (B)(2) of this section shall be consistent with section 9003 of the "Resource Conservation and Recovery Act of 1976," 98 Stat. 3279, 42 U.S.C.A. 6991b, as amended, and regulations adopted under it.

(3) Employ and fix the compensation of the director of the petroleum underground storage tank financial assurance fund and such other personnel as are necessary to implement and administer sections 3737.90 to 3737.98 of the Revised Code and rules adopted under them. The board may designate positions in the unclassified civil service for which it may employ persons who shall be eligible for membership in the public employees retirement system under Chapter 145. of the Revised Code and who shall not be subject to Chapter 4117. of the Revised Code.

(4) Enter into contracts or agreements for the purposes of sections 3737.90 to 3737.98 of the Revised Code, including, without limitation, a contract for administration of the petroleum underground storage tank financial assurance fund by an agent;

(5) Sue or be sued in its own name in actions arising out of any act or omission in connection with its business or affairs under sections 3737.90 to 3737.98 of the Revised Code;

(6) Issue revenue bonds payable solely from revenues as provided in sections 3737.94 to 3737.948 of the Revised Code for the purpose of funding the petroleum underground storage tank financial assurance fund to preserve jobs and employment opportunities in the state and to control water pollution and ensure the viability of ground water in the state by reimbursements to responsible persons for improving property damaged by releases of petroleum;

(7) Establish by rule the maximum percentage of the petroleum underground storage tank financial assurance fund that may be used to make petroleum underground storage tank linked deposits under sections 3737.95 to 3737.98 of the Revised Code.

(C) Section 9.86 of the Revised Code applies to the petroleum underground storage tank release compensation board and to any officer or employee of the board, as "officer" and "employee" are defined in section 109.36 of the Revised Code.

(D) The board, in the conduct of its functions and duties, is not subject to the regulation of the superintendent of insurance under Title XXXIX of the Revised Code nor any rules of the department of insurance adopted thereunder.

Sec. 3738.09. The director of health shall adopt rules

~~that are necessary~~ for the implementation of sections 3738.01 to 3738.08 of the Revised Code~~, including rules~~ that do all of the following:

(A) Establish a procedure for the PAMR board to follow in conducting pregnancy-associated death reviews;

(B) Specify the data and other relevant information the board must use when conducting pregnancy-associated death reviews;

(C) Establish guidelines for the board to follow to prevent an unauthorized dissemination of confidential information in violation of division (B) of section 3738.06 of the Revised Code.

The rules shall be adopted in accordance with Chapter 119. of the Revised Code.

Sec. 3739.11. The state fire marshal may conduct testing on cigarettes certified by a manufacturer pursuant to section 3739.07 of the Revised Code to determine whether the manufacturer complied with the requirements of this chapter. The state fire marshal shall conduct any such testing in accordance with division (B) of section 3739.03 of the Revised Code.

Whenever the state fire marshal or a designee of the state fire marshal discovers any cigarettes that do not include a mark as required under section 3739.06 of the Revised Code, or for which no certification has been filed in accordance with section 3739.07 of the Revised Code, the state fire marshal or the state fire marshal's designee may seize and take possession of such cigarettes and shall give such cigarettes to the tax commissioner, and such cigarettes thereupon shall be forfeited to the state. The tax commissioner shall order the destruction

of any cigarettes forfeited pursuant to this section, but prior to the destruction of any cigarette forfeited pursuant to this section, the true holder of the trademark rights in the cigarette brand shall be permitted to inspect the cigarette.

In addition to any other remedy provided by law, if the state fire marshal or attorney general determines that reasonable evidence exists that a violation of this chapter has occurred, the state fire marshal or attorney general may file an action in the court of common pleas in the county where the alleged violation occurred. The action may include a petition for preliminary or permanent injunctive relief against any manufacturer, importer, wholesale dealer, retail dealer, agent, or any other person or entity to enjoin such entity from selling, offering to sell, or affixing tax stamps to any cigarette that does not comply with the requirements of this chapter, or a claim to recover any costs or damages suffered by the state because a violation of this chapter occurred, including enforcement costs relating to the specific violation and attorney's fees. Each violation of this chapter ~~or the rules adopted pursuant to it~~ constitutes a separate civil violation for which the state fire marshal may obtain relief. Upon obtaining judgment for injunctive relief under this section, the state fire marshal shall provide a copy of the judgment to all wholesale dealers and agents to which the cigarette has been sold.

To enforce the requirements of this chapter, the state fire marshal may examine the books, papers, invoices, and other business records of any person in possession or control of, or occupying any premises where cigarettes are placed, stored, sold, or offered for sale, including the stock of cigarettes on the premises, if the state fire marshal reasonably suspects that

a violation of this chapter has occurred. Every person in the possession or control of, or occupying any premises where cigarettes are placed, sold, or offered for sale shall give to the state fire marshal the means, facilities, and opportunity for the examinations authorized under this section.

The tax commissioner, in the regular course of conducting inspections of wholesale dealers, agents, and retail dealers, as authorized under section 5743.14 of the Revised Code, may inspect any cigarette packaging to determine if the package is marked as required under section 3739.06 of the Revised Code. If a package containing cigarettes is not marked, the tax commissioner shall notify the state fire marshal of this fact.

Sec. 3739.13. The implementation and substance of the New York fire safety standards for cigarettes shall be persuasive authority in implementing this chapter. ~~The state fire marshal and attorney general may adopt rules, pursuant to Chapter 119. of the Revised Code, as necessary to administer this chapter. The tax commissioner may adopt rules, pursuant to division (M) of section 5703.05 of the Revised Code and section 5703.14 of the Revised Code, as necessary to enforce this chapter.~~

Sec. 3739.16. No person is required to comply with this chapter ~~or the rules adopted pursuant to it~~ if a federal reduced cigarette ignition propensity standard that preempts this chapter ~~or rules adopted under it~~ is adopted and becomes effective.

Sec. 3740.01. As used in this chapter:

(A) "Community-based long-term care provider" means a provider, as defined in section 173.39 of the Revised Code.

(B) "Community-based long-term care subcontractor" means a

subcontractor, as defined in section 173.38 of the Revised Code.

(C) "Criminal records check" has the same meaning as in section 109.572 of the Revised Code.

(D) "Direct care" means any of the following:

(1) Any service identified in divisions (G)(1) to (6) of this section that is provided in a patient's place of residence used as the patient's home;

(2) Any activity that requires the person performing the activity to be routinely alone with a patient or to routinely have access to a patient's personal property or financial documents regarding a patient;

(3) For each home health agency individually, any other routine service or activity that the chief administrator of the home health agency designates as direct care.

(E) "Disqualifying offense" means any of the offenses listed or described in divisions (A)(3)(a) to (e) of section 109.572 of the Revised Code.

(F) "Employee" means a person employed by a home health agency in a full-time, part-time, or temporary position that involves providing direct care to an individual and a person who works in such a position due to being referred to a home health agency by an employment service.

(G) "Home health agency" means a person or government entity, other than a nursing home, residential care facility, hospice care program, pediatric respite care program, pediatric transition care program, informal respite care provider, provider certified by the department of developmental disabilities under Chapter 5123. of the Revised Code,

residential facility licensed under section 5119.34 or 5123.19 of the Revised Code, shared living provider, or immediate family member, that has the primary function of providing any of the following services to a patient at a place of residence used as the patient's home:

(1) Skilled nursing care;

(2) Physical therapy;

(3) Occupational therapy;

(4) Speech-language pathology;

(5) Medical social services;

(6) Home health aide services.

(H) "Home health aide services" means any of the following services provided by an employee of a home health agency:

(1) Hands-on bathing or assistance with a tub bath or shower;

(2) Assistance with dressing, ambulation, and toileting;

(3) Catheter care but not insertion;

(4) Meal preparation and feeding.

(I) "Hospice care program," "pediatric respite care program," and "pediatric transition care program" have the same meanings as in section 3712.01 of the Revised Code.

(J) "Immediate family member" means a parent, stepparent, grandparent, legal guardian, grandchild, brother, sister, stepsibling, spouse, son, daughter, stepchild, aunt, uncle, mother-in-law, father-in-law, brother-in-law, sister-in-law, son-in-law, and daughter-in-law.

(K) "Medical social services" means services provided by a social worker under the direction of a patient's attending physician.

(L) "Minor drug possession offense" has the same meaning as in section 2925.01 of the Revised Code.

(M) "Nonagency provider" means a person who provides direct care to an individual on a self-employed basis and does not employ, directly or through contract, another person to provide the services. "Nonagency provider" does not include any of the following:

(1) A caregiver who is an immediate family member of the individual receiving direct care;

(2) A person who provides direct care to not more than two individuals who are not immediate family members of the care provider;

(3) A volunteer;

(4) A person who is certified under section 5104.12 of the Revised Code to provide publicly funded child care as an in-home aide;

(5) A person who provides privately funded child care;

(6) A caregiver who is certified by the department of developmental disabilities under Chapter 5123. of the Revised Code;

(7) A person who operates a residential facility licensed under section 5119.34 of the Revised Code;

(8) A person who provides self-directed services, as that term is defined in 42 U.S.C. 1396n(i)(1)(G)(iii)(II), including

a person who is certified by the department of aging or registered as a self-directed individual provider through an area agency on aging.

(N) "Nonmedical home health services" means any of the following:

(1) Any service identified in divisions (H)(1) to (4) of this section;

(2) Personal care services~~;~~

~~(3) Any other service the director of health designates as a nonmedical home health service in rules adopted under section 3740.10 of the Revised Code~~.

(O) "Nursing home," "residential care facility," and "skilled nursing care" have the same meanings as in section 3721.01 of the Revised Code.

(P) "Occupational therapy" has the same meaning as in section 4755.04 of the Revised Code.

(Q) "Personal care services" means any of the following provided to an individual in the individual's home or community:

(1) Hands-on assistance with activities of daily living and instrumental activities of daily living, when incidental to assistance with activities of daily living;

(2) Assistance managing the individual's home and handling personal affairs;

(3) Assistance with self-administration of medications;

(4) Homemaker services when incidental to any of the services identified in divisions (Q)(1) to (3) of this section or when essential to the health and welfare of the individual

specifically, not the individual's family;

(5) Respite services for the individual's caregiver;

(6) Errands completed outside of the presence of the individual if needed to maintain the individual's health and safety, including picking up prescriptions and groceries.

(R) "Physical therapy" has the same meaning as in section 4755.40 of the Revised Code.

(S) "Skilled home health services" means any ~~of the following:~~

~~(1) Any~~ service identified in divisions (G)(1) to (5) of this section~~;~~

~~(2) Any other service the director of health designates as a skilled home health service in rules adopted under section 3740.10 of the Revised Code~~.

(T) "Social worker" means a person licensed under Chapter 4757. of the Revised Code to practice as a social worker or independent social worker.

(U) "Speech-language pathology" has the same meaning as in section 4753.01 of the Revised Code.

(V) "Waiver agency" has the same meaning as in section 5164.342 of the Revised Code.

Sec. 3740.03. (A)(1) A home health agency or nonagency provider seeking to provide skilled home health services shall apply to the department of health for a skilled home health services license. The application shall include all of the following:

(a) Evidence that the agency or provider meets one of the

following:

(i) Is certified for participation in the medicare program;

(ii) Is accredited by the accreditation commission for health care, the community health accreditation partner, the joint commission, or another national accreditation organization approved by the United States centers for medicare and medicaid services ~~and recognized by the department pursuant to rules adopted under section 3740.10 of the Revised Code~~;

(iii) Is certified by the department of aging under section 173.391 of the Revised Code to provide community-based long-term care services;

(iv) Otherwise meets medicare conditions of participation, even though not certified for participation in the medicare program.

(b) Evidence that the applicant was providing direct care on or immediately prior to ~~the effective date of this section~~September 30, 2021, or if the applicant was not providing direct care immediately prior to ~~the effective date of this section~~September 30, 2021, a surety bond issued by a company licensed to do business in this state in the amount of fifty thousand dollars.

(c) An application fee in the amount of two hundred fifty dollars.

(2) An applicant applying on the basis of division (A)(1)(a)(iv) of this section shall provide documentation and comply with conditions as prescribed by rules adopted under section 3740.10 of the Revised Code.

(B)(1) Except as provided in division (B)(2) of this section, a home health agency or nonagency provider seeking to provide nonmedical home health services shall apply to the department of health for a nonmedical home health services license. Except as provided in division (B)(3) of this section, the application shall include all of the following:

(a) Fingerprint impressions of the primary owner of the home health agency or of the nonagency provider;

(b) Copies of any documents filed and recorded with the secretary of state;

(c) A notarized affidavit verifying the identity of the applicant;

(d) If the applicant is a home health agency, a copy of the agency's criminal records check policy;

(e) A statement identifying the days and hours of operation for the applicant;

(f) A description of the nonmedical home health services to be provided, and any policies and procedures related to those services, if applicable;

(g) Identification of the applicant's primary place of business and a description of the geographic area to be served;

(h) Evidence that the applicant was providing direct care on or immediately prior to ~~the effective date of this section~~September 30, 2021, or if the applicant was not providing direct care immediately prior to ~~the effective date of this section~~September 30, 2021, a surety bond issued by a company licensed to do business in this state in the amount of twenty thousand dollars;

(i) An application fee in the amount of two hundred fifty dollars.

(2) A home health agency or nonagency provider that holds a skilled home health services license issued under division (A) of this section may provide nonmedical home health services without obtaining a nonmedical home health services license.

(3) The director of health shall waive receipt of the items identified in divisions (B)(1)(a) to (g) of this section if the agency or provider submits evidence that the agency or provider is certified by the department of aging under section 173.391 of the Revised Code to provide community-based long-term care services.

(C) An applicant under this section shall use the application form prescribed by rules adopted under section 3740.10 of the Revised Code and comply with license procedures established by those rules.

Sec. 3740.10. (A) The director of health shall adopt rules ~~as the director considers necessary to implement this chapter, including rules~~ that do all of the following:

(1) Prescribe license application forms and procedures;

(2) Specify the documentation that must be provided and conditions that must be met by an applicant seeking a license on the basis of division (A)(1)(a)(iv) of section 3740.03 of the Revised Code;

(3) Prescribe license renewal application forms and procedures;

(4) Establish the reasons for which the department of health may take action under section 3740.07 of the Revised

Code;

(5) Processes for dispute resolution and appeals related to licensing disputes.

(B) All rules adopted under this section shall be adopted in accordance with Chapter 119. of the Revised Code. In addition, the rules shall be adopted in consultation with the director of aging and medicaid director.

Sec. 3740.11. (A) As used in this section, "applicant" means a person who is under final consideration for employment with a home health agency in a full-time, part-time, or temporary position that involves providing direct care to an individual or is referred to a home health agency by an employment service for such a position.

(B) No home health agency shall employ an applicant or continue to employ an employee in a position that involves providing direct care to an individual if any of the following apply:

(1) A review of the databases listed in division (D) of this section reveals any of the following:

(a) That the applicant or employee is included in one or more of the databases listed in divisions (D)(1) to (5) of this section;

(b) That there is in the state nurse aide registry established under section 3721.32 of the Revised Code a statement detailing findings by the director of health that the applicant or employee abused, neglected, or exploited a long-term care facility or residential care facility resident or misappropriated property of such a resident;

(c) That the applicant or employee is included in one or more of the databases, if any, specified in rules adopted under this section and the rules prohibit the home health agency from employing an applicant or continuing to employ an employee included in such a database in a position that involves providing direct care to an individual.

(2) After the applicant or employee is provided, pursuant to division (E)(2)(a) of this section, a copy of the form prescribed pursuant to division (C)(1) of section 109.572 of the Revised Code and the standard impression sheet prescribed pursuant to division (C)(2) of that section, the applicant or employee fails to complete the form or provide the applicant's or employee's fingerprint impressions on the standard impression sheet.

(3) Except as provided in rules adopted under this section, the applicant or employee is found by a criminal records check required by this section to have been convicted of, pleaded guilty to, or been found eligible for intervention in lieu of conviction for a disqualifying offense.

(C) Except as provided by division (F) of this section, the chief administrator of a home health agency shall inform each applicant of both of the following at the time of the applicant's initial application for employment or referral to the home health agency by an employment service for a position that involves providing direct care to an individual:

(1) That a review of the databases listed in division (D) of this section will be conducted to determine whether the home health agency is prohibited by division (B)(1) of this section from employing the applicant in the position;

(2) That, unless the database review reveals that the applicant may not be employed in the position, a criminal records check of the applicant will be conducted and the applicant is required to provide a set of the applicant's fingerprint impressions as part of the criminal records check.

(D) As a condition of employing any applicant in a position that involves providing direct care to an individual, the chief administrator of a home health agency shall conduct a database review of the applicant in accordance with rules adopted under this section. If rules adopted under this section so require, the chief administrator of a home health agency shall conduct a database review of an employee in accordance with the rules as a condition of continuing to employ the employee in a position that involves providing direct care to an individual. However, the chief administrator is not required to conduct a database review of an applicant or employee if division (F) of this section applies. A database review shall determine whether the applicant or employee is included in any of the following:

(1) The excluded parties list system that is maintained by the United States general services administration pursuant to subpart 9.4 of the federal acquisition regulation and available at the federal web site known as the system for award management;

(2) The list of excluded individuals and entities maintained by the office of inspector general in the United States department of health and human services pursuant to the "Social Security Act," sections 1128 and 1156, 42 U.S.C. 1320a-7 and 1320c-5;

(3) The registry of developmental disabilities employees

established under section 5123.52 of the Revised Code;

(4) The internet-based sex offender and child-victim offender database established under division ~~(A)(11)~~(A)(10) of section 2950.13 of the Revised Code;

(5) The internet-based database of inmates established under section 5120.66 of the Revised Code;

(6) The state nurse aide registry established under section 3721.32 of the Revised Code;

(7) Any other database, if any, specified in rules adopted under this section.

(E)(1) As a condition of employing any applicant in a position that involves providing direct care to an individual, the chief administrator of a home health agency shall request the superintendent of the bureau of criminal identification and investigation to conduct a criminal records check of the applicant. If rules adopted under this section so require, the chief administrator of a home health agency shall request the superintendent to conduct a criminal records check of an employee at times specified in the rules as a condition of continuing to employ the employee in a position that involves providing direct care to an individual. However, the chief administrator is not required to request the criminal records check of the applicant or the employee if division (F) of this section applies or the home health agency is prohibited by division (B)(1) of this section from employing the applicant or continuing to employ the employee in a position that involves providing direct care to an individual. If an applicant or employee for whom a criminal records check request is required by this section does not present proof of having been a resident

of this state for the five-year period immediately prior to the date upon which the criminal records check is requested or does not provide evidence that within that five-year period the superintendent has requested information about the applicant from the federal bureau of investigation in a criminal records check, the chief administrator shall request that the superintendent obtain information from the federal bureau of investigation as a part of the criminal records check. Even if an applicant or employee for whom a criminal records check request is required by this section presents proof that the applicant or employee has been a resident of this state for that five-year period, the chief administrator may request that the superintendent include information from the federal bureau of investigation in the criminal records check.

(2) The chief administrator shall do all of the following:

(a) Provide to each applicant and employee for whom a criminal records check request is required by this section a copy of the form prescribed pursuant to division (C)(1) of section 109.572 of the Revised Code and a standard impression sheet prescribed pursuant to division (C)(2) of that section;

(b) Obtain the completed form and standard impression sheet from each applicant and employee;

(c) Forward the completed form and standard impression sheet to the superintendent at the time the chief administrator requests the criminal records check.

(3) A home health agency shall pay to the bureau of criminal identification and investigation the fee prescribed pursuant to division (C)(3) of section 109.572 of the Revised Code for each criminal records check the agency requests under

this section. A home health agency may charge an applicant a fee not exceeding the amount the agency pays to the bureau under this section if both of the following apply:

(a) The home health agency notifies the applicant at the time of initial application for employment of the amount of the fee and that, unless the fee is paid, the applicant will not be considered for employment.

(b) The medicaid program does not reimburse the home health agency for the fee it pays to the bureau under this section.

(F) Divisions (C) to (E) of this section do not apply with regard to an applicant or employee if the applicant or employee is referred to a home health agency by an employment service that supplies full-time, part-time, or temporary staff for positions that involve providing direct care to an individual and both of the following apply:

(1) The chief administrator of the home health agency receives from the employment service confirmation that a review of the databases listed in division (D) of this section was conducted with regard to the applicant or employee.

(2) The chief administrator of the home health agency receives from the employment service, applicant, or employee a report of the results of a criminal records check of the applicant or employee that has been conducted by the superintendent within the one-year period immediately preceding the following:

(a) In the case of an applicant, the date of the applicant's referral by the employment service to the home health agency;

(b) In the case of an employee, the date by which the home health agency would otherwise have to request a criminal records check of the employee under division (E) of this section.

(G)(1) A home health agency may employ conditionally an applicant for whom a criminal records check request is required by this section before obtaining the results of the criminal records check if the agency is not prohibited by division (B) of this section from employing the applicant in a position that involves providing direct care to an individual and either of the following applies:

(a) The chief administrator of the home health agency requests the criminal records check in accordance with division (E) of this section not later than five business days after the applicant begins conditional employment.

(b) The applicant is referred to the home health agency by an employment service, the employment service or the applicant provides the chief administrator of the agency a letter that is on the letterhead of the employment service, the letter is dated and signed by a supervisor or another designated official of the employment service, and the letter states all of the following:

(i) That the employment service has requested the superintendent to conduct a criminal records check regarding the applicant;

(ii) That the requested criminal records check is to include a determination of whether the applicant has been convicted of, pleaded guilty to, or been found eligible for intervention in lieu of conviction for a disqualifying offense;

(iii) That the employment service has not received the results of the criminal records check as of the date set forth

on the letter;

(iv) That the employment service promptly will send a copy of the results of the criminal records check to the chief administrator of the home health agency when the employment service receives the results.

(2) If a home health agency employs an applicant conditionally pursuant to division (G)(1)(b) of this section, the employment service, on its receipt of the results of the criminal records check, promptly shall send a copy of the results to the chief administrator of the agency.

(3) A home health agency that employs an applicant conditionally pursuant to division (G)(1)(a) or (b) of this section shall terminate the applicant's employment if the results of the criminal records check, other than the results of any request for information from the federal bureau of investigation, are not obtained within the period ending sixty days after the date the request for the criminal records check is made. Regardless of when the results of the criminal records check are obtained, if the results indicate that the applicant has been convicted of, pleaded guilty to, or been found eligible for intervention in lieu of conviction for a disqualifying offense, the home health agency shall terminate the applicant's employment unless circumstances specified in rules adopted under this section that permit the agency to employ the applicant exist and the agency chooses to employ the applicant. Termination of employment under this division shall be considered just cause for discharge for purposes of division (D)(2) of section 4141.29 of the Revised Code if the applicant makes any attempt to deceive the home health agency about the applicant's criminal record.

(H) The report of any criminal records check conducted by the bureau of criminal identification and investigation in accordance with section 109.572 of the Revised Code and pursuant to a request made under this section is not a public record for the purposes of section 149.43 of the Revised Code and shall not be made available to any person other than the following:

(1) The applicant or employee who is the subject of the criminal records check or the applicant's or employee's representative;

(2) The home health agency requesting the criminal records check or its representative;

(3) The administrator of any other facility, agency, or program that provides direct care to individuals that is owned or operated by the same entity that owns or operates the home health agency that requested the criminal records check;

(4) The employment service that requested the criminal records check;

(5) The director of health and the staff of the department of health who monitor a home health agency's compliance with this section;

(6) The director of aging or the director's designee if either of the following apply:

(a) In the case of a criminal records check requested by a home health agency, the home health agency also is a community-based long-term care provider or community-based long-term care subcontractor;

(b) In the case of a criminal records check requested by an employment service, the employment service makes the request

for an applicant or employee the employment service refers to a home health agency that also is a community-based long-term care provider or community-based long-term care subcontractor.

(7) The medicaid director and the staff of the department of medicaid who are involved in the administration of the medicaid program if either of the following apply:

(a) In the case of a criminal records check requested by a home health agency, the home health agency also is a waiver agency;

(b) In the case of a criminal records check requested by an employment service, the employment service makes the request for an applicant or employee the employment service refers to a home health agency that also is a waiver agency.

(8) Any court, hearing officer, or other necessary individual involved in a case dealing with any of the following:

(a) A denial of employment of the applicant or employee;

(b) Employment or unemployment benefits of the applicant or employee;

(c) A civil or criminal action regarding the medicaid program.

(I) In a tort or other civil action for damages that is brought as the result of an injury, death, or loss to person or property caused by an applicant or employee who a home health agency employs in a position that involves providing direct care to an individual, all of the following shall apply:

(1) If the home health agency employed the applicant or employee in good faith and reasonable reliance on the report of a criminal records check requested under this section, the

agency shall not be found negligent solely because of its reliance on the report, even if the information in the report is determined later to have been incomplete or inaccurate.

(2) If the home health agency employed the applicant in good faith on a conditional basis pursuant to division (G) of this section, the agency shall not be found negligent solely because it employed the applicant prior to receiving the report of a criminal records check requested under this section.

(3) If the home health agency in good faith employed the applicant or employee according to the personal character standards established in rules adopted under this section, the agency shall not be found negligent solely because the applicant or employee had been convicted of, pleaded guilty to, or been found eligible for intervention in lieu of conviction for a disqualifying offense.

(J) The director of health shall adopt rules in accordance with Chapter 119. of the Revised Code to implement this section.

(1) The rules may do the following:

(a) Require employees to undergo database reviews and criminal records checks under this section;

(b) If the rules require employees to undergo database reviews and criminal records checks under this section, exempt one or more classes of employees from the requirements;

(c) For the purpose of division (D)(7) of this section, specify other databases that are to be checked as part of a database review conducted under this section.

(2) The rules shall specify all of the following:

(a) The procedures for conducting database reviews under

this section;

(b) If the rules require employees to undergo database reviews and criminal records checks under this section, the times at which the database reviews and criminal records checks are to be conducted;

(c) If the rules specify other databases to be checked as part of the database reviews, the circumstances under which a home health agency is prohibited from employing an applicant or continuing to employ an employee who is found by a database review to be included in one or more of those databases;

(d) Circumstances under which a home health agency may employ an applicant or employee who is found by a criminal records check required by this section to have been convicted of, pleaded guilty to, or been found eligible for intervention in lieu of conviction for a disqualifying offense but meets personal character standards.

Sec. 3742.03. The director of health shall adopt rules in accordance with Chapter 119. of the Revised Code ~~for the administration and enforcement of sections 3742.01 to 3742.19 and 3742.99 of the Revised Code. The rules shall~~ that specify all of the following:

(A) Procedures to be followed by a lead abatement contractor, lead abatement project designer, lead abatement worker, lead inspector, or lead risk assessor licensed under section 3742.05 of the Revised Code for undertaking lead abatement activities and procedures to be followed by a clearance technician, lead inspector, or lead risk assessor in performing a clearance examination;

(B)(1) Requirements for training and licensure, in

addition to those established under section 3742.08 of the Revised Code, to include levels of training and periodic refresher training for each class of worker, and to be used for licensure under section 3742.05 of the Revised Code. Except in the case of clearance technicians, these requirements shall include at least twenty-four classroom hours of training based on the Occupational Safety and Health Act training program for lead set forth in 29 C.F.R. 1926.62. For clearance technicians, the training requirements to obtain an initial license shall not exceed six hours and the requirements for refresher training shall not exceed two hours every four years. In establishing the training and licensure requirements, the director shall consider the core of information that is needed by all licensed persons, and establish the training requirements so that persons who would seek licenses in more than one area would not have to take duplicative course work.

(2) Persons certified by the American board of industrial hygiene as a certified industrial hygienist or as an industrial hygienist-in-training, and persons registered as an environmental health specialist or environmental health specialist in training under Chapter 3776. of the Revised Code, shall be exempt from any training requirements for initial licensure established under this chapter, but shall be required to take any examinations for licensure required under section 3742.05 of the Revised Code.

(C) Fees for licenses issued under section 3742.05 of the Revised Code and for their renewal;

(D) Procedures to be followed by lead inspectors, lead abatement contractors, environmental lead analytical laboratories, lead risk assessors, lead abatement project

designers, and lead abatement workers to prevent public exposure to lead hazards and ensure worker protection during lead abatement projects;

(E)(1) Record-keeping and reporting requirements for clinical laboratories, environmental lead analytical laboratories, lead inspectors, lead abatement contractors, lead risk assessors, lead abatement project designers, and lead abatement workers for lead abatement projects and record-keeping and reporting requirements for clinical laboratories, environmental lead analytical laboratories, and clearance technicians for clearance examinations;

(2) Record-keeping and reporting requirements regarding lead poisoning to be followed by physicians, certified nurse-midwives if authorized as described in section 4723.438 of the Revised Code, clinical nurse specialists, and certified nurse practitioners;

(3) Information that is required to be reported under rules based on divisions (E)(1) and (2) of this section and that is a medical record is not a public record under section 149.43 of the Revised Code and shall not be released, except in aggregate statistical form.

(F) Environmental sampling techniques for use in collecting samples of air, water, dust, paint, and other materials;

(G) Requirements for a respiratory protection plan prepared in accordance with section 3742.07 of the Revised Code;

(H) Requirements under which a manufacturer of encapsulants must demonstrate evidence of the safety and durability of its encapsulants by providing results of testing

from an independent laboratory indicating that the encapsulants meet the standards developed by the "E06.23.30 task group on encapsulants," which is the task group of the lead hazards associated with buildings subcommittee of the performance of buildings committee of the American society for testing and materials.

Sec. 3742.08. (A)(1) The director of health shall conduct, specify requirements by rule, or approve training programs for licensure of lead inspectors, lead abatement contractors, lead risk assessors, lead abatement project designers, lead abatement workers, and clearance technicians. In accordance with Chapter 119. of the Revised Code, the director shall adopt rules establishing ~~all~~ both of the following:

(a) A system for accreditation of training programs and the requirements for accreditation, including curriculum requirements, hour requirements, hands-on training requirements, trainee competency and proficiency requirements, and requirements for quality control;

(b) Fees for application for approval of a training program and for participating in any program conducted by the director~~;~~

~~(c) Any other requirements pertinent to the operation of a training program~~.

(2) Each applicant for approval of a training program shall submit a completed application to the director on a form the director shall prescribe and provide. The director shall issue evidence of approval to each applicant who meets the requirements of division (A)(1) of this section and the criteria for approval established by rule adopted under this section and

pays the fee.

(B) The director shall administer examinations for licensure under this chapter by conducting examinations, contracting pursuant to section 3701.044 of the Revised Code for another entity to conduct the examinations, or approving examinations. In accordance with Chapter 119. of the Revised Code, the director shall adopt rules specifying requirements for the administration of licensing examinations. The rules shall include requirements regarding the qualifications of examination administrators, fees to cover the cost of conducting the examinations, and any other requirements pertinent to the examinations.

If the director implements a system of approving examinations, the rules shall include procedures and criteria for approval and fees for the approval. Each applicant for approval shall submit a completed application to the director on a form the director shall prescribe and provide. The director shall issue evidence of approval to each applicant who meets the criteria for approval established in rules adopted under this division.

Sec. 3742.09. (A) Any person desiring approval from the director of health for an environmental lead analytical laboratory or a clinical laboratory to perform lead testing shall submit an application for approval to the director on forms that ~~he~~the director shall prescribe and provide.

(B) The director shall adopt rules in accordance with Chapter 119. of the Revised Code to establish ~~all~~ both of the following:

(1) Procedures and criteria for approval of clinical

laboratories and environmental lead analytical ~~laboratories~~laboratories, including lead testing requirements and the qualification of laboratory owners and personnel;

(2) Fees for application for approval of laboratories~~;~~

~~(3) Any other requirements pertinent to the operation of a clinical laboratory or an environmental lead analytical laboratory~~.

(C) The director shall issue the appropriate approval to any applicant who meets the requirements of division (A) of this section and rules adopted under division (B) of this section, pays the application fee, and demonstrates compliance with the record-keeping and reporting requirements established by rule adopted under section 3742.03 of the Revised Code.

(D) Each clinical laboratory approved under this section shall report to the director the presence, at levels established by rule adopted under section 3742.03 of the Revised Code, of lead, cadmium, mercury, or arsenic in a blood or urine specimen. The report shall be made on a form prescribed by the director.

Sec. 3742.50. (A) As used in this section:

(1) "Lead abatement costs" means costs incurred by a taxpayer for either of the following:

(a) A lead abatement specialist to conduct a lead risk assessment, a lead abatement project, or a clearance examination, provided the specialist is authorized under this chapter to conduct the respective task;

(b) Relocation costs incurred in the relocation of occupants of an eligible dwelling to achieve occupant protection, as described in 24 C.F.R. 35.1345(a).

"Lead abatement costs" do not include such costs for which the taxpayer is reimbursed or such costs the taxpayer deducts or excludes in computing the taxpayer's federal adjusted gross income for federal income tax purposes or Ohio adjusted gross income as determined under section 5747.01 of the Revised Code.

(2) "Eligible dwelling" means a residential unit constructed in this state before 1978.

(3) "Lead abatement specialist" means an individual who holds a valid license issued under section 3742.05 of the Revised Code.

(4) "Taxable year" and "taxpayer" have the same meanings as in section 5747.01 of the Revised Code.

(B) A taxpayer who incurs lead abatement costs on an eligible dwelling during a taxable year may apply to the director of health for a lead abatement tax credit certificate. The applicant shall list on the application the amount of lead abatement costs the applicant incurred for the eligible dwelling during the taxable year. The director, in consultation with the tax commissioner, shall prescribe the form of a lead abatement tax credit certificate, the manner by which an applicant shall apply for the certificate, and requirements for the submission of any record or other information an applicant must furnish with the application to verify the lead abatement costs.

(C)(1) Upon receipt of an application under division (B) of this section, the director of health shall verify all of the following:

(a) The residential unit that is the subject of the application is an eligible dwelling.

(b) The taxpayer incurred lead abatement costs during the

taxable year related to the eligible dwelling.

(c) The eligible dwelling has passed a clearance examination in accordance with standards prescribed in rules adopted by the director under section 3742.03 or 3742.45 of the Revised Code.

(2) After verifying the conditions described in division (C)(1) of this section, the director shall issue a lead abatement tax credit certificate to the applicant equal to the lesser of (a) the lead abatement costs incurred by the taxpayer on the eligible dwelling during the taxable year, (b) the amount of lead abatement costs listed on the application, or (c) forty thousand dollars, subject to the limitation in division (C)(3) of this section.

(3) The director may not issue more than three million dollars in lead abatement tax credit certificates in any fiscal year.

~~(D) The director of health, in consultation with the tax commissioner, may adopt rules in accordance with Chapter 119. of the Revised Code as necessary for the administration of this section.~~

Sec. 3743.08. (A) The state fire marshal may inspect the premises of a fireworks plant, and the inventory, wholesale sale, and retail sale records, of a licensed manufacturer of fireworks during the manufacturer's period of licensure to determine whether the manufacturer is in compliance with Chapter 3743. of the Revised Code and the rules adopted by the state fire marshal pursuant to section 3743.05 ~~or 3743.22~~ of the Revised Code.

(B) If the state fire marshal determines during an

inspection conducted pursuant to division (A) of this section that a manufacturer is not in compliance with Chapter 3743. of the Revised Code or the rules adopted by the state fire marshal pursuant to section 3743.05 ~~or 3743.22~~ of the Revised Code, the state fire marshal may take one or more of the following actions, whichever the state fire marshal considers appropriate under the circumstances:

(1) Order, in writing, the manufacturer to eliminate, correct, or otherwise remedy the nonconformities within a specified period of time;

(2) Order, in writing, the manufacturer to immediately cease its operations, if a fire or explosion hazard exists that reasonably can be regarded as posing an imminent danger of death or serious physical harm to persons. The order shall be effective until the nonconformities are eliminated, corrected, or otherwise remedied or for a period of seventy-two hours from the time of issuance, whichever first occurs. During the seventy-two hour period, the state fire marshal may obtain from the court of common pleas of Franklin county or of the county in which the fireworks plant is located an injunction restraining the manufacturer from continuing its operations after the seventy-two hour period expires until the nonconformities are eliminated, corrected, or otherwise remedied.

(3) Suspend, revoke, or deny renewal of the license of the manufacturer in accordance with Chapter 119. of the Revised Code;

(4) Take action as authorized by section 3743.68 of the Revised Code.

(C) This section does not affect the authority conferred

by Chapters 3781. and 3791. of the Revised Code to conduct inspections to determine conformity with those chapters or the rules adopted pursuant to them.

(D) If the license of a manufacturer of fireworks is suspended or revoked or if renewal is denied pursuant to division (B)(3) of this section or section 3743.70 of the Revised Code, the manufacturer shall cease its operations immediately. The manufacturer may not reapply for licensure as a manufacturer of fireworks until two years expire from the date of revocation.

The state fire marshal shall remove from the list of licensed manufacturers the name of a manufacturer whose license has been revoked, and shall notify the law enforcement authorities for the political subdivision in which the manufacturer's fireworks plant is located, of the suspension, revocation, or denial of renewal.

Sec. 3743.21. (A) The state fire marshal may inspect the premises, and the inventory, wholesale sale, and retail sale records, of a licensed wholesaler of fireworks during the wholesaler's period of licensure to determine whether the wholesaler is in compliance with Chapter 3743. of the Revised Code and the rules adopted by the state fire marshal pursuant to section 3743.18 ~~or 3743.22~~ of the Revised Code.

(B) If the state fire marshal determines during an inspection conducted pursuant to division (A) of this section that a wholesaler is not in compliance with Chapter 3743. of the Revised Code or the rules adopted by the state fire marshal pursuant to section 3743.18 ~~or 3743.22~~ of the Revised Code, the state fire marshal may take one or more of the following actions, whichever the state fire marshal considers appropriate

under the circumstances:

(1) Order, in writing, the wholesaler to eliminate, correct, or otherwise remedy the nonconformities within a specified period of time;

(2) Order, in writing, the wholesaler to immediately cease its operations, if a fire or explosion hazard exists that reasonably can be regarded as posing an imminent danger of death or serious physical harm to persons. The order shall be effective until the nonconformities are eliminated, corrected, or otherwise remedied or for a period of seventy-two hours from the time of issuance, whichever first occurs. During the seventy-two hour period, the state fire marshal may obtain from the court of common pleas of Franklin county or of the county in which the premises of the wholesaler are located an injunction restraining the wholesaler from continuing its operations after the seventy-two hour period expires until the nonconformities are eliminated, corrected, or otherwise remedied.

(3) Suspend, revoke, or deny renewal of, the license of the wholesaler in accordance with Chapter 119. of the Revised Code;

(4) Take action as authorized by section 3743.68 of the Revised Code.

(C) This section does not affect the authority conferred by Chapters 3781. and 3791. of the Revised Code to conduct inspections to determine conformity with those chapters or the rules adopted pursuant to them.

(D) If the license of a wholesaler of fireworks is suspended or revoked or if renewal is denied pursuant to division (B)(3) of this section or section 3743.70 of the

Revised Code, the wholesaler shall cease its operations immediately. The wholesaler may not reapply for licensure as a wholesaler of fireworks until two years expire from the date of revocation.

The state fire marshal shall remove from the list of licensed wholesalers the name of a wholesaler whose license has been revoked, and shall notify the law enforcement authorities for the political subdivision in which the wholesaler's premises are located, of the suspension, revocation, or denial of renewal.

Sec. 3743.22. (A) As used in this section:

(1) "Fee period" means the period beginning on the first day of October and ending on the thirtieth day of the following September.

(2) "Gross receipts" excludes the amount of taxes a licensed retailer, licensed manufacturer, or licensed wholesaler collects from a consumer under Chapter 5739. of the Revised Code on behalf of the state or a political subdivision.

(B) For the purpose of providing revenue to fund firefighter training programs and the enforcement and regulation of the fireworks industry, a fee is imposed on licensed retailers, licensed manufacturers, and licensed wholesalers selling 1.4G fireworks in this state. The fee shall equal four per cent of the gross receipts of a licensed manufacturer or licensed wholesaler from retail sales of 1.4G fireworks in this state made one hundred or more days after ~~the effective date of this section~~ February 7, 2022. For the purpose of this section, a retail sale of 1.4G fireworks is made in this state only if the purchaser intends to use the fireworks, and not resell them,

and receives the 1.4G fireworks at a location in this state.

The fee shall be reported, on a form prescribed by the state fire marshal, and remitted to the state fire marshal on or before the twenty-third day after the last day of each fee period. The amount of the fee due shall be computed on the basis of gross receipts from retail sales made in each fee period. A licensed retailer, licensed manufacturer, or licensed wholesaler whose license is issued, canceled or revoked, or not renewed after expiration during a fee period shall report and remit the fee based on sales of 1.4G fireworks made in that fee period as required under this section. A licensed retailer, licensed manufacturer, or licensed wholesaler may separately or proportionately bill or invoice a fee imposed under this section to another person.

(C) All money collected under this section shall be credited to the fireworks fee receipts fund, which is hereby created in the state treasury. Seven-eighths of the money in the fund shall be used by the state fire marshal solely to fund firefighter training programs. Remaining money in the fund shall be used solely to pay expenses of the state fire marshal in performing the duties prescribed by this chapter.

(D) If the state fire marshal determines that a licensed retailer, licensed manufacturer, or licensed wholesaler fails to timely report and remit the full amount of the fee as required by this section, the state fire marshal may do either of the following:

(1) Order, in writing, the retailer, wholesaler, or manufacturer to report and remit to the state fire marshal, within a specified period of time, any such underpayment;

(2) Revoke or deny renewal of the license of the retailer, manufacturer, or wholesaler, which shall subject a manufacturer or wholesaler to the consequences prescribed in division (D) of section 3743.08 of the Revised Code or division (D) of section 3743.21 of the Revised Code.

~~(E) The state fire marshal may adopt rules in accordance with Chapter 119. of the Revised Code as necessary to administer and enforce the fee imposed under this section.~~

Sec. 3743.25. (A)(1) Except as described in division (A)(2) of this section and in section 3743.48 of the Revised Code, all retail sales of 1.4G fireworks by a licensed manufacturer or wholesaler shall only occur from an approved retail sales showroom on a licensed premises or from a representative sample showroom as described in this section on a licensed premises. For the purposes of this section, a retail sale includes the transfer of the possession of the 1.4G fireworks from the licensed manufacturer or wholesaler to the purchaser of the fireworks.

(2) Sales of 1.4G fireworks to a licensed exhibitor for a properly permitted exhibition shall occur in accordance with the provisions of the Revised Code and rules adopted by the state fire marshal under Chapter 119. of the Revised Code. Such rules shall specify, at a minimum, that the licensed exhibitor holds a license under section 3743.51 of the Revised Code, that the exhibitor possesses a valid exhibition permit issued in accordance with section 3743.54 of the Revised Code, and that the fireworks shipped are to be used at the specifically permitted exhibition.

(B) All wholesale sales of fireworks by a licensed manufacturer or wholesaler shall only occur from a licensed

premises to persons who intend to resell the fireworks purchased at wholesale. A wholesale sale by a licensed manufacturer or wholesaler may occur as follows:

(1) The direct sale and shipment of fireworks to a person outside of this state;

(2) From an approved retail sales showroom as described in this section;

(3) From a representative sample showroom as described in this section;

(4) By delivery of wholesale fireworks to a purchaser at a licensed premises outside of a structure or building on that premises. All other portions of the wholesale sales transaction may occur at any location on a licensed premises.

~~(5) Any other method as described in rules adopted by the state fire marshal under Chapter 119. of the Revised Code.~~

(C) Except as otherwise provided in section 3743.48 of the Revised Code, a licensed manufacturer or wholesaler shall only sell 1.4G fireworks from a representative sample showroom or a retail sales showroom. Each licensed premises shall only contain one sales structure.

A representative sample showroom shall consist of a structure constructed and maintained in accordance with the nonresidential building code adopted under Chapter 3781. of the Revised Code and the fire code adopted under section 3737.82 of the Revised Code for a use and occupancy group that permits mercantile sales. A representative sample showroom shall not contain any pyrotechnics, pyrotechnic materials, fireworks, explosives, explosive materials, or any similar hazardous materials or substances. A representative sample showroom shall

be used only for the public viewing of fireworks product representations, including paper materials, packaging materials, catalogs, photographs, or other similar product depictions. The delivery of product to a purchaser of fireworks at a licensed premises that has a representative sample structure shall not occur inside any structure on a licensed premises. Such product delivery shall occur on the licensed premises in a manner prescribed by rules adopted by the state fire marshal pursuant to Chapter 119. of the Revised Code.

If a manufacturer or wholesaler elects to conduct sales from a retail sales showroom, the showroom structures, to which the public may have any access and in which employees are required to work, on all licensed premises, shall comply with the following safety requirements:

(1) A fireworks showroom that is constructed or upon which expansion is undertaken on and after June 30, 1997, shall be equipped with interlinked fire detection, fire suppression, smoke exhaust, and smoke evacuation systems that are approved by the superintendent of industrial compliance in the department of commerce.

(2)(a) A fireworks showroom that first begins to operate on or after June 30, 1997, or that resumes operations at any time after a period of inactive status of licensure greater than one year, and to which the public has access for retail purposes shall not exceed seven thousand five hundred square feet in floor area.

(b) A fireworks showroom that, through construction of a new showroom, expansion of an existing showroom, or similar means, first exceeds five thousand square feet, to which the public has access for retail purposes, after February 7, 2022,

shall be equipped with a sprinkler system that meets the criteria for sprinkler systems in extra hazard (group 2) occupancies under "NFPA 13, Standard for the Installation of Sprinkler Systems (2019 Edition)."

(c) Notwithstanding division (D) of this section, the state fire marshal may provide a variance to the requirements of division (C)(2)(b) of this section pursuant to section 3743.59 of the Revised Code for a sprinkler system that matches or exceeds the degree of safety provided by a sprinkler system that meets the criteria for sprinkler systems in extra hazard (group 2) occupancies under "NFPA 13, Standard for the Installation of Sprinkler Systems (2019 Edition)."

(3) A newly constructed or an existing fireworks showroom structure that exists on September 23, 2008, but that, on or after September 23, 2008, is altered or added to in a manner requiring the submission of plans, drawings, specifications, or data pursuant to section 3791.04 of the Revised Code, shall comply with a graphic floor plan layout that is approved by the state fire marshal and superintendent showing width of aisles, parallel arrangement of aisles to exits, number of exits per wall, maximum occupancy load, evacuation plan for occupants, height of storage or display of merchandise, and other information as may be required by the state fire marshal and superintendent.

(4) A fireworks showroom structure that exists on June 30, 1997, shall be in compliance on or after June 30, 1997, with floor plans showing occupancy load limits and internal circulation and egress patterns that are approved by the state fire marshal and superintendent, and that are submitted under seal as required by section 3791.04 of the Revised Code.

(D) The safety requirements established in division (C) of this section are not subject to any variance, waiver, or exclusion pursuant to this chapter or any applicable building code.

Sec. 3743.48. (A) For the purposes of this section, "online sale" means a retail sale through an internet web site or other digital platform.

(B) A licensed manufacturer or licensed wholesaler may conduct online sales of 1.4G fireworks in accordance with this section. A licensed manufacturer or licensed wholesaler shall ensure that all selection, ordering, payment, and delivery is carried out in accordance with the procedures and requirements of this chapter and all rules adopted thereunder, except to the extent that those procedures, requirements, and rules directly conflict with this section.

(C) Each online sale of 1.4G fireworks shall be specifically associated with a single licensed manufacturer or licensed wholesaler, identified by license identification number and the address of the licensed premises. A licensed manufacturer or licensed wholesaler shall transfer possession of 1.4G fireworks purchased in an online sale only in the retail showroom of the licensed premises or via curbside delivery made in accordance with all of the following:

(1) The delivery is made to the verified purchaser of the 1.4G fireworks.

(2) The delivery occurs on the licensed premises associated with sale.

(3) The delivery occurs in a designated customer pick-up zone which may be accessible by motor vehicles.

(4) The purchaser is provided a safety pamphlet, in accordance with section 3743.47 of the Revised Code, at the point of delivery.

(5) The purchaser is offered safety glasses for a nominal fee at the point of delivery in accordance section 3743.47 of the Revised Code.

(D) A licensed manufacturer or licensed wholesaler may construct a tent or other temporary structure on a licensed premises to provide shelter for employees and purchasers at the point of curbside delivery, provided that such structures are approved by the state fire marshal and are in compliance with all state and local laws, including the state building code, the state fire code, and any applicable zoning requirements.

(E) A licensed manufacturer or licensed wholesaler shall not transfer possession of 1.4G fireworks purchased in an online sale to any person other than the verified purchaser. Before transferring possession, the licensed manufacturer or licensed wholesaler shall verify all of the following:

(1) The number and types of items included in the order;

(2) That the purchaser is at least eighteen years of age;

(3) That the purchaser's name is the same name associated with the credit or debit card with which the order was placed;

(4) That the purchaser attests to understanding and agrees to comply with all applicable federal, state, and local laws regarding consumer fireworks storage and use;

(5) That the purchaser signs all forms required by law;

(6) That the purchaser pays the fee imposed by section 3743.22 of the Revised Code.

(F) A licensed manufacturer or licensed wholesaler that conducts online sales of 1.4G fireworks shall do all of the following:

(1) Comply with all applicable state and local laws, including the state building code, state fire code, and zoning requirements;

(2) Implement reasonable traffic control measures for curbside deliveries;

(3) Maintain all regular fireworks sales records, including any records necessary to demonstrate compliance with this section, and make those records available upon request of the state fire marshal or any law enforcement officer, fire code official, or building code official with jurisdiction.

(G) A licensed manufacturer or licensed wholesaler shall not do any of the following:

(1) Deliver fireworks via mail order, parcel service, or any other delivery process that occurs outside of the licensed premises;

(2) Sell or offer for sale fireworks or other items outside of the licensed retail showroom except as expressly authorized by this section;

(3) Display fireworks for sale outside of a retail showroom;

(4) Permit any member of the public to access any areas on the licensed premises other than the retail showroom and the designated area for curbside delivery.

(H) Nothing in this section shall be construed to do any of the following:

(1) Reduce, waive, or otherwise eliminate any licensure or safety requirements in this chapter or the rules adopted thereunder;

(2) Exempt any retail sales of 1.4G fireworks from the fee imposed by section 3743.22 of the Revised Code;

(3) Reduce, waive, or otherwise eliminate any of a licensed manufacturer's or licensed wholesaler's liability, insurance, workers compensation, or other legal obligations.

(I)(1) A licensed wholesaler or licensed manufacturer is not required to conduct online sales of fireworks.

(2) A licensed wholesaler or licensed manufacturer may implement a hybrid firework purchase and delivery system composed of one or more of the following:

(a) Standard retail showroom sales;

(b) Online selection of, or payment for, 1.4G fireworks products and in-store showroom delivery of those products;

(c) Online selection of, or payment for, 1.4G fireworks products and curb-side delivery of those products;

(d) Retail showroom-based product selection and payment, and curb-side delivery of those products;

(e) Other similar purchase and delivery systems approved in writing by the state fire marshal in accordance with division (J) of this section.

(J) A licensed wholesaler or licensed manufacturer may submit to the state fire marshal proposals for alternative 1.4G firework purchase and delivery systems that satisfy the requirements of this section. The state fire marshal shall

review each such proposal and, if the alternative firework purchase and delivery system satisfies the requirements of this section, may approve that firework purchase and delivery system for use by the licensed wholesaler or licensed manufacturer.

(K) This section does not apply to 1.3G fireworks or wholesale sales.

~~(L) The state fire marshal shall adopt rules and standards in accordance with Chapter 119. of the Revised Code as necessary to implement and enforce this section.~~

Sec. 3743.56. Each fireworks exhibitor licensed under section 3743.51 of the Revised Code shall register annually with the fire marshal all employees who assist the licensed exhibitor in conducting fireworks exhibitions. Once registered, such an employee may be employed by any other licensed fireworks exhibitor, without the need for that other licensed exhibitor to register the employee with the fire marshal. The fire marshal shall maintain a record of licensed exhibitors and registered employees and make it available, upon request, to any law enforcement agency.

The fire marshal shall adopt rules under Chapter 119. of the Revised Code that establish appropriate fees for the registration of employees of licensed exhibitors~~ and otherwise implement this section~~.

In addition to the annual registration of employees required by this section, a licensed exhibitor shall file an application to register a new employee, unless the new employee is already registered under this section, not later than seven days after the date on which the employee is hired.

Each applicant for registration under this section shall

provide fingerprint or similar identifying information to the fire marshal for the purposes of determining applicant compliance with section 3743.70 of the Revised Code. The fire marshal may adopt rules under Chapter 119. of the Revised Code specifying the method to be used by the applicant to provide the fingerprint or similar identifying information, fees to be assessed by the fire marshal to conduct such background checks, and the procedures to be used by the fire marshal to verify compliance with this section. Such rules may include provisions establishing the frequency that license renewal applicants must update background check information filed by the applicant with previous license applications and provisions describing alternative forms of background check information that may be accepted by the fire marshal to verify compliance with this section.

Sec. 3743.60. (A) No person shall manufacture fireworks in this state unless it is a licensed manufacturer of fireworks, and no person shall operate a fireworks plant in this state unless it has been issued a license as a manufacturer of fireworks for the particular fireworks plant.

(B) No person shall operate a fireworks plant in this state after its license as a manufacturer of fireworks for the particular fireworks plant has expired, is suspended, has been denied renewal, or has been revoked, unless a new license has been obtained or the suspension lifted.

(C) No licensed manufacturer of fireworks, during the effective period of its licensure, shall construct, locate, or relocate any buildings or other structures on the premises of its fireworks plant, make any structural change or renovation in any building or other structure on the premises of its fireworks

plant, or change the nature of its manufacturing of fireworks so as to include the processing of fireworks without first obtaining a written authorization from the state fire marshal pursuant to division (B) of section 3743.04 of the Revised Code.

(D) No licensed manufacturer of fireworks shall manufacture fireworks, possess fireworks for sale at wholesale or retail, or sell fireworks at wholesale or retail, in a manner not authorized by division (C) of section 3743.04 of the Revised Code.

(E) No licensed manufacturer of fireworks shall knowingly fail to comply with the rules adopted by the state fire marshal pursuant to ~~sections~~ section 3743.05 ~~and 3743.48~~ of the Revised Code or the requirements of sections 3743.06 and 3743.48 of the Revised Code.

(F) No licensed manufacturer of fireworks shall fail to maintain complete inventory, wholesale sale, and retail records as required by section 3743.07 of the Revised Code, or to permit inspection of these records or the premises of a fireworks plant pursuant to section 3743.08 of the Revised Code.

(G) No licensed manufacturer of fireworks shall fail to comply with an order of the state fire marshal issued pursuant to division (B)(1) of section 3743.08 of the Revised Code, within the specified period of time.

(H) No licensed manufacturer of fireworks shall fail to comply with an order of the state fire marshal issued pursuant to division (B)(2) of section 3743.08 of the Revised Code until the nonconformities are eliminated, corrected, or otherwise remedied or the seventy-two hour period specified in that division has expired, whichever first occurs.

(I) No person shall smoke or shall carry a pipe, cigarette, or cigar, or a match, lighter, other flame-producing item, or open flame on, or shall carry a concealed source of ignition into, the premises of a fireworks plant, except as smoking is authorized in specified lunchrooms or restrooms by a manufacturer pursuant to division (C) of section 3743.06 of the Revised Code.

(J) No person shall have possession or control of, or be under the influence of, any intoxicating liquor, beer, or controlled substance, while on the premises of a fireworks plant.

(K) No licensed manufacturer of fireworks shall negligently fail to furnish a safety pamphlet to a purchaser of 1.4G fireworks as required by division (A) of section 3743.47 of the Revised Code.

(L) No licensed manufacturer of fireworks shall negligently fail to have safety glasses available for sale as required by division (B) of section 3743.47 of the Revised Code.

Sec. 3743.61. (A) No person, except a licensed manufacturer of fireworks engaging in the wholesale sale of fireworks as authorized by division (C)(2) of section 3743.04 of the Revised Code, shall operate as a wholesaler of fireworks in this state unless it is a licensed wholesaler of fireworks, or shall operate as a wholesaler of fireworks at any location in this state unless it has been issued a license as a wholesaler of fireworks for the particular location.

(B) No person shall operate as a wholesaler of fireworks at a particular location in this state after its license as a wholesaler of fireworks for the particular location has expired,

is suspended, has been denied renewal, or has been revoked, unless a new license has been obtained or the suspension lifted.

(C) No licensed wholesaler of fireworks, during the effective period of its licensure, shall perform any construction, or make any structural change or renovation, on the premises on which the fireworks are sold without first obtaining a written authorization from the state fire marshal pursuant to division (B) of section 3743.17 of the Revised Code.

(D) No licensed wholesaler of fireworks shall possess fireworks for sale at wholesale or retail, or sell fireworks at wholesale or retail, in a manner not authorized by division (C) of section 3743.17 of the Revised Code.

(E) No licensed wholesaler of fireworks shall knowingly fail to comply with the rules adopted by the state fire marshal pursuant to ~~sections~~ section 3743.18 ~~and 3743.48~~ or the requirements of sections 3743.19 and 3743.48 of the Revised Code.

(F) No licensed wholesaler of fireworks shall fail to maintain complete inventory, wholesale sale, and retail records as required by section 3743.20 of the Revised Code, or to permit inspection of these records or the premises of the wholesaler pursuant to section 3743.21 of the Revised Code.

(G) No licensed wholesaler of fireworks shall fail to comply with an order of the state fire marshal issued pursuant to division (B)(1) of section 3743.21 of the Revised Code, within the specified period of time.

(H) No licensed wholesaler of fireworks shall fail to comply with an order of the state fire marshal issued pursuant to division (B)(2) of section 3743.21 of the Revised Code until

the nonconformities are eliminated, corrected, or otherwise remedied or the seventy-two hour period specified in that division has expired, whichever first occurs.

(I) No person shall smoke or shall carry a pipe, cigarette, or cigar, or a match, lighter, other flame-producing item, or open flame on, or shall carry a concealed source of ignition into, the premises of a wholesaler of fireworks, except as smoking is authorized in specified lunchrooms or restrooms by a wholesaler pursuant to division (D) of section 3743.19 of the Revised Code.

(J) No person shall have possession or control of, or be under the influence of, any intoxicating liquor, beer, or controlled substance, while on the premises of a wholesaler of fireworks.

(K) No licensed wholesaler of fireworks shall negligently fail to furnish a safety pamphlet to a purchaser of 1.4G fireworks as required by division (A) of section 3743.47 of the Revised Code.

(L) No licensed wholesaler of fireworks shall negligently fail to have safety glasses available for sale as required by division (B) of section 3743.47 of the Revised Code.

Sec. 3745.11. (A) Applicants for and holders of permits, licenses, variances, plan approvals, and certifications issued by the director of environmental protection pursuant to Chapters 3704., 3734., 6109., and 6111. of the Revised Code shall pay a fee to the environmental protection agency for each such issuance and each application for an issuance as provided by this section. No fee shall be charged for any issuance for which no application has been submitted to the director.

(B) Except as otherwise provided in division (C)(2) of this section, beginning July 1, 1994, each person who owns or operates an air contaminant source and who is required to apply for and obtain a Title V permit under section 3704.036 of the Revised Code shall pay an annual fee of five thousand dollars in addition to the fees set forth in this division. For the purposes of this division, total emissions of air contaminants may be calculated using engineering calculations, emissions factors, material balance calculations, or performance testing procedures, as authorized by the director.

The following fees shall be assessed on the total actual emissions from a source in tons per year of the regulated pollutants particulate matter, sulfur dioxide, nitrogen oxides, organic compounds, and lead:

(1) Fifteen dollars per ton on the total actual emissions of each such regulated pollutant during the period July through December 1993, to be collected no sooner than July 1, 1994;

(2) Twenty dollars per ton on the total actual emissions of each such regulated pollutant during calendar year 1994, to be collected no sooner than April 15, 1995;

(3) Twenty-five dollars per ton on the total actual emissions of each such regulated pollutant in calendar year 1995, and each subsequent calendar year, to be collected no sooner than the fifteenth day of April of the year next succeeding the calendar year in which the emissions occurred.

The fees levied under this division do not apply to that portion of the emissions of a regulated pollutant at a facility that exceed four thousand tons during a calendar year.

(C)(1) The fees assessed under division (B) of this

section are for the purpose of providing funding for the Title V permit program.

(2) The fees assessed under division (B) of this section do not apply to emissions from any electric generating unit designated as a Phase I unit under Title IV of the federal Clean Air Act prior to calendar year 2000. Those fees shall be assessed on the emissions from such a generating unit commencing in calendar year 2001 based upon the total actual emissions from the generating unit during calendar year 2000 and shall continue to be assessed each subsequent calendar year based on the total actual emissions from the generating unit during the preceding calendar year.

(3) The director shall issue invoices to owners or operators of air contaminant sources who are required to pay a fee assessed under division (B) or (D) of this section. Any such invoice shall be issued no sooner than the applicable date when the fee first may be collected in a year under the applicable division, shall identify the nature and amount of the fee assessed, and shall indicate that the fee is required to be paid within thirty days after the issuance of the invoice.

(D)(1) Except as provided in division (D)(2) of this section, beginning January 1, 2004, each person who owns or operates an air contaminant source; who is required to apply for a permit to operate pursuant to rules adopted under division ~~(G), or a variance pursuant to division (H),~~(F) of section 3704.03 of the Revised Code; and who is not required to apply for and obtain a Title V permit under section 3704.03 of the Revised Code shall pay a single fee based upon the sum of the actual annual emissions from the facility of the regulated pollutants particulate matter, sulfur dioxide, nitrogen oxides,

organic compounds, and lead in accordance with the following schedule:

	1	2
A	Total tons per year of regulated pollutants emitted	Annual fee per facility
B	More than 0, but less than 10	$100
C	10 or more, but less than 50	200
D	50 or more, but less than 100	300
E	100 or more	700

(2)(a) As used in division (D) of this section, "synthetic minor facility" means a facility for which one or more permits to install or permits to operate have been issued for the air contaminant sources at the facility that include terms and conditions that lower the facility's potential to emit air contaminants below the major source thresholds established in rules adopted under section 3704.036 of the Revised Code.

(b) Through June 30, 2028, each person who owns or operates a synthetic minor facility shall pay an annual fee of five thousand dollars in addition to a fee based on the sum of the actual annual emissions from the facility of particulate matter, sulfur dioxide, nitrogen dioxide, organic compounds, and lead in accordance with the following schedule:

	1	2
A	Combined total tons per year of all regulated pollutants emitted	Annual fee per facility
B	Less than 10	$255
C	10 or more, but less than 20	510
D	20 or more, but less than 30	1,005
E	30 or more, but less than 40	1,515
F	40 or more, but less than 50	2,010
G	50 or more, but less than 60	2,520
H	60 or more, but less than 70	3,015
I	70 or more, but less than 80	3,525
J	80 or more, but less than 90	4,020
K	90 or more, but less than 100	4,530
L	100 or more	5,025

(3) The fees assessed under division (D)(1) of this section shall be collected annually no sooner than the fifteenth day of April, commencing in 2005. The fees assessed under division (D)(2) of this section shall be collected no sooner than the fifteenth day of April, commencing in 2000. The fees assessed under division (D) of this section in a calendar year

shall be based upon the sum of the actual emissions of those regulated pollutants during the preceding calendar year. For the purpose of division (D) of this section, emissions of air contaminants may be calculated using engineering calculations, emission factors, material balance calculations, or performance testing procedures, as authorized by the director. The director, by rule, may require persons who are required to pay the fees assessed under division (D) of this section to pay those fees biennially rather than annually.

(E)(1) Consistent with the need to cover the reasonable costs of the Title V permit program, the director annually shall increase the fees assessed on emissions prescribed in division (B) of this section by the percentage, if any, by which the consumer price index for the most recent calendar year ending before the beginning of a year exceeds the consumer price index for calendar year 1989. Upon calculating an increase in fees authorized by division (E)(1) of this section, the director shall compile revised fee schedules for the purposes of division (B) of this section and shall make the revised schedules available to persons required to pay the fees assessed under that division and to the public.

(2) For the purposes of division (E)(1) of this section:

(a) The consumer price index for any year is the average of the consumer price index for all urban consumers published by the United States department of labor as of the close of the twelve-month period ending on the thirty-first day of August of that year.

(b) If the 1989 consumer price index is revised, the director shall use the revision of the consumer price index that is most consistent with that for calendar year 1989.

(F) Each person who is issued a permit to install pursuant to rules adopted under division ~~(F)~~ (E) of section 3704.03 of the Revised Code on or after July 1, 2003, shall pay the fees specified in the following schedules:

(1) Fuel-burning equipment (boilers, furnaces, or process heaters used in the process of burning fuel for the primary purpose of producing heat or power by indirect heat transfer)

	1	2
A	Input capacity (maximum) (million British thermal units per hour)	Permit to install
B	Greater than 0, but less than 10	$300
C	10 or more, but less than 100	600
D	100 or more, but less than 300	1,500
E	300 or more, but less than 500	3,375
F	500 or more, but less than 1000	5,625
G	1000 or more, but less than 5000	9,000
H	5000 or more	13,500

Units burning exclusively natural gas, number two fuel oil, or both shall be assessed a fee that is one-half the applicable amount shown in division (F)(1) of this section.

(2) Combustion turbines and stationary internal combustion engines designed to generate electricity

	1	2
A	Generating capacity (mega watts)	Permit to install
B	0 or more, but less than 10	$37.50
C	10 or more, but less than 25	225
D	25 or more, but less than 50	450
E	50 or more, but less than 100	750
F	100 or more, but less than 250	1,500
G	250 or more	3,000

(3) Incinerators

	1	2
A	Input capacity (pounds per hour)	Permit to install
B	0 to 100	$150
C	101 to 500	750
D	501 to 2000	1,500
E	2001 to 20,000	2,250
F	more than 20,000	5,625

(4)(a) Process

	1	2

A	Process weight rate (pounds per hour)	Permit to install
B	0 to 1000	$300
C	1001 to 5000	750
D	5001 to 10,000	1,125
E	10,001 to 50,000	1,500
F	more than 50,000	1,875

In any process where process weight rate cannot be ascertained, the minimum fee shall be assessed. A boiler, furnace, combustion turbine, stationary internal combustion engine, or process heater designed to provide direct heat or power to a process not designed to generate electricity shall be assessed a fee established in division (F)(4)(a) of this section. A combustion turbine or stationary internal combustion engine designed to generate electricity shall be assessed a fee established in division (F)(2) of this section.

(b) Notwithstanding division (F)(4)(a) of this section, any person issued a permit to install pursuant to rules adopted under division ~~(F)~~ (E) of section 3704.03 of the Revised Code shall pay the fees set forth in division (F)(4)(c) of this section for a process used in any of the following industries, as identified by the applicable two-digit, three-digit, or four-digit standard industrial classification code according to the Standard Industrial Classification Manual published by the United States office of management and budget in the executive office of the president, 1987, as revised:

Major group 10, metal mining;

Major group 12, coal mining;

Major group 14, mining and quarrying of nonmetallic minerals;

Industry group 204, grain mill products;

2873 Nitrogen fertilizers;

2874 Phosphatic fertilizers;

3281 Cut stone and stone products;

3295 Minerals and earth, ground or otherwise treated;

4221 Grain elevators (storage only);

5159 Farm related raw materials;

5261 Retail nurseries and lawn and garden supply stores.

(c) The fees set forth in the following schedule apply to the issuance of a permit to install pursuant to rules adopted under division ~~(F)~~ (E) of section 3704.03 of the Revised Code for a process identified in division (F)(4)(b) of this section:

	1	2
A	Process weight rate (pounds per hour)	Permit to install
B	0 to 10,000	$300
C	10,001 to 50,000	600
D	50,001 to 100,000	750
E	100,001 to 200,000	900
F	200,001 to 400,000	1,125

G	400,001 or more	1,350

(5) Storage tanks

	1	2
A	Gallons (maximum useful capacity)	Permit to install
B	0 to 20,000	$150
C	20,001 to 40,000	225
D	40,001 to 100,000	375
E	100,001 to 500,000	600
F	500,001 or greater	1,125

(6) Gasoline/fuel dispensing facilities

	1	2
A	For each gasoline/fuel dispensing facility (includes all units at the facility)	Permit to install $150

(7) Dry cleaning facilities

	1	2
A	For each dry cleaning facility (includes all units at the facility)	Permit to install $150

(8) Registration status

	1	2
A	For each source covered by registration status	Permit to install $112.50

(G) An owner or operator who is responsible for an asbestos demolition or renovation project pursuant to rules adopted under section 3704.03 of the Revised Code shall pay, upon submitting a notification pursuant to rules adopted under that section, the fees set forth in the following schedule:

	1	2
A	Action	Fee
B	Each notification	$75
C	Asbestos removal	$3/unit
D	Asbestos cleanup	$4/cubic yard

For purposes of this division, "unit" means any combination of linear feet or square feet equal to fifty.

(H) A person who is issued an extension of time for a permit to install an air contaminant source pursuant to rules adopted under division ~~(F)~~(E) of section 3704.03 of the Revised Code shall pay a fee equal to one-half the fee originally assessed for the permit to install under this section, except that the fee for such an extension shall not exceed two hundred dollars.

(I) A person who is issued a modification to a permit to

install an air contaminant source pursuant to rules adopted under section 3704.03 of the Revised Code shall pay a fee equal to one-half of the fee that would be assessed under this section to obtain a permit to install the source. The fee assessed by this division only applies to modifications that are initiated by the owner or operator of the source and shall not exceed two thousand dollars.

(J) Notwithstanding division (F) of this section, a person who applies for or obtains a permit to install pursuant to rules adopted under division ~~(F)~~(E) of section 3704.03 of the Revised Code after the date actual construction of the source began shall pay a fee for the permit to install that is equal to twice the fee that otherwise would be assessed under the applicable division unless the applicant received authorization to begin construction under division ~~(W)~~(U) of section 3704.03 of the Revised Code. This division only applies to sources for which actual construction of the source begins on or after July 1, 1993. The imposition or payment of the fee established in this division does not preclude the director from taking any administrative or judicial enforcement action under this chapter, Chapter 3704., 3714., 3734., or 6111. of the Revised Code, or a rule adopted under any of them, in connection with a violation of rules adopted under division ~~(F)~~(E) of section 3704.03 of the Revised Code.

As used in this division, "actual construction of the source" means the initiation of physical on-site construction activities in connection with improvements to the source that are permanent in nature, including, without limitation, the installation of building supports and foundations and the laying of underground pipework.

(K)(1) Money received under division (B) of this section shall be deposited in the state treasury to the credit of the Title V clean air fund created in section 3704.035 of the Revised Code. Annually, not more than fifty cents per ton of each fee assessed under division (B) of this section on actual emissions from a source and received by the environmental protection agency pursuant to that division may be transferred by the director using an interstate transfer voucher to the state treasury to the credit of the small business assistance fund created in section 3706.19 of the Revised Code. In addition, annually, the amount of money necessary for the operation of the office of ombudsperson as determined under division (B) of that section shall be transferred to the state treasury to the credit of the small business ombudsperson fund created by that section.

(2) Money received by the agency pursuant to divisions (D), (F), (G), (H), (I), and (J) of this section shall be deposited in the state treasury to the credit of the non-Title V clean air fund created in section 3704.035 of the Revised Code.

(L)(1) A person applying for a plan approval for a wastewater treatment works pursuant to section 6111.44, 6111.45, or 6111.46 of the Revised Code shall pay a nonrefundable fee of one hundred dollars plus sixty-five one-hundredths of one per cent of the estimated project cost through June 30, 2028, and a nonrefundable application fee of one hundred dollars plus two-tenths of one per cent of the estimated project cost on and after July 1, 2028, except that the total fee shall not exceed fifteen thousand dollars through June 30, 2028, and five thousand dollars on and after July 1, 2028. The fee shall be paid at the time the application is submitted.

(2) A person who has entered into an agreement with the director under section 6111.14 of the Revised Code shall pay an administrative service fee for each plan submitted under that section for approval that shall not exceed the minimum amount necessary to pay administrative costs directly attributable to processing plan approvals. The director annually shall calculate the fee and shall notify all persons who have entered into agreements under that section, or who have applied for agreements, of the amount of the fee.

(3)(a)(i) Not later than January 30, 2026, and January 30, 2027, a person holding an NPDES discharge permit issued pursuant to Chapter 6111. of the Revised Code with an average daily discharge flow of five thousand gallons or more shall pay a nonrefundable annual discharge fee. Any person who fails to pay the fee at that time shall pay an additional amount that equals ten per cent of the required annual discharge fee.

(ii) The billing year for the annual discharge fee established in division (L)(3)(a)(i) of this section shall consist of a twelve-month period beginning on the first day of January of the year preceding the date when the annual discharge fee is due. In the case of an existing source that permanently ceases to discharge during a billing year, the director shall reduce the annual discharge fee, including the surcharge applicable to certain industrial facilities pursuant to division (L)(3)(c) of this section, by one-twelfth for each full month during the billing year that the source was not discharging, but only if the person holding the NPDES discharge permit for the source notifies the director in writing, not later than the first day of October of the billing year, of the circumstances causing the cessation of discharge.

(iii) The annual discharge fee established in division (L)(3)(a)(i) of this section, except for the surcharge applicable to certain industrial facilities pursuant to division (L)(3)(c) of this section, shall be based upon the average daily discharge flow in gallons per day calculated using first day of May through thirty-first day of October flow data for the period two years prior to the date on which the fee is due. In the case of NPDES discharge permits for new sources, the fee shall be calculated using the average daily design flow of the facility until actual average daily discharge flow values are available for the time period specified in division (L)(3)(a)(iii) of this section. The annual discharge fee may be prorated for a new source as described in division (L)(3)(a)(ii) of this section.

(b)(i) An NPDES permit holder that is a public discharger shall pay the fee specified in the following schedule:

	1	2
A	Average daily discharge flow	Fee due by January 30, 2026, and January 30, 2027
B	5,000 to 49,999	$200
C	50,000 to 100,000	500
D	100,001 to 250,000	1,050
E	250,001 to 1,000,000	2,600
F	1,000,001 to 5,000,000	5,200
G	5,000,001 to 10,000,000	10,350

H	10,000,001 to 20,000,000	15,550
I	20,000,001 to 50,000,000	25,900
J	50,000,001 to 100,000,000	41,400
K	100,000,001 or more	62,100

(ii) Public dischargers owning or operating two or more publicly owned treatment works serving the same political subdivision, as "treatment works" is defined in section 6111.01 of the Revised Code, and that serve exclusively political subdivisions having a population of fewer than one hundred thousand persons shall pay an annual discharge fee under division (L)(3)(b)(i) of this section that is based on the combined average daily discharge flow of the treatment works.

(c)(i) An NPDES permit holder that is an industrial discharger, other than a coal mining operator identified by P in the third character of the permittee's NPDES permit number, shall pay the fee specified in the following schedule:

	1	2
A	Average daily discharge flow	Fee due by January 30, 2026, and January 30, 2027
B	5,000 to 49,999	$250
C	50,000 to 250,000	1,200
D	250,001 to 1,000,000	2,950
E	1,000,001 to 5,000,000	5,850

F	5,000,001 to 10,000,000	8,800
G	10,000,001 to 20,000,000	11,700
H	20,000,001 to 100,000,000	14,050
I	100,000,001 to 250,000,000	16,400
J	250,000,001 or more	18,700

(ii) In addition to the fee specified in the above schedule, an NPDES permit holder that is an industrial discharger classified as a major discharger during all or part of the annual discharge fee billing year specified in division (L)(3)(a)(ii) of this section shall pay a nonrefundable annual surcharge of seven thousand five hundred dollars not later than January 30, 2026, and not later than January 30, 2027. Any person who fails to pay the surcharge at that time shall pay an additional amount that equals ten per cent of the amount of the surcharge.

(d) Notwithstanding divisions (L)(3)(b) and (c) of this section, a public discharger, that is not a separate municipal storm sewer system, identified by I in the third character of the permittee's NPDES permit number and an industrial discharger identified by I, J, L, V, W, X, Y, or Z in the third character of the permittee's NPDES permit number shall pay a nonrefundable annual discharge fee of one hundred eighty dollars not later than January 30, 2026, and not later than January 30, 2027. Any person who fails to pay the fee at that time shall pay an additional amount that equals ten per cent of the required fee.

(4) Each person obtaining an NPDES permit for municipal storm water discharge shall pay a nonrefundable storm water

annual discharge fee of ten dollars per one-tenth of a square mile of area permitted. The fee shall not exceed ten thousand dollars and shall be payable on or before January 30, 2004, and the thirtieth day of January of each year thereafter. Any person who fails to pay the fee on the date specified in division (L)(4) of this section shall pay an additional amount per year equal to ten per cent of the annual fee that is unpaid.

(5) The director shall transmit all moneys collected under division (L) of this section to the treasurer of state for deposit into the state treasury to the credit of the surface water protection fund created in section 6111.038 of the Revised Code.

(6) As used in this section:

(a) "NPDES" means the federally approved national pollutant discharge elimination system individual and general program for issuing, modifying, revoking, reissuing, terminating, monitoring, and enforcing permits and imposing and enforcing pretreatment requirements under Chapter 6111. of the Revised Code and rules adopted under it.

(b) "Public discharger" means any holder of an NPDES permit identified by P in the second character of the NPDES permit number assigned by the director.

(c) "Industrial discharger" means any holder of an NPDES permit identified by I in the second character of the NPDES permit number assigned by the director.

(d) "Major discharger" means any holder of an NPDES permit classified as major by the regional administrator of the United States environmental protection agency in conjunction with the director.

(M) Through June 30, 2028, a person applying for a license or license renewal to operate a public water system under section 6109.21 of the Revised Code shall pay the appropriate fee established under this division at the time of application to the director. Any person who fails to pay the fee at that time shall pay an additional amount that equals ten per cent of the required fee. The director shall transmit all moneys collected under this division to the treasurer of state for deposit into the drinking water protection fund created in section 6109.30 of the Revised Code.

Except as provided in divisions (M)(4) and (5) of this section, fees required under this division shall be calculated and paid in accordance with the following schedule:

(1) For the initial license required under section 6109.21 of the Revised Code for any public water system that is a community water system as defined in section 6109.01 of the Revised Code, and for each license renewal required for such a system prior to January 31, 2028, the fee is:

	1	2
A	Number of service connections	Fee amount
B	Not more than 49	$112
C	50 to 99	176
D	Number of service connections	Average cost per connection
E	100 to 2,499	$1.92

F	2,500 to 4,999	1.48
G	5,000 to 7,499	1.42
H	7,500 to 9,999	1.34
I	10,000 to 14,999	1.16
J	15,000 to 24,999	1.10
K	25,000 to 49,999	1.04
L	50,000 to 99,999	.92
M	100,000 to 149,999	.86
N	150,000 to 199,999	.80
O	200,000 or more	.76

A public water system may determine how it will pay the total amount of the fee calculated under division (M)(1) of this section, including the assessment of additional user fees that may be assessed on a volumetric basis.

As used in division (M)(1) of this section, "service connection" means the number of active or inactive pipes, goosenecks, pigtails, and any other fittings connecting a water main to any building outlet.

(2) For the initial license required under section 6109.21 of the Revised Code for any public water system that is not a community water system and serves a nontransient population, and for each license renewal required for such a system prior to January 31, 2028, the fee is:

	1	2
A	Population served	Fee amount
B	Fewer than 150	$112
C	150 to 299	176
D	300 to 749	384
E	750 to 1,499	628
F	1,500 to 2,999	1,268
G	3,000 to 7,499	2,816
H	7,500 to 14,999	5,510
I	15,000 to 22,499	9,048
J	22,500 to 29,999	12,430
K	30,000 or more	16,820

As used in division (M)(2) of this section, "population served" means the total number of individuals having access to the water supply during a twenty-four-hour period for at least sixty days during any calendar year. In the absence of a specific population count, that number shall be calculated at the rate of three individuals per service connection.

(3) For the initial license required under section 6109.21 of the Revised Code for any public water system that is not a community water system and serves a transient population, and

for each license renewal required for such a system prior to January 31, 2028, the fee is:

	1	2
A	Number of wells or sources, other than surface water, supplying system	Fee amount
B	1	$112
C	2	112
D	3	176
E	4	278
F	5	568
G	System designated as using a surface water source	792

As used in division (M)(3) of this section, "number of wells or sources, other than surface water, supplying system" means those wells or sources that are physically connected to the plumbing system serving the public water system.

(4) A public water system designated as using a surface water source shall pay a fee of seven hundred ninety-two dollars or the amount calculated under division (M)(1) or (2) of this section, whichever is greater.

(5) An applicant for an initial license who is proposing to operate a new public water supply system shall submit a fee that equals a prorated amount of the appropriate fee for the remainder of the licensing year.

(N)(1) A person applying for a plan approval for a public water supply system under section 6109.07 of the Revised Code shall pay a fee of one hundred fifty dollars plus thirty-five hundredths of one per cent of the estimated project cost, except that the total fee shall not exceed twenty thousand dollars through June 30, 2028, and fifteen thousand dollars on and after July 1, 2028. The fee shall be paid at the time the application is submitted.

(2) A person who has entered into an agreement with the director under division (A)(2) of section 6109.07 of the Revised Code shall pay an administrative service fee for each plan submitted under that section for approval that shall not exceed the minimum amount necessary to pay administrative costs directly attributable to processing plan approvals. The director annually shall calculate the fee and shall notify all persons that have entered into agreements under that division, or who have applied for agreements, of the amount of the fee.

(3) Through June 30, 2028, the following fee, on a per survey basis, shall be charged any person for services rendered by the state in the evaluation of laboratories and laboratory personnel for compliance with accepted analytical techniques and procedures established pursuant to Chapter 6109. of the Revised Code for determining the qualitative characteristics of water:

1		2
A	microbiological	
B	MMO-MUG	$2,000
C	MF	2,100

D	MMO-MUG and MF	2,550
E	organic chemical	5,400
F	trace metals	5,400
G	standard chemistry	2,800
H	limited chemistry	1,550

On and after July 1, 2028, the following fee, on a per survey basis, shall be charged any such person:

1		2
A	microbiological	$1,650
B	organic chemicals	3,500
C	trace metals	3,500
D	standard chemistry	1,800
E	limited chemistry	1,000

The fee for those services shall be paid at the time the request for the survey is made. Through June 30, 2028, an individual laboratory shall not be assessed a fee under this division more than once in any three-year period unless the person requests the addition of analytical methods or analysts, in which case the person shall pay five hundred dollars for each additional survey requested.

As used in division (N)(3) of this section:

(a) "MF" means membrane filtration.

(b) "MMO" means minimal medium ONPG.

(c) "MUG" means 4-methylumbelliferyl-beta-D-glucuronide.

(d) "ONPG" means o-nitrophenyl-beta-D-galactopyranoside.

The director shall transmit all moneys collected under this division to the treasurer of state for deposit into the drinking water protection fund created in section 6109.30 of the Revised Code.

(O) Any person applying to the director to take an examination for certification as an operator of a water supply system or wastewater system under Chapter 6109. or 6111. of the Revised Code that is administered by the director, at the time the application is submitted, shall pay a fee in accordance with the following schedule through November 30, 2028:

1		2
A	Class A operator	$80
B	Class I operator	105
C	Class II operator	120
D	Class III operator	130
E	Class IV operator	145

On and after December 1, 2028, the applicant shall pay a fee in accordance with the following schedule:

1		2

A	Class A operator		$50
B	Class I operator	70	
C	Class II operator	80	
D	Class III operator	90	
E	Class IV operator	100	

Any person applying to the director for certification as an operator of a water supply system or wastewater system who has passed an examination administered by an examination provider approved by the director shall pay a certification fee of forty-five dollars.

A person shall pay a biennial certification renewal fee for each applicable class of certification in accordance with the following schedule:

1		2	
A	Class A operator		$25
B	Class I operator	35	
C	Class II operator	45	
D	Class III operator	55	
E	Class IV operator	65	

If a certification renewal fee is received by the director more than thirty days, but not more than one year, after the expiration date of the certification, the person shall pay a

certification renewal fee in accordance with the following schedule:

	1	2
A	Class A operator	$45
B	Class I operator	55
C	Class II operator	65
D	Class III operator	75
E	Class IV operator	85

A person who requests a replacement certificate shall pay a fee of twenty-five dollars at the time the request is made.

Any person applying to be a water supply system or wastewater treatment system examination provider shall pay an application fee of five hundred dollars. Any person approved by the director as a water supply system or wastewater treatment system examination provider shall pay an annual fee that is equal to ten per cent of the fees that the provider assesses and collects for administering water supply system or wastewater treatment system certification examinations in this state for the calendar year. The fee shall be paid not later than forty-five days after the end of a calendar year.

The director shall transmit all moneys collected under this division to the treasurer of state for deposit into the drinking water protection fund created in section 6109.30 of the Revised Code.

(P) Except as otherwise provided in division (Q) of this

section, a person issued a permit by the director for a new solid waste disposal facility other than an incineration or composting facility, a new infectious waste treatment facility other than an incineration facility, or a modification of such an existing facility that includes an increase in the total disposal or treatment capacity of the facility pursuant to Chapter 3734. of the Revised Code shall pay a fee of ten dollars per thousand cubic yards of disposal or treatment capacity, or one thousand dollars, whichever is greater, except that the total fee for any such permit shall not exceed eighty thousand dollars. A person issued a modification of a permit for a solid waste disposal facility or an infectious waste treatment facility that does not involve an increase in the total disposal or treatment capacity of the facility shall pay a fee of one thousand dollars. A person issued a permit to install a new, or modify an existing, solid waste transfer facility under that chapter shall pay a fee of two thousand five hundred dollars. A person issued a permit to install a new or to modify an existing solid waste incineration or composting facility, or an existing infectious waste treatment facility using incineration as its principal method of treatment, under that chapter shall pay a fee of one thousand dollars. The increases in the permit fees under this division resulting from the amendments made by Amended Substitute House Bill 592 of the 117th general assembly do not apply to any person who submitted an application for a permit to install a new, or modify an existing, solid waste disposal facility under that chapter prior to September 1, 1987; any such person shall pay the permit fee established in this division as it existed prior to June 24, 1988. In addition to the applicable permit fee under this division, a person issued a permit to install or modify a solid waste facility or an infectious waste treatment facility under that chapter who fails

to pay the permit fee to the director in compliance with division (U) of this section shall pay an additional ten per cent of the amount of the fee for each week that the permit fee is late.

Permit and late payment fees paid to the director under this division shall be credited to the general revenue fund.

(Q)(1) A person issued a registration certificate for a scrap tire collection facility under section 3734.75 of the Revised Code shall pay a fee of two hundred dollars, except that if the facility is owned or operated by a motor vehicle salvage dealer licensed under Chapter 4738. of the Revised Code, the person shall pay a fee of twenty-five dollars.

(2) A person issued a registration certificate for a new scrap tire storage facility under section 3734.76 of the Revised Code shall pay a fee of three hundred dollars, except that if the facility is owned or operated by a motor vehicle salvage dealer licensed under Chapter 4738. of the Revised Code, the person shall pay a fee of twenty-five dollars.

(3) A person issued a permit for a scrap tire storage facility under section 3734.76 of the Revised Code shall pay a fee of one thousand dollars, except that if the facility is owned or operated by a motor vehicle salvage dealer licensed under Chapter 4738. of the Revised Code, the person shall pay a fee of fifty dollars.

(4) A person issued a permit for a scrap tire monocell or monofill facility under section 3734.77 of the Revised Code shall pay a fee of ten dollars per thousand cubic yards of disposal capacity or one thousand dollars, whichever is greater, except that the total fee for any such permit shall not exceed

eighty thousand dollars.

(5) A person issued a registration certificate for a scrap tire recovery facility under section 3734.78 of the Revised Code shall pay a fee of one hundred dollars.

(6) A person issued a permit for a scrap tire recovery facility under section 3734.78 of the Revised Code shall pay a fee of one thousand dollars.

(7) In addition to the applicable registration certificate or permit fee under divisions (Q)(1) to (6) of this section, a person issued a registration certificate or permit for any such scrap tire facility who fails to pay the registration certificate or permit fee to the director in compliance with division (U) of this section shall pay an additional ten per cent of the amount of the fee for each week that the fee is late.

(8) The registration certificate, permit, and late payment fees paid to the director under divisions (Q)(1) to (7) of this section shall be credited to the scrap tire management fund created in section 3734.82 of the Revised Code.

(R)(1)(a) Except as otherwise provided, any person applying for a permit, variance, or plan approval under Chapter 6109. or 6111. of the Revised Code shall pay a nonrefundable application fee of one hundred dollars at the time the application is submitted through June 30, 2028, and a nonrefundable application fee of fifteen dollars at the time the application is submitted on and after July 1, 2028.

(b)(i) Except as otherwise provided in divisions (R)(1)(b)(iii) and (iv) of this section, through June 30, 2028, any person applying for an NPDES permit under Chapter 6111. of the

Revised Code shall pay a nonrefundable application fee of two hundred dollars at the time of application for the permit. On and after July 1, 2028, such a person shall pay a nonrefundable application fee of fifteen dollars at the time of application.

(ii) In addition to the nonrefundable application fee, any person applying for an NPDES permit under Chapter 6111. of the Revised Code shall pay a design flow discharge fee based on each point source to which the issuance is applicable in accordance with the following schedule:

	1	2
A	Design flow discharge (gallons per day)	Fee
B	0 to 1,000	$0
C	1,001 to 5,000	100
D	5,001 to 50,000	200
E	50,001 to 100,000	300
F	100,001 to 300,000	525
G	over 300,000	750

(iii) Notwithstanding divisions (R)(1)(b)(i) and (ii) of this section, the application and design flow discharge fee for an NPDES permit for a public discharger identified by the letter I in the third character of the NPDES permit number shall not exceed nine hundred fifty dollars.

(iv) Notwithstanding divisions (R)(1)(b)(i) and (ii) of this section, the application and design flow discharge fee for

an NPDES permit for a coal mining operation regulated under Chapter 1513. of the Revised Code shall not exceed four hundred fifty dollars per mine.

(v) A person issued a modification of an NPDES permit shall pay a nonrefundable modification fee equal to the application fee and one-half the design flow discharge fee based on each point source, if applicable, that would be charged for an NPDES permit, except that the modification fee shall not exceed six hundred dollars.

(c) In addition to the application fee established under division (R)(1)(b)(i) of this section, any person applying for an NPDES general storm water construction permit shall pay a nonrefundable fee of twenty dollars per acre for each acre that is permitted above five acres at the time the application is submitted. However, the per acreage fee shall not exceed three hundred dollars. In addition to the application fee established under division (R)(1)(b)(i) of this section, any person applying for an NPDES general storm water industrial permit shall pay a nonrefundable fee of one hundred fifty dollars at the time the application is submitted.

(d) The director shall transmit all moneys collected under division (R)(1) of this section pursuant to Chapter 6109. of the Revised Code to the treasurer of state for deposit into the drinking water protection fund created in section 6109.30 of the Revised Code.

(e) The director shall transmit all moneys collected under division (R)(1) of this section pursuant to Chapter 6111. of the Revised Code and under division (R)(2) of this section to the treasurer of state for deposit into the surface water protection fund created in section 6111.038 of the Revised Code.

(f) If a person submits an electronic application for a registration certificate, permit, variance, or plan approval for which an application fee is established under division (R)(1) of this section, the person shall pay all applicable fees as expeditiously as possible after the submission of the electronic application. An application for a registration certificate, permit, variance, or plan approval for which an application fee is established under division (R)(1) of this section shall not be reviewed or processed until the applicable application fee, and any other fees established under this division, are paid.

(2) A person applying for coverage under an NPDES general discharge permit for household sewage treatment systems shall pay a nonrefundable fee of two hundred dollars at the time of application for initial permit coverage. No fee is required for an application for permit coverage renewal.

(S) The director may adopt, amend, and rescind rules in accordance with Chapter 119. of the Revised Code that do all of the following:

(1) Prescribe fees to be paid by applicants for and holders of any license, permit, variance, plan approval, or certification required or authorized by Chapter 3704., 3734., 6109., or 6111. of the Revised Code that are not specifically established in this section. The fees shall be designed to defray the cost of processing, issuing, revoking, modifying, denying, and enforcing the licenses, permits, variances, plan approvals, and certifications.

The director shall transmit all moneys collected under rules adopted under division (S)(1) of this section pursuant to Chapter 6109. of the Revised Code to the treasurer of state for deposit into the drinking water protection fund created in

section 6109.30 of the Revised Code.

The director shall transmit all moneys collected under rules adopted under division (S)(1) of this section pursuant to Chapter 6111. of the Revised Code to the treasurer of state for deposit into the surface water protection fund created in section 6111.038 of the Revised Code.

(2) Exempt the state and political subdivisions thereof, including education facilities or medical facilities owned by the state or a political subdivision, or any person exempted from taxation by section 5709.07 or 5709.12 of the Revised Code, from any fee required by this section;

(3) Provide for the waiver of any fee, or any part thereof, otherwise required by this section whenever the director determines that the imposition of the fee would constitute an unreasonable cost of doing business for any applicant, class of applicants, or other person subject to the fee;

(4) Prescribe measures that the director considers necessary to carry out this section.

(T) When the director reasonably demonstrates that the direct cost to the state associated with the issuance of a permit, license, variance, plan approval, or certification exceeds the fee for the issuance or review specified by this section, the director may condition the issuance or review on the payment by the person receiving the issuance or review of, in addition to the fee specified by this section, the amount, or any portion thereof, in excess of the fee specified under this section. The director shall not so condition issuances for which a fee is prescribed in division (R)(1)(b)(iii) of this section.

(U) Except as provided in divisions (L), (M), and (R) of this section or unless otherwise prescribed by a rule of the director adopted pursuant to Chapter 119. of the Revised Code, all fees required by this section are payable within thirty days after the issuance of an invoice for the fee by the director or the effective date of the issuance of the license, permit, variance, plan approval, or certification. If payment is late, the person responsible for payment of the fee shall pay an additional ten per cent of the amount due for each month that it is late.

(V) As used in this section, "fuel-burning equipment," "fuel-burning equipment input capacity," "incinerator," "incinerator input capacity," "process," "process weight rate," "storage tank," "gasoline dispensing facility," "dry cleaning facility," "design flow discharge," and "new source treatment works" have the meanings ascribed to those terms by applicable rules or standards adopted by the director under Chapter 3704. or 6111. of the Revised Code.

(W) As used in divisions (B), (D), (E), (F), (H), (I), and (J) of this section, and in any other provision of this section pertaining to fees paid pursuant to Chapter 3704. of the Revised Code:

(1) "Facility," "federal Clean Air Act," "person," and "Title V permit" have the same meanings as in section 3704.01 of the Revised Code.

(2) "Title V permit program" means the following activities as necessary to meet the requirements of Title V of the federal Clean Air Act and 40 C.F.R. part 70, including at least:

(a) Preparing and adopting, if applicable, generally applicable rules or guidance regarding the permit program or its implementation or enforcement;

(b) Reviewing and acting on any application for a Title V permit, permit revision, or permit renewal, including the development of an applicable requirement as part of the processing of a permit, permit revision, or permit renewal;

(c) Administering the permit program, including the supporting and tracking of permit applications, compliance certification, and related data entry;

(d) Determining which sources are subject to the program and implementing and enforcing the terms of any Title V permit, not including any court actions or other formal enforcement actions;

(e) Emission and ambient monitoring;

(f) Modeling, analyses, or demonstrations;

(g) Preparing inventories and tracking emissions;

(h) Providing direct and indirect support to small business stationary sources to determine and meet their obligations under the federal Clean Air Act pursuant to the small business stationary source technical and environmental compliance assistance program required by section 507 of that act and established in sections 3704.18, 3704.19, and 3706.19 of the Revised Code.

(3) "Organic compound" means any chemical compound of carbon, excluding carbon monoxide, carbon dioxide, carbonic acid, metallic carbides or carbonates, and ammonium carbonate.

(X)(1) Except as provided in divisions (X)(2), (3), and

(4) of this section, each sewage sludge facility shall pay a nonrefundable annual sludge fee equal to three dollars and fifty cents per dry ton of sewage sludge, including the dry tons of sewage sludge in materials derived from sewage sludge, that the sewage sludge facility treats or disposes of in this state. The annual volume of sewage sludge treated or disposed of by a sewage sludge facility shall be calculated using the first day of January through the thirty-first day of December of the calendar year preceding the date on which payment of the fee is due.

(2)(a) Except as provided in division (X)(2)(d) of this section, each sewage sludge facility shall pay a minimum annual sewage sludge fee of one hundred dollars.

(b) The annual sludge fee required to be paid by a sewage sludge facility that treats or disposes of exceptional quality sludge in this state shall be thirty-five per cent less per dry ton of exceptional quality sludge than the fee assessed under division (X)(1) of this section, subject to the following exceptions:

(i) Except as provided in division (X)(2)(d) of this section, a sewage sludge facility that treats or disposes of exceptional quality sludge shall pay a minimum annual sewage sludge fee of one hundred dollars.

(ii) A sewage sludge facility that treats or disposes of exceptional quality sludge shall not be required to pay the annual sludge fee for treatment or disposal in this state of exceptional quality sludge generated outside of this state and contained in bags or other containers not greater than one hundred pounds in capacity.

A thirty-five per cent reduction for exceptional quality sludge applies to the maximum annual fees established under division (X)(3) of this section.

(c) A sewage sludge facility that transfers sewage sludge to another sewage sludge facility in this state for further treatment prior to disposal in this state shall not be required to pay the annual sludge fee for the tons of sewage sludge that have been transferred. In such a case, the sewage sludge facility that disposes of the sewage sludge shall pay the annual sludge fee. However, the facility transferring the sewage sludge shall pay the one-hundred-dollar minimum fee required under division (X)(2)(a) of this section.

In the case of a sewage sludge facility that treats sewage sludge in this state and transfers it out of this state to another entity for disposal, the sewage sludge facility in this state shall be required to pay the annual sludge fee for the tons of sewage sludge that have been transferred.

(d) A sewage sludge facility that generates sewage sludge resulting from an average daily discharge flow of less than five thousand gallons per day is not subject to the fees assessed under division (X) of this section.

(3) No sewage sludge facility required to pay the annual sludge fee shall be required to pay more than the maximum annual fee for each disposal method that the sewage sludge facility uses. The maximum annual fee does not include the additional amount that may be charged under division (X)(5) of this section for late payment of the annual sludge fee. The maximum annual fee for the following methods of disposal of sewage sludge is as follows:

(a) Incineration: five thousand dollars;

(b) Preexisting land reclamation project or disposal in a landfill: five thousand dollars;

(c) Land application, land reclamation, surface disposal, or any other disposal method not specified in division (X)(3)(a) or (b) of this section: twenty thousand dollars.

(4)(a) In the case of an entity that generates sewage sludge or a sewage sludge facility that treats sewage sludge and transfers the sewage sludge to an incineration facility for disposal, the incineration facility, and not the entity generating the sewage sludge or the sewage sludge facility treating the sewage sludge, shall pay the annual sludge fee for the tons of sewage sludge that are transferred. However, the entity or facility generating or treating the sewage sludge shall pay the one-hundred-dollar minimum fee required under division (X)(2)(a) of this section.

(b) In the case of an entity that generates sewage sludge and transfers the sewage sludge to a landfill for disposal or to a sewage sludge facility for land reclamation or surface disposal, the entity generating the sewage sludge, and not the landfill or sewage sludge facility, shall pay the annual sludge fee for the tons of sewage sludge that are transferred.

(5) Not later than the first day of April of the calendar year following March 17, 2000, and each first day of April thereafter, the director shall issue invoices to persons who are required to pay the annual sludge fee. The invoice shall identify the nature and amount of the annual sludge fee assessed and state the first day of May as the deadline for receipt by the director of objections regarding the amount of the fee and

the first day of July as the deadline for payment of the fee.

Not later than the first day of May following receipt of an invoice, a person required to pay the annual sludge fee may submit objections to the director concerning the accuracy of information regarding the number of dry tons of sewage sludge used to calculate the amount of the annual sludge fee or regarding whether the sewage sludge qualifies for the exceptional quality sludge discount established in division (X)(2)(b) of this section. The director may consider the objections and adjust the amount of the fee to ensure that it is accurate.

If the director does not adjust the amount of the annual sludge fee in response to a person's objections, the person may appeal the director's determination in accordance with Chapter 119. of the Revised Code.

Not later than the first day of June, the director shall notify the objecting person regarding whether the director has found the objections to be valid and the reasons for the finding. If the director finds the objections to be valid and adjusts the amount of the annual sludge fee accordingly, the director shall issue with the notification a new invoice to the person identifying the amount of the annual sludge fee assessed and stating the first day of July as the deadline for payment.

Not later than the first day of July, any person who is required to do so shall pay the annual sludge fee. Any person who is required to pay the fee, but who fails to do so on or before that date shall pay an additional amount that equals ten per cent of the required annual sludge fee.

(6) The director shall transmit all moneys collected under division (X) of this section to the treasurer of state for

deposit into the surface water protection fund created in section 6111.038 of the Revised Code. The moneys shall be used to defray the costs of administering and enforcing provisions in Chapter 6111. of the Revised Code and rules adopted under it that govern the use, storage, treatment, or disposal of sewage sludge.

(7) Beginning in fiscal year 2001, and every two years thereafter, the director shall review the total amount of moneys generated by the annual sludge fees to determine if that amount exceeded six hundred thousand dollars in either of the two preceding fiscal years. If the total amount of moneys in the fund exceeded six hundred thousand dollars in either fiscal year, the director, after review of the fee structure and consultation with affected persons, shall issue an order reducing the amount of the fees levied under division (X) of this section so that the estimated amount of moneys resulting from the fees will not exceed six hundred thousand dollars in any fiscal year.

If, upon review of the fees under division (X)(7) of this section and after the fees have been reduced, the director determines that the total amount of moneys collected and accumulated is less than six hundred thousand dollars, the director, after review of the fee structure and consultation with affected persons, may issue an order increasing the amount of the fees levied under division (X) of this section so that the estimated amount of moneys resulting from the fees will be approximately six hundred thousand dollars. Fees shall never be increased to an amount exceeding the amount specified in division (X)(7) of this section.

Notwithstanding section 119.06 of the Revised Code, the

director may issue an order under division (X)(7) of this section without the necessity to hold an adjudicatory hearing in connection with the order. The issuance of an order under this division is not an act or action for purposes of section 3745.04 of the Revised Code.

(8) As used in division (X) of this section:

(a) "Sewage sludge facility" means an entity that performs treatment on or is responsible for the disposal of sewage sludge.

(b) "Sewage sludge" means a solid, semi-solid, or liquid residue generated during the treatment of domestic sewage in a treatment works as defined in section 6111.01 of the Revised Code. "Sewage sludge" includes, but is not limited to, scum or solids removed in primary, secondary, or advanced wastewater treatment processes. "Sewage sludge" does not include ash generated during the firing of sewage sludge in a sewage sludge incinerator, grit and screenings generated during preliminary treatment of domestic sewage in a treatment works, animal manure, residue generated during treatment of animal manure, or domestic septage.

(c) "Exceptional quality sludge" means sewage sludge that meets all of the following qualifications:

(i) Satisfies the class A pathogen standards in 40 C.F.R. 503.32(a);

(ii) Satisfies one of the vector attraction reduction requirements in 40 C.F.R. 503.33(b)(1) to (b)(8);

(iii) Does not exceed the ceiling concentration limitations for metals listed in table one of 40 C.F.R. 503.13;

(iv) Does not exceed the concentration limitations for metals listed in table three of 40 C.F.R. 503.13.

(d) "Treatment" means the preparation of sewage sludge for final use or disposal and includes, but is not limited to, thickening, stabilization, and dewatering of sewage sludge.

(e) "Disposal" means the final use of sewage sludge, including, but not limited to, land application, land reclamation, surface disposal, or disposal in a landfill or an incinerator.

(f) "Land application" means the spraying or spreading of sewage sludge onto the land surface, the injection of sewage sludge below the land surface, or the incorporation of sewage sludge into the soil for the purposes of conditioning the soil or fertilizing crops or vegetation grown in the soil.

(g) "Land reclamation" means the returning of disturbed land to productive use.

(h) "Surface disposal" means the placement of sludge on an area of land for disposal, including, but not limited to, monofills, surface impoundments, lagoons, waste piles, or dedicated disposal sites.

(i) "Incinerator" means an entity that disposes of sewage sludge through the combustion of organic matter and inorganic matter in sewage sludge by high temperatures in an enclosed device.

(j) "Incineration facility" includes all incinerators owned or operated by the same entity and located on a contiguous tract of land. Areas of land are considered to be contiguous even if they are separated by a public road or highway.

(k) "Annual sludge fee" means the fee assessed under division (X)(1) of this section.

(l) "Landfill" means a sanitary landfill facility, as defined in rules adopted under section 3734.02 of the Revised Code, that is licensed under section 3734.05 of the Revised Code.

(m) "Preexisting land reclamation project" means a property-specific land reclamation project that has been in continuous operation for not less than five years pursuant to approval of the activity by the director and includes the implementation of a community outreach program concerning the activity.

Sec. 3746.04. The director of environmental protection, in accordance with Chapter 119. of the Revised Code, shall adopt, and subsequently may amend, suspend, or rescind, rules that do both of the following:

(A) Revise the rules adopted under Chapters 3704., 3714., 3734., 6109., and 6111. of the Revised Code to incorporate the provisions necessary to conform those rules to the requirements of this chapter. The amended rules adopted under this division also shall establish response times for all submittals to the environmental protection agency required under this chapter or rules adopted under it.

(B) Establish ~~requirements and procedures that are reasonably necessary for the implementation and administration of this chapter, including, without limitation,~~ all of the following:

(1) Appropriate generic numerical clean-up standards for the treatment or removal of soils, sediments, and water media

for hazardous substances and petroleum. The rules shall establish separate generic numerical clean-up standards based upon the intended use of properties after the completion of voluntary actions, including industrial, commercial, and residential uses and such other categories of land use as the director considers to be appropriate. The generic numerical clean-up standards established for each category of land use shall be the concentration of each contaminant that may be present on a property that shall ensure protection of public health and safety and the environment for the reasonable exposure for that category of land use. When developing the standards, the director shall consider such factors as all of the following:

(a) Scientific information, including, without limitation, toxicological information and realistic assumptions regarding human and environmental exposure to hazardous substances or petroleum;

(b) Climatic factors;

(c) Human activity patterns;

(d) Current statistical techniques;

(e) For petroleum at industrial property, alternatives to the use of total petroleum hydrocarbons.

The generic numerical clean-up standards established in the rules adopted under division (B)(1) of this section shall be consistent with and equivalent in scope, content, and coverage to any applicable standard established by federal environmental laws and regulations adopted under them, including, without limitation, the "Federal Water Pollution Control Act Amendments of 1972," 86 Stat. 886, 33 U.S.C.A. 1251, as amended; the

"Resource Conservation and Recovery Act of 1976," 90 Stat. 2806, 42 U.S.C.A. 6921, as amended; the "Toxic Substances Control Act," 90 Stat. 2003 (1976), 15 U.S.C.A. 2601, as amended; the "Comprehensive Environmental Response, Compensation, and Liability Act of 1980," 94 Stat. 2779, 42 U.S.C.A. 9601, as amended; and the "Safe Drinking Water Act," 88 Stat. 1660 (1974), 42 U.S.C.A. 300f, as amended.

In order for the rules adopted under division (B)(1) of this section to require that any such federal environmental standard apply to a property, the property shall meet the requirements of the particular federal statute or regulation involved in the manner specified by the statute or regulation.

The generic numerical clean-up standards for petroleum at commercial or residential property shall be the standards established in rules adopted under division (B) of section 3737.882 of the Revised Code.

(2)(a) Procedures for performing property-specific risk assessments that would be performed at a property to demonstrate that the remedy evaluated in a risk assessment results in protection of public health and safety and the environment instead of complying with the generic numerical clean-up standards established in the rules adopted under division (B)(1) of this section. The risk assessment procedures shall describe a methodology to establish, on a property-specific basis, allowable levels of contamination to remain at a property to ensure protection of public health and safety and the environment on the property and off the property when the contamination is emanating off the property, taking into account all of the following:

(i) The implementation of treatment, storage, or disposal,

or a combination thereof, of hazardous substances or petroleum;

(ii) The existence of institutional controls or activity and use limitations that eliminate or mitigate exposure to hazardous substances or petroleum through the restriction of access to hazardous substances or petroleum;

(iii) The existence of engineering controls that eliminate or mitigate exposure to hazardous substances or petroleum through containment of, control of, or restrictions of access to hazardous substances or petroleum, including, without limitation, fences, cap systems, cover systems, and landscaping.

(b) The risk assessment procedures and levels of acceptable risk set forth in the rules adopted under division (B)(2) of this section shall be based upon all of the following:

(i) Scientific information, including, without limitation, toxicological information and actual or proposed human and environmental exposure;

(ii) Locational and climatic factors;

(iii) Surrounding land use and human activities;

(iv) Differing levels of remediation that may be required when an existing land use is continued compared to when a different land use follows the remediation.

(c) Any standards established pursuant to rules adopted under division (B)(2) of this section shall be no more stringent than standards established under the environmental statutes of this state and rules adopted under them for the same contaminant in the same environmental medium that are in effect at the time the risk assessment is conducted.

(3) Minimum standards for phase I property assessments.

The standards shall specify the information needed to demonstrate that there is no reason to believe that contamination exists on a property. The rules adopted under division (B)(3) of this section, at a minimum, shall require that a phase I property assessment include all of the following:

(a) A review and analysis of deeds, mortgages, easements of record, and similar documents relating to the chain of title to the property that are publicly available or that are known to and reasonably available to the owner or operator;

(b) A review and analysis of any previous environmental assessments, property assessments, environmental studies, or geologic studies of the property and any land within two thousand feet of the boundaries of the property that are publicly available or that are known to and reasonably available to the owner or operator;

(c) A review of current and past environmental compliance histories of persons who owned or operated the property;

(d) A review of aerial photographs of the property that indicate prior uses of the property;

(e) Interviews with managers of activities conducted at the property who have knowledge of environmental conditions at the property;

(f) Conducting an inspection of the property consisting of a walkover;

(g) Identifying the current and past uses of the property, adjoining tracts of land, and the area surrounding the property, including, without limitation, interviews with persons who reside or have resided, or who are or were employed, within the area surrounding the property regarding the current and past

uses of the property and adjacent tracts of land.

The rules adopted under division (B)(3) of this section shall establish criteria to determine when a phase II property assessment shall be conducted when a phase I property assessment reveals facts that establish a reason to believe that hazardous substances or petroleum have been treated, stored, managed, or disposed of on the property if the person undertaking the phase I property assessment wishes to obtain a covenant not to sue under section 3746.12 of the Revised Code.

(4) Minimum standards for phase II property assessments. The standards shall specify the information needed to demonstrate that any contamination present at the property does not exceed applicable standards or that the remedial activities conducted at the property have achieved compliance with applicable standards. The rules adopted under division (B)(4) of this section, at a minimum, shall require that a phase II property assessment include all of the following:

(a) A review and analysis of all documentation prepared in connection with a phase I property assessment conducted within the one hundred eighty days before the phase II property assessment begins. The rules adopted under division (B)(4)(a) of this section shall require that if a period of more than one hundred eighty days has passed between the time that the phase I assessment of the property was completed and the phase II assessment begins, the phase II assessment shall include a reasonable inquiry into the change in the environmental condition of the property during the intervening period.

(b) Quality assurance objectives for measurements taken in connection with a phase II assessment;

(c) Sampling procedures to ensure the representative sampling of potentially contaminated environmental media;

(d) Quality assurance and quality control requirements for samples collected in connection with phase II assessments;

(e) Analytical and data assessment procedures;

(f) Data objectives to ensure that samples collected in connection with phase II assessments are biased toward areas where information indicates that contamination by hazardous substances or petroleum is likely to exist.

(5) Standards governing the conduct of certified professionals, criteria and procedures for the certification of professionals to issue no further action letters under section 3746.11 of the Revised Code, and criteria for the suspension and revocation of those certifications. The director shall take an action regarding a certification as a final action. The issuance, denial, renewal, suspension, and revocation of those certifications are subject to Chapter 3745. of the Revised Code, except that, in lieu of publishing an action regarding a certification in a newspaper of general circulation as required in section 3745.07 of the Revised Code, such an action shall be published on the environmental protection agency's web site and in the agency's weekly review not later than fifteen days after the date of the issuance, denial, renewal, suspension, or revocation of the certification and not later than thirty days before a hearing or public meeting concerning the action.

The rules adopted under division (B)(5) of this section shall do all of the following:

(a) Provide for the certification of environmental professionals to issue no further action letters pertaining to

investigations and remedies in accordance with the criteria and procedures set forth in the rules. The rules adopted under division (B)(5)(a) of this section shall do at least all of the following:

(i) Authorize the director to consider such factors as an environmental professional's previous performance record regarding such investigations and remedies and the environmental professional's environmental compliance history when determining whether to certify the environmental professional;

(ii) Ensure that an application for certification is reviewed in a timely manner;

(iii) Require the director to certify any environmental professional who the director determines complies with those criteria;

(iv) Require the director to deny certification for any environmental professional who does not comply with those criteria.

(b) Establish an annual fee to be paid by environmental professionals certified pursuant to the rules adopted under division (B)(5)(a) of this section. The fee shall be established at an amount calculated to defray the costs to the agency for the required reviews of the qualifications of environmental professionals for certification and for the issuance of the certifications.

(c) Develop a schedule for and establish requirements governing the review by the director of the credentials of environmental professionals who were deemed to be certified professionals before ~~the effective date of this amendment~~ September 30, 2021, in order to determine if they comply with

the criteria established in rules adopted under division (B)(5) of this section. The rules adopted under division (B)(5)(c) of this section shall do at least all of the following:

(i) Ensure that the review is conducted in a timely fashion;

(ii) Require the director to certify any such environmental professional who the director determines complies with those criteria;

(iii) Require any such environmental professional initially to pay the fee established in the rules adopted under division (B)(5)(b) of this section at the time that the environmental professional is so certified by the director;

(iv) Establish a time period within which any such environmental professional who does not comply with those criteria may obtain the credentials that are necessary for certification;

(v) Require the director to deny certification for any such environmental professional who does not comply with those criteria and who fails to obtain the necessary credentials within the established time period.

(d) Require that any information submitted to the director for the purposes of the rules adopted under division (B)(5)(a) or (c) of this section comply with division (A) of section 3746.20 of the Revised Code;

(e) Authorize the director to suspend or revoke the certification of an environmental professional if the director finds that the environmental professional's performance has resulted in the issuance of no further action letters under section 3746.11 of the Revised Code that are not consistent with

applicable standards or finds that the certified environmental professional has not substantially complied with section 3746.31 of the Revised Code;

(f) Authorize the director to suspend for a period of not more than five years or to permanently revoke a certified environmental professional's certification for any violation of or failure to comply with an ethical standard established in rules adopted under division (B)(5) of this section;

(g) Require the director to revoke the certification of an environmental professional if the director finds that the environmental professional falsified any information on the environmental professional's application for certification regarding the environmental professional's credentials or qualifications or any other information generated for the purposes of or use under this chapter or rules adopted under it;

(h) Require the director permanently to revoke the certification of an environmental professional who has violated or is violating division (A) of section 3746.18 of the Revised Code;

(i) Preclude the director from revoking the certification of an environmental professional who only conducts investigations and remedies at property contaminated solely with petroleum unless the director first consults with the director of commerce.

(6) Information to be included in a no further action letter prepared under section 3746.11 of the Revised Code, including, without limitation, all of the following:

(a) A summary of the information required to be submitted to the certified environmental professional preparing the no

further action letter under division (C) of section 3746.10 of the Revised Code;

(b) Notification that a risk assessment was performed in accordance with rules adopted under division (B)(2) of this section if such an assessment was used in lieu of generic numerical clean-up standards established in rules adopted under division (B)(1) of this section;

(c) The contaminants addressed at the property, if any, their source, if known, and their levels prior to remediation;

(d) The identity of any other person who performed work to support the request for the no further action letter as provided in division (B)(2) of section 3746.10 of the Revised Code and the nature and scope of the work performed by that person;

(e) A list of the data, information, records, and documents relied upon by the certified environmental professional in preparing the no further action letter.

(7) Methods for determining fees to be paid for the following services provided by the agency under this chapter and rules adopted under it:

(a) Site- or property-specific technical assistance in developing or implementing plans in connection with a voluntary action;

(b) Reviewing applications for and issuing consolidated standards permits under section 3746.15 of the Revised Code and monitoring compliance with those permits;

(c) Negotiating, preparing, and entering into agreements necessary for the implementation and administration of this chapter and rules adopted under it;

(d) Reviewing no further action letters, issuing covenants not to sue, and monitoring compliance with any terms and conditions of those covenants and with operation and maintenance agreements entered into pursuant to those covenants, including, without limitation, conducting audits of properties where voluntary actions are being or were conducted under this chapter and rules adopted under it.

The fees established pursuant to the rules adopted under division (B)(7) of this section shall be at a level sufficient to defray the direct and indirect costs incurred by the agency for the administration and enforcement of this chapter and rules adopted under it other than the provisions regarding the certification of professionals and laboratories.

(8) Criteria for selecting the no further action letters issued under section 3746.11 of the Revised Code that will be audited under section 3746.17 of the Revised Code, and the scope and procedures for conducting those audits. The rules adopted under division (B)(8) of this section, at a minimum, shall require the director to establish priorities for auditing no further action letters to which any of the following applies:

(a) The letter was prepared by an environmental professional who was deemed to be a certified professional before ~~the effective date of this amendment~~ September 30, 2021, but who does not comply with the criteria established in rules adopted under division (B)(5) of this section as determined pursuant to rules adopted under division (B)(5)(d) of this section;

(b) The letter was submitted fraudulently;

(c) The letter was prepared by a certified environmental

professional whose certification subsequently was revoked in accordance with rules adopted under division (B)(5) of this section, or analyses were performed for the purposes of the no further action letter by a certified laboratory whose certification was revoked before ~~the effective date of this amendment~~ September 30, 2021, or a laboratory that is not an accredited laboratory;

(d) A covenant not to sue that was issued pursuant to the letter was revoked under this chapter;

(e) The letter was for a voluntary action that was conducted pursuant to a risk assessment in accordance with rules adopted under division (B)(2) of this section;

(f) The letter was for a voluntary action that included as remedial activities engineering controls or institutional controls or activity and use limitations authorized under section 3746.05 of the Revised Code.

The rules adopted under division (B)(8) of this section shall provide for random audits of no further action letters to which the rules adopted under divisions (B)(8)(a) to (f) of this section do not apply.

(9) A classification system to characterize ground water according to its capability to be used for human use and its impact on the environment and a methodology that shall be used to determine when ground water that has become contaminated from sources on a property for which a covenant not to sue is requested under section 3746.11 of the Revised Code shall be remediated to the standards established in the rules adopted under division (B)(1) or (2) of this section.

(a) In adopting rules under division (B)(9) of this

section to characterize ground water according to its capability for human use, the director shall consider all of the following:

(i) The presence of legally enforceable, reliable restrictions on the use of ground water, including, without limitation, local rules or ordinances;

(ii) The presence of regional commingled contamination from multiple sources that diminishes the quality of ground water;

(iii) The natural quality of ground water;

(iv) Regional availability of ground water and reasonable alternative sources of drinking water;

(v) The productivity of the aquifer;

(vi) The presence of restrictions on the use of ground water implemented under this chapter and rules adopted under it;

(vii) The existing use of ground water.

(b) In adopting rules under division (B)(9) of this section to characterize ground water according to its impacts on the environment, the director shall consider both of the following:

(i) The risks posed to humans, fauna, surface water, sediments, soil, air, and other resources by the continuing presence of contaminated ground water;

(ii) The availability and feasibility of technology to remedy ground water contamination.

(10) Governing the application for and issuance of variances under section 3746.09 of the Revised Code;

(11)(a) In the case of voluntary actions involving

contaminated ground water, specifying the circumstances under which the generic numerical clean-up standards established in rules adopted under division (B)(1) of this section and standards established through a risk assessment conducted pursuant to rules adopted under division (B)(2) of this section shall be inapplicable to the remediation of contaminated ground water and under which the standards for remediating contaminated ground water shall be established on a case-by-case basis prior to the commencement of the voluntary action pursuant to rules adopted under division (B)(11)(b) of this section;

(b) Criteria and procedures for the case-by-case establishment of standards for the remediation of contaminated ground water under circumstances in which the use of the generic numerical clean-up standards and standards established through a risk assessment are precluded by the rules adopted under division (B)(11)(a) of this section. The rules governing the procedures for the case-by-case development of standards for the remediation of contaminated ground water shall establish application, public participation, adjudication, and appeals requirements and procedures that are equivalent to the requirements and procedures established in section 3746.09 of the Revised Code and rules adopted under division (B)(10) of this section, except that the procedural rules shall not require an applicant to make the demonstrations set forth in divisions (A)(1) to (3) of section 3746.09 of the Revised Code.

(12) A definition of the evidence that constitutes sufficient evidence for the purpose of division (A)(5) of section 3746.02 of the Revised Code.

At least thirty days before filing the proposed rules required to be adopted under this section with the secretary of

state, director of the legislative service commission, and joint committee on agency rule review in accordance with divisions (B) and (C) of section 119.03 of the Revised Code, the director of environmental protection shall hold at least one public meeting on the proposed rules in each of the five districts into which the agency has divided the state for administrative purposes.

Sec. 3750.02. (A) There is hereby created the emergency response commission consisting of the directors of environmental protection, health, and administrative services, the chairperson of the public utilities commission, the fire marshal, the director of public safety, the director of transportation, the director of natural resources, the superintendent of the highway patrol, and the attorney general as members ex officio, or their designees; notwithstanding section 101.26 of the Revised Code, a member of the house of representatives appointed by the speaker of the house of representatives and a member of the senate appointed by the president of the senate, who may participate fully in all the commission's deliberations and activities, except that they shall serve as nonvoting members; and ten members to be appointed by the governor with the advice and consent of the senate. The appointed members, to the extent practicable, shall have technical expertise in the field of emergency response. Of the appointed members, two shall represent environmental advocacy organizations, one shall represent the interests of petroleum refiners or marketers or chemical manufacturers, one shall represent the interests of another industry subject to this chapter, one shall represent the interests of municipal corporations, one shall represent the interests of counties, one shall represent the interests of chiefs of fire departments, one shall represent the interests of professional firefighters, one shall represent the interests of

volunteer firefighters, and one shall represent the interests of local emergency management agencies.

An appointed member of the commission also may serve as a member of the local emergency planning committee of an emergency planning district. An appointed member of the commission who is also a member of a local emergency planning committee shall not participate as a member of the commission in the appointment of members of the local emergency planning committee of which the member is a member, in the review of the chemical emergency response and preparedness plan submitted by the local emergency planning committee of which the member is a member, in any vote to approve a grant to the member's district, or in any vote of the commission on any motion or resolution pertaining specifically to the member's district or the local emergency planning committee on which the member serves. A commission member who is also a member of a local emergency planning committee shall not lobby or otherwise act as an advocate for the member's district to other members of the commission to obtain from the commission anything of value for the member's district or the local emergency planning committee of which the member is a member. A member of the commission who is also a member of a local emergency planning committee may vote on resolutions of the commission that apply uniformly to all local emergency planning committees and districts in the state and do not provide a grant or other pecuniary benefit to the member's district or the committee of which the member is a member.

The governor shall make the initial appointments to the commission within thirty days after December 14, 1988. Of the initial appointments to the commission, five shall be for a term of two years and five shall be for a term of one year. Thereafter, terms of office of the appointed members of the

commission shall be for two years, with each term ending on the same day of the same month as did the term that it succeeds. Each member shall hold office from the date of appointment until the end of the term for which the member was appointed. Members may be reappointed. Vacancies shall be filled in the manner provided for original appointments. Any member appointed to fill a vacancy occurring prior to the expiration of the term for which the member's predecessor was appointed shall hold office for the remainder of that term. A member shall continue in office subsequent to the expiration date of the member's term until the member's successor takes office or until a period of sixty days has elapsed, whichever occurs first. The commission may at any time by a vote of two-thirds of all the members remove any appointed member of the commission for misfeasance, nonfeasance, or malfeasance. Members of the commission shall serve without compensation, but shall be reimbursed for the reasonable expenses incurred by them in the discharge of their duties as members of the commission.

The commission shall meet at least annually and shall hold such additional meetings as are necessary to implement and administer this chapter. Additional meetings may be held at the behest of either a co-chairperson or a majority of the members. The commission shall, by adoption of internal management rules under division (B)(9) of this section, establish an executive committee and delegate to it the performance of such of the commission's duties and powers under this chapter as are required or authorized to be so delegated by that division. The commission may organize itself into such additional committees as it considers necessary or convenient to implement and administer this chapter. The director of environmental protection and the director of public safety or their designees

shall serve as co-chairpersons of the commission and the executive committee. Except as otherwise provided in this chapter, a majority of the voting members of the commission constitutes a quorum and the affirmative vote of a majority of the voting members of the commission is necessary for any action taken by the commission. Meetings of the executive committee conducted for the purpose of determining whether to issue an enforcement order or request that a civil action, civil penalty action, or criminal action be brought to enforce this chapter or rules adopted or orders issued under it are not subject to section 121.22 of the Revised Code pursuant to division (D) of that section.

Except for the purposes of Chapters 102. and 2921. and sections 9.86 and 109.36 to ~~109.366~~ 109.365 of the Revised Code, serving as an appointed member of the commission does not constitute holding a public office or position of employment under the laws of this state and does not constitute grounds for removal of public officers or employees from their offices or positions of employment.

(B) The commission shall:

(1) Adopt rules in accordance with Chapter 119. of the Revised Code that are consistent with and equivalent in scope, content, and coverage to the "Emergency Planning and Community Right-To-Know Act of 1986," 100 Stat. 1729, 42 U.S.C.A. 11001, and applicable regulations adopted under it:

(a) Identifying or listing extremely hazardous substances and establishing a threshold planning quantity for each such substance. To the extent consistent with that act and applicable regulations adopted under it, the rules may establish threshold planning quantities based upon classes of those substances or

categories of facilities at which such substances are present.

(b) Listing hazardous chemicals, establishing threshold quantities for those chemicals, establishing categories of health and physical hazards of those chemicals, establishing criteria or procedures for identifying those chemicals and the appropriate hazard categories of those chemicals, and establishing ranges of quantities for those chemicals to be used in preparing emergency and hazardous chemical inventory forms under section 3750.08 of the Revised Code. To the extent consistent with that act and applicable regulations adopted under it, the rules may establish threshold quantities based upon classes of those chemicals or categories of facilities where those chemicals are present.

To the extent consistent with that act, the threshold quantities for purposes of the submission of lists of hazardous chemicals under section 3750.07 and the submission of emergency and hazardous chemical inventory forms under section 3750.08 of the Revised Code may differ.

(c) Identifying or listing hazardous substances and establishing reportable quantities of each of those substances and each extremely hazardous substance. In addition to being consistent with and equivalent in scope, content, and coverage to that act and applicable regulations adopted under it, the rules shall be consistent with and equivalent in scope, content, and coverage to regulations identifying or listing hazardous substances and reportable quantities of those substances adopted under the "Comprehensive Environmental Response, Compensation, and Liability Act of 1980," 94 Stat. 2779, 42 U.S.C.A. 9602, as amended.

(d) Prescribing the information to be included in the

lists of hazardous chemicals required to be submitted under section 3750.07 of the Revised Code;

(e) Prescribing the information to be included in the emergency and hazardous chemical inventory forms required to be submitted under section 3750.08 of the Revised Code. If the commission establishes its own emergency and hazardous chemical inventory form, the rules shall authorize owners and operators of facilities who also have one or more facilities located outside the state for which they are required to submit inventory forms under the federal act and regulations adopted under it to submit their annual inventories on forms prescribed by the administrator of the United States environmental protection agency under that act instead of on forms prescribed by the commission and shall require those owners or operators to submit any additional information required by the commission's inventory form on an attachment to the federal form.

(f) Establishing procedures for giving verbal notice of releases under section 3750.06 of the Revised Code and prescribing the information to be provided in such a notice and in the follow-up written notice required by that section;

(g) Establishing standards for determining valid needs for the release of tier II information under division (B)(4) of section 3750.10 of the Revised Code;

(h) Identifying the types or categories of information submitted or obtained under this chapter and rules adopted under it that constitute confidential business information;

(i) Establishing criteria and procedures to protect trade secret and confidential business information from unauthorized disclosure~~;~~

~~(j) Establishing other requirements or authorizations that the commission considers necessary or appropriate to implement, administer, and enforce this chapter~~.

(2) Adopt rules in accordance with Chapter 119. of the Revised Code to implement and administer this chapter that may be more stringent than the "Emergency Planning and Community Right-To-Know Act of 1986," 100 Stat. 1729, 42 U.S.C.A. 11001, and regulations adopted under it. Rules adopted under division (B)(2) of this section shall not be inconsistent with that act or the regulations adopted under it. The rules shall:

(a) Prescribe the information to be included in the chemical emergency response and preparedness plans prepared and submitted by local emergency planning committees under section 3750.04 of the Revised Code;

(b) Establish criteria and procedures for reviewing the chemical emergency response and preparedness plans of local emergency planning committees required by section 3750.04 of the Revised Code and the annual exercise of those plans and for providing concurrence or requesting modifications in the plans and the exercise of those plans. The criteria shall include, without limitation, the requirement that each exercise of a committee's plan involve, in addition to local emergency response and medical personnel, either a facility that is subject to the plan or a transporter of materials that are identified or listed as hazardous materials by regulations adopted under the "Hazardous Materials Transportation Act," 88 Stat. 2156 (1975), 49 U.S.C.A. 1801, as amended.

(c) Establish policies and procedures for maintaining information submitted to the commission and local emergency planning committees under this chapter, and for receiving and

fulfilling requests from the public for access to review and to obtain copies of that information. The criteria and procedures shall include the following requirements and authorizations regarding that information and access to it:

(i) Information that is protected as trade secret information or confidential business information under this chapter and rules adopted under it shall be kept in files that are separate from those containing information that is not so protected.

(ii) The original copies of information submitted to the commission or committee shall not be removed from the custody and control of the commission or committee.

(iii) A person who, either in person or by mail, requests to obtain a copy of a material safety data sheet submitted under this chapter by a facility owner or operator shall submit a separate application for each facility for which a material safety data sheet is being requested.

(iv) A person who requests to receive by mail a copy of information submitted under this chapter by a facility owner or operator shall submit a separate application for each facility for which information is being requested and shall specify both the facility for which information is being requested and the particular types of documents requested.

(v) Only employees of the commission or committee shall copy information in the files of the commission or committee.

(vi) The commission or committee may require any person who requests to review or obtain a copy of information in its files to schedule an appointment for that purpose with the information coordinator of the commission or committee at least

twenty-four hours before arriving at the office of the commission or committee for the review or copy.

(vii) Any person who seeks access to information in the files of the commission or a local emergency planning committee shall submit a written application, either in person or by mail, to the information coordinator on a form provided by the commission or committee. The person also shall provide the person's name and current mailing address on the application and may be requested by the commission or committee to provide basic demographic information on the form to assist in the evaluation of the information access provisions of this chapter and rules adopted under it. Application forms may be obtained by mail or in person or by request by telephone at the office of the commission or committee during regular business hours. Upon receipt of a request for an application by telephone or mail, the information coordinator shall promptly mail an application to the person who requested it.

(viii) The application form shall provide the applicant with a means of indicating that the applicant's name and address are to be kept confidential. If the applicant so indicates, that information is not a public record under section 149.43 of the Revised Code and shall not be disclosed to any person who is not a member or employee of the commission or committee or an employee of the environmental protection agency. When a name and address are to be kept confidential, they also shall be deleted from the copy of the application required to be placed in the file of the facility under division (B)(2)(c)(xii) of this section and shall be withheld from any log of information requests kept by the commission or committee pursuant to that division.

(ix) Neither the commission nor a local emergency planning committee shall charge any fee for access to review information in its files when no copies or computer searches of that information are requested.

(x) An applicant shall be informed of the cost of copying, mailing, or conducting a computer search of information on file with the commission or committee before such a copy or search is made, and the commission or committee shall collect the appropriate fees as established under section 3750.13 of the Revised Code. Each applicant shall acknowledge on the application form that the applicant is aware that the applicant will be charged for copies and computer searches of that information the applicant requests and for the costs of mailing copies of the information to the applicant.

(xi) The commission or committee may require a person requesting copies of information on file with it to take delivery of them in the office of the commission or committee whenever it considers the volume of the information to be large enough to make mailing or delivery by a parcel or package delivery service impractical.

(xii) When the commission or committee receives a request for access to review or obtain copies of information in its files, it shall not routinely notify the owner or operator of the facility involved, but instead shall either keep a log or file of requests for the information or shall place a copy of each completed application form in the file for the facility to which the application pertains. Such a log or file shall be available for review by the public and by the owners and operators of facilities required to submit information to the commission or committee under this chapter and rules adopted

under it.

(d) Require that claims for the protection, as a trade secret, of information obtained under this chapter regarding extremely hazardous substances identified or listed in rules adopted under division (B)(1)(a) of this section and hazardous chemicals identified or listed in rules adopted under division (B)(1)(b) of this section be submitted to the administrator of the United States environmental protection agency for determination under section 322 of the ~~the~~ "Emergency Planning and Community Right-To-Know Act of 1986," 100 Stat. 1747, 42 U.S.C.A. 11042, and regulations adopted under that section;

(e) Establish criteria and procedures for the issuance of variances under divisions (B) and (C) of section 3750.11 of the Revised Code. The rules shall require that, before approval of an application for a variance, the commission or committee find by a preponderance of the scientific evidence based upon generally accepted scientific principles or laboratory tests that the extremely hazardous substances, hazardous chemicals, or hazardous substances that would be subject to the reporting requirement pose a substantial risk of catastrophic injury to public health or safety or to the environment, or pose an extraordinary risk of injury to emergency management personnel responding to a release of the chemicals or substances, when the substances or chemicals are present at a facility in an amount equal to or exceeding the quantity for which reporting would be required under the reporting requirement for which the variance is sought. The rules shall also require that before approval of an application for a variance, the commission or committee find by a preponderance of the evidence that the development and implementation of a local emergency response plan for releases of the substances or chemicals covered by the reporting

requirement will reduce the risk of catastrophic injury to public health or safety or to the environment, or will reduce the extraordinary risk of injury to responding emergency management personnel, in the event of a release of the substances or chemicals and find by a preponderance of the evidence that the reporting requirement is necessary for the development of such a local emergency response plan. The rules shall require that when determining whether the substances or chemicals that would be subject to the reporting requirement pose a substantial risk of catastrophic injury to public health or safety or to the environment, or pose an extraordinary risk of injury to emergency management personnel responding to a release of the substance or chemical, the commission or committee consider all of the following factors:

(i) The specific characteristics and degree and nature of the hazards posed by a release of the extremely hazardous substances, hazardous chemicals, or hazardous substances;

(ii) The proximity of the facilities that would be subject to the reporting requirement to residential areas, to areas where significantly large numbers of people are employed or otherwise congregate, and to environmental resources that are subject to injury;

(iii) The quantities of the extremely hazardous substances, hazardous chemicals, or hazardous substances that are routinely present at facilities that would be subject to the reporting requirement;

(iv) The frequency with which the extremely hazardous substances, hazardous chemicals, or hazardous substances are present at the facilities that would be subject to the reporting requirement in quantities for which reporting would be required

thereunder.

(f) Establish criteria and procedures for the issuance of orders under division (D) of section 3750.11 of the Revised Code requiring the placement of emergency response lock box units. The rules shall require that before approval of an application for issuance of such an order, the commission or committee find by a preponderance of the scientific evidence based upon generally accepted scientific principles or laboratory tests that the presence of the extremely hazardous substances, hazardous chemicals, or hazardous substances in the quantities in which they are routinely or intermittently present at the facility for which the order is sought pose a substantial risk of catastrophic injury to public health or safety or to the environment, or pose an extraordinary risk of injury to responding emergency management personnel, in the event of a release of any of those substances or chemicals from the facility. The rules shall require that before approval of an application for issuance of such an order, the commission or committee also find by a preponderance of the evidence that the placement of an emergency response lock box unit at the facility is necessary to protect against the substantial risk of catastrophic injury to public health or safety or the environment, or to protect against an extraordinary risk of injury to responding emergency management personnel, in the event of a release of any of the extremely hazardous substances, hazardous chemicals, or hazardous substances routinely or intermittently present at the facility. The rules shall require that when determining whether the extremely hazardous substances, hazardous chemicals, or hazardous substances present at the facility pose a substantial risk of catastrophic injury to public health or safety or to the environment, or pose an

extraordinary risk of injury to responding emergency management personnel, in the event of a release of any of those substances or chemicals from the facility, the commission or committee consider all of the following factors:

(i) The specific characteristics and the degree and nature of the hazards posed by a release of the extremely hazardous substances, hazardous chemicals, or hazardous substances present at the facility;

(ii) The proximity of the facility to residential areas, to areas where significantly large numbers of people are employed or otherwise congregate, and to environmental resources that are subject to injury;

(iii) The quantities of the extremely hazardous substances, hazardous chemicals, or hazardous substances that are routinely present at the facility;

(iv) The frequency with which the extremely hazardous substances, hazardous chemicals, or hazardous substances are present at the facility.

(g) Establish procedures to be followed by the commission and the executive committee of the commission for the issuance of orders under this chapter.

(3) In accordance with Chapter 119. of the Revised Code adopt rules establishing reportable quantities for releases of oil that are consistent with and equivalent in scope, content, and coverage to section 311 of the "Federal Water Pollution Control Act Amendments of 1972," 86 Stat. 862, 33 U.S.C.A. 1321, as amended, and applicable regulations adopted under it;

(4) Adopt rules in accordance with Chapter 119. of the Revised Code establishing criteria and procedures for

identifying or listing extremely hazardous substances in addition to those identified or listed in rules adopted under division (B)(1)(a) of this section and for establishing threshold planning quantities and reportable quantities for the added extremely hazardous substances; for identifying or listing hazardous chemicals in addition to those identified or listed in rules adopted under division (B)(1)(b) of this section and for establishing threshold quantities and categories of health and physical hazards for the added hazardous chemicals; and for identifying or listing hazardous substances in addition to those identified or listed in rules adopted under division (B)(1)(c) of this section and for establishing reportable quantities for the added hazardous substances. The criteria for identifying or listing additional extremely hazardous substances and establishing threshold planning quantities and reportable quantities therefor and for identifying or listing additional hazardous chemicals and establishing threshold quantities and categories of health and physical hazards for the added hazardous chemicals shall be consistent with and equivalent to applicable criteria therefor under the "Emergency Planning and Community Right-To-Know Act of 1986," 100 Stat. 1729, 42 U.S.C.A. 11001, and regulations adopted under it. The criteria for identifying additional hazardous substances and for establishing reportable quantities of the added hazardous substances shall be consistent with and equivalent to the applicable criteria for identifying or listing hazardous substances and establishing reportable quantities therefor under the "Comprehensive Environmental Response, Compensation, and Liability Act of 1980," 94 Stat. 2779, 42 U.S.C.A. 9602, as amended, and regulations adopted under it.

The rules shall require that, before identifying or

listing any such additional extremely hazardous substance, hazardous chemical, or hazardous substance and establishing a threshold planning quantity, threshold quantity, or reportable quantity therefor, the commission find by a preponderance of the scientific evidence based on generally accepted scientific principles or laboratory tests that the substance or chemical poses a substantial risk of catastrophic injury to public health or safety or to the environment, or poses an extraordinary risk of injury to emergency management personnel responding to a release of the chemical or substance, when the chemical or substance is present at a facility in an amount equal to the proposed threshold planning quantity or threshold quantity or, in the instance of a proposed additional extremely hazardous substance or hazardous substance, poses a substantial risk of catastrophic injury to public health or safety or to the environment if a release of the proposed reportable quantity of the substance occurs. The rules shall further require that, before so identifying or listing a substance or chemical, the commission find by a preponderance of the evidence that the development and implementation of state or local emergency response plans for releases of the substance or chemical will reduce the risk of a catastrophic injury to public health or safety or to the environment, or will reduce the extraordinary risk of injury to responding emergency response personnel, in the event of a release of the substance or chemical and find by a preponderance of the evidence that the identification or listing of the substance or chemical is necessary for the development of state or local emergency response plans for releases of the substance or chemical. The rules shall require that the commission consider the toxicity of the substance or chemical in terms of both the short-term and long-term health effects resulting from exposure to it and its reactivity,

volatility, dispersibility, combustibility, and flammability when determining the risks posed by a release of the substance or chemical and, as appropriate, when establishing a threshold planning quantity, threshold quantity, reportable quantity, or category of health or physical hazard for it.

(5) Adopt rules in accordance with Chapter 119. of the Revised Code establishing criteria and procedures for receiving and deciding claims for protection of information as a trade secret that are applicable only to extremely hazardous substances and hazardous chemicals identified or listed in rules adopted under division (C)(5) of this section. The rules shall be equivalent in scope, content, and coverage to section 322 of the "Emergency Planning and Community Right-To-Know Act of 1986," 100 Stat. 1747, 42 U.S.C.A. 11042, and regulations adopted under it.

(6)(a) After consultation with the fire marshal, adopt rules in accordance with Chapter 119. of the Revised Code establishing standards for the construction, placement, and use of emergency response lock box units at facilities that are subject to this chapter. The rules shall establish all of the following:

(i) Specific standards of construction for lock box units;

(ii) The specific types of information that shall be placed in the lock box units required to be placed at a facility by an order issued under division (D) of section 3750.11 of the Revised Code, which shall include the location of on-site emergency fire-fighting and spill cleanup equipment; a diagram of the public and private water supply and sewage systems serving the facility that are known to the owner or operator of the facility; a copy of the emergency and hazardous chemical

inventory form for the facility most recently required to be submitted under section 3750.08 of the Revised Code from which the owner or operator may withhold information claimed or determined to be trade secret information pursuant to rules adopted under division (B)(2)(d) of this section, or pursuant to division (B)(14) of this section and rules adopted under division (B)(5) of this section, and confidential business information identified in rules adopted under division (B)(1)(h) of this section; a copy of the local fire department's and facility's emergency management plans for the facility, if any; a current list of the names, positions, addresses, and telephone numbers of all key facility personnel knowledgeable in facility safety procedures and the locations at the facility where extremely hazardous substances, hazardous chemicals, and hazardous substances are produced, used, or stored. The rules shall stipulate that, in the instance of lock box units placed voluntarily at facilities by the owners or operators of the facilities, such information shall be maintained in them as is prescribed by agreement by the owner or operator and the fire department having jurisdiction over the facility.

(iii) The conditions that shall be met in order to provide safe and expedient access to a lock box unit during a release or threatened release of an extremely hazardous substance, hazardous chemical, or hazardous substance.

(b) Unless the owner or operator of a facility is issued an order under division (D) of section 3750.11 of the Revised Code requiring the owner or operator to place a lock box unit at the facility, the owner or operator may place a lock box unit at the facility at the owner's or operator's discretion. If the owner or operator chooses to place a lock box unit at the facility, the responsibility to deposit information in the lock

box unit is in addition to any other obligations established in this chapter.

(c) Any costs associated with the purchase, construction, or placement of a lock box unit shall be paid by the owner or operator of the facility.

(7) In accordance with Chapter 119. of the Revised Code, adopt rules governing the application for and awarding of grants under division (C) of section 3750.14 and division (B) of section 3750.15 of the Revised Code;

(8) Adopt rules in accordance with Chapter 119. of the Revised Code establishing reasonable maximum fees that may be charged by the commission and local emergency planning committees for copying information in the commission's or committee's files to fulfill requests from the public for that information;

(9) Adopt internal management rules governing the operations of the commission. The internal management rules shall establish an executive committee of the commission consisting of the director of environmental protection or the director's designee, the director of public safety or the director's designee, the attorney general or the attorney general's designee, one of the appointed members of the commission representing industries subject to this chapter to be appointed by the commission, one of the appointed members of the commission representing the interests of environmental advocacy organizations to be appointed by the commission, and one other appointed member or member ex officio of the commission to be appointed by the commission. The executive committee has exclusive authority to issue enforcement orders under section 3750.18 of the Revised Code and to request the attorney general

to bring a civil action, civil penalty action, or criminal action under section 3750.20 of the Revised Code in the name of the commission regarding violations of this chapter, rules adopted under it, or orders issued under it. The internal management rules may set forth the other specific powers and duties of the commission that the executive committee may exercise and carry out and the conditions under which the executive committee may do so. The internal management rules shall not authorize the executive committee to issue variances under division (B) or (C) of section 3750.11 of the Revised Code or orders under division (D) of that section.

(10) Oversee and coordinate the implementation and enforcement of this chapter and make such recommendations to the director of environmental protection and the director of public safety as it considers necessary or appropriate to improve the implementation and enforcement of this chapter;

(11) Make allocations of moneys under division (B) of section 3750.14 of the Revised Code and make grants under division (C) of section 3750.14 and division (B) of section 3750.15 of the Revised Code;

(12) Designate an officer of the environmental protection agency to serve as the commission's information coordinator under this chapter;

(13) Not later than December 14, 1989, develop and distribute a state emergency response plan that defines the emergency response roles and responsibilities of the state agencies that are represented on the commission and that provides appropriate coordination with the national contingency plan and the regional contingency plan required by section 105 of the "Comprehensive Environmental Response, Compensation, and

Liability Act of 1980," 94 Stat. 2767, 42 U.S.C.A. 9601, as amended. The plan shall ensure a well-coordinated response by state agencies that may be involved in assisting local emergency responders during a major release of oil or a major sudden and accidental release of a hazardous substance or extremely hazardous substance. The plan may incorporate existing state emergency response plans by reference. At least annually, the commission and the state agencies that are represented on it shall jointly exercise the state plan in conjunction with the exercise of a local emergency response plan by a local emergency planning committee under section 3750.04 of the Revised Code. After any such exercise, the commission shall review the state plan and make such revisions in it as the commission considers necessary or appropriate.

(14) Receive and decide claims for the protection of information as a trade secret that pertain only to extremely hazardous substances and hazardous chemicals identified or listed by rules adopted under division (C)(5) of this section. If the commission determines that the claim meets the criteria established in rules adopted under division (B)(5) of this section, it shall issue an order to that effect in accordance with section 3750.18 of the Revised Code. If the commission determines that the claim does not meet the criteria established in those rules, it shall issue an order to that effect in accordance with section 3750.18 of the Revised Code.

(15) Annually compile, make available to the public, and submit to the president of the senate and the speaker of the house of representatives a summary report on the number of facilities estimated to be subject to regulation under sections 3750.05, 3750.07, and 3750.08 of the Revised Code, the number of facilities reporting to the commission, an estimate of the

percentage of facilities in compliance with those sections, and recommendations regarding the types of activities the commission considers necessary to improve such compliance. The commission shall base its estimate of the number of facilities that are subject to regulation under those sections on the current estimates provided by the local emergency planning committees under division (D)(6) of section 3750.03 of the Revised Code.

(C) The commission may:

(1) Procure by contract the temporary or intermittent services of experts or consultants when those services are to be performed on a part-time or fee-for-service basis and do not involve the performance of administrative duties;

(2) Enter into contracts or agreements with political subdivisions or emergency planning districts for the purposes of this chapter;

(3) Accept on behalf of the state any gift, grant, or contribution from any governmental or private source for the purposes of this chapter;

(4) Enter into contracts, agreements, or memoranda of understanding with any state department, agency, board, commission, or institution to obtain the services of personnel thereof or utilize resources thereof for the purposes of this chapter. Employees of a state department, agency, board, commission, or institution providing services to the commission under any such contract, agreement, or memorandum shall perform only those functions and provide only the services provided for in the contract, agreement, or memorandum.

(5) Identify or list extremely hazardous substances in addition to those identified or listed in rules adopted under

division (B)(1)(a) of this section and establish threshold planning quantities and reportable quantities for the additional extremely hazardous substances, identify or list hazardous chemicals in addition to those identified or listed in rules adopted under division (B)(1)(b) of this section and establish threshold quantities and categories or health and physical hazards for the added chemicals, and identify or list hazardous substances in addition to those identified or listed in rules adopted under division (B)(1)(c) of this section and establish reportable quantities for the added hazardous substances. The commission may establish threshold planning quantities for the additional extremely hazardous substances based upon classes of those substances or categories of facilities at which they are present and may establish threshold quantities for the additional hazardous chemicals based upon classes of those chemicals or categories of facilities where they are present. The commission shall identify or list such additional substances or chemicals and establish threshold planning quantities, threshold quantities, reportable quantities, and hazard categories therefor in accordance with the criteria and procedures established in rules adopted under division (B)(4) of this section and, after compliance with those criteria and procedures, by the adoption of rules in accordance with Chapter 119. of the Revised Code. The commission shall not adopt rules under division (C)(5) of this section modifying any threshold planning quantity established in rules adopted under division (B)(1)(a) of this section, any threshold quantity established in rules adopted under division (B)(1)(b) of this section, or any reportable quantity established in rules adopted under division (B)(1)(c) of this section.

If, after the commission has adopted rules under division

(C)(5) of this section identifying or listing an extremely hazardous substance, hazardous chemical, or hazardous substance, the administrator of the United States environmental protection agency identifies or lists the substance or chemical as an extremely hazardous substance or hazardous chemical under the "Emergency Planning and Community Right-To-Know Act of 1986," 100 Stat. 1729, 42 U.S.C.A. 11001, or identifies or lists a substance as a hazardous substance under the "Comprehensive Environmental Response, Compensation, and Liability Act of 1980," 94 Stat. 2779, 42 U.S.C.A. 9602, as amended, the commission shall rescind its rules adopted under division (C)(5) of this section pertaining to the substance or chemical and adopt the appropriate rules under division (B)(1)(a), (b), or (c) of this section.

(6) From time to time, request the director of environmental protection and the executive director of the emergency management agency to review implementation, administration, and enforcement of the chemical emergency response planning and reporting programs created by this chapter and rules adopted under it regarding their effectiveness in preparing for response to releases of extremely hazardous substances, hazardous chemicals, and hazardous substances. After completion of any such review, the director of environmental protection and the director of public safety shall report their findings to the commission. Upon receipt of their findings, the commission may make such recommendations for legislative and administrative action as the commission finds necessary or appropriate to promote achievement of the purposes of this chapter.

(D) Except as provided in section 3750.06 of the Revised Code, nothing in this chapter applies to the transportation,

including the storage incident to transportation, of any substance or chemical subject to the requirements of this chapter, including the transportation and distribution of natural gas.

(E) This chapter authorizes the state, through the emergency response commission, the department of public safety, and the environmental protection agency, to establish and maintain chemical emergency response planning and preparedness, community right-to-know, and hazardous substance and extremely hazardous substance release reporting programs that are consistent with and equivalent in scope, coverage, and content to the "Emergency Planning and Community Right-To-Know Act of 1986," 100 Stat. 1729, 42 U.S.C.A. 11001, and regulations adopted under it, except as otherwise specifically required or authorized in this chapter. The commission, department, and agencies may do all things necessary, incidental, or appropriate to implement, administer, and enforce this chapter and to perform the duties and exercise the powers of the state emergency response commission under that act and regulations adopted under it and under this chapter.

Sec. 3750.11. (A) Except as provided in division (E) of this section, no local emergency planning committee shall enforce any resolution, rule, or requirement for the reporting or providing of the names or amounts of extremely hazardous substances or hazardous chemicals produced, used, or stored at facilities under the jurisdiction of the committee; for the reporting or providing of information regarding locations where those substances or chemicals are stored at those facilities; or for the reporting of releases of extremely hazardous substances, hazardous substances, or oil, that is not consistent with and equivalent in scope, content, and coverage to the reporting and

hazard communication provisions of this chapter and rules adopted under it, unless the committee first obtains a variance from the emergency response commission under division (B) of this section.

(B) A committee shall, prior to commencing enforcement of any such requirement, submit a copy of it to the commission along with an application for a variance from division (A) of this section in accordance with rules adopted under division (B)(2)(e) of section 3750.02 of the Revised Code. On or before the date that the committee submits the variance application to the commission, the committee shall mail by certified mail, return receipt requested, notice of the application and a summary of the reporting requirement to the owner or operator of each facility within the emergency planning district that the committee determines would be subject to the reporting requirement. If the commission finds that the resolution, rule, or requirement meets the criteria for issuance of a variance established in those rules, it shall approve the application and issue an order granting the variance in accordance with section 3750.18 of the Revised Code. The commission shall not issue any order approving a variance application unless at least sixty per cent of the voting members of the commission vote to approve the application and issuance of the order. If less than sixty per cent of the voting members of the commission vote to approve a variance application, the commission shall issue an order denying the variance.

(C) Except as provided in division (G) of this section, no political subdivision shall enforce any ordinance, resolution, rule, or requirement adopted on or after ~~the effective date of this section~~December 14, 1988, or any amendment adopted on or after ~~the effective~~ that date ~~of this section~~ to any such

ordinance, resolution, rule, or requirement that was in effect on ~~the effective~~ that date ~~of this section~~, for the reporting or providing of the names or amounts of extremely hazardous substances or hazardous chemicals produced, used, or stored, at facilities within the political subdivision; for the reporting or providing of information regarding locations where those substances or chemicals are stored at those facilities; or for the reporting of releases of those extremely hazardous substances, hazardous substances, or oil that is not consistent with, equivalent to, and no more stringent than the reporting and hazard communication requirements of this chapter and rules adopted under it, unless the political subdivision first obtains a variance under this division.

A political subdivision that seeks to obtain a variance under this division shall submit a copy of the ordinance, resolution, rule, or requirement to the committee of the district in which the political subdivision is located along with an application for a variance in accordance with rules adopted under division (B)(2)(e) of section 3750.02 of the Revised Code. On or before the date that the political subdivision submits the variance application to the committee, the political subdivision shall mail by certified mail, return receipt requested, notice of the application and a summary of the reporting requirement to the owner or operator of each facility within the political subdivision that the political subdivision determines would be subject to the reporting requirement. If, in the opinion of the committee, the ordinance, resolution, rule, or requirement of the political subdivision meets the criteria for issuance of a variance established in those rules and does not conflict with any resolution, rule, or requirement adopted by the committee, the committee shall, by

resolution, approve issuance of the variance and send a copy of its resolution, of the political subdivision's variance application, and of the ordinance, resolution, rule or requirement, to the commission. The committee shall not approve issuance of a variance under this division unless at least sixty per cent of the voting members of the committee vote to approve it. If the commission finds that the committee has approved issuance of a variance and that the ordinance, resolution, rule, or requirement of the political subdivision meets the criteria for issuance of a variance established in those rules, it shall approve the application and issue an order in accordance with section 3750.18 of the Revised Code granting the variance. The commission shall not issue any order approving a variance application unless at least sixty per cent of the voting members of the commission vote to approve the application and issuance of an order granting the variance. If less than sixty per cent of the voting members of the commission vote to approve a variance application, the commission shall issue an order denying the variance.

This division does not affect the validity or enforceability of any such ordinance, resolution, rule, or requirement of a political subdivision adopted prior to the effective date of this section. However, this division applies to any amendment to any such ordinance, resolution, rule, or requirement, which amendment is adopted on or after the effective date of this section and establishes a reporting requirement that is not consistent with, equivalent to, and no more stringent than the reporting and hazard communication requirements of this chapter and rules adopted under it.

(D) No political subdivision shall enforce any ordinance, resolution, rule, or requirement adopted on or after the

effective date of this chapter requiring the placement of emergency response lock box units at any facility where an extremely hazardous substance, hazardous chemical, or hazardous substance is produced, used, or stored. The fire department of a political subdivision having jurisdiction over a facility and the owner or operator of such a facility may enter into an agreement under which the owner or operator will place and maintain an emergency response lock box unit at ~~his~~the owner's or operator's facility in compliance with rules adopted under division (B)(6) of section 3750.02 of the Revised Code. If the fire department of a political subdivision and an owner or operator of such a facility are unable to enter into such an agreement and if the fire department believes that placement of a lock box unit at the facility is necessary to protect public health and safety and the environment or to protect emergency management personnel responding to a release of any such substance or chemical from the facility, the fire department, in accordance with rules adopted under division (B)(2)(f) of section 3750.02 of the Revised Code, may submit an application to the committee of the district in which the facility is located for issuance of an order requiring the owner or operator to place a lock box unit at ~~his~~the owner's or operator's facility that complies with the rules adopted under division (B)(6) of section 3750.02 of the Revised Code. On or before the date that the fire department submits the application for issuance of such an order, the fire department shall mail by certified mail, return receipt requested, notice of the application to the owner or operator of the facility for which issuance of the order is sought. If, in the opinion of the committee, the application meets the criteria for issuance of such an order established in the rules adopted under division (B)(2)(f) of that section, the committee shall, by resolution,

approve issuance of the order and send a copy of its resolution and the fire department's application to the commission. The committee shall not approve an application for issuance of such an order unless at least sixty per cent of the voting members of the committee vote to approve it. If the commission finds that the committee has approved the application and that the application meets the criteria for issuance of such an order established in rules adopted under division (B)(2)(f) of that section, it shall approve the application and issue an order in accordance with section 3750.18 of the Revised Code requiring the owner or operator to place one or more emergency response lock box units at ~~his~~the owner's or operator's facility in accordance with the approved application and rules adopted under division (B)(6) of that section. The commission shall not approve an application for issuance of such an order unless at least sixty per cent of the voting members of the commission vote to approve the application and issuance of the order. If less than sixty per cent of the voting members of the commission vote to approve the application, the commission shall issue an order denying the application. No person shall violate an order issued under this division.

(E) A committee may, by resolution, adopt rules requiring the placarding of bulk hazardous chemical storage areas within its district in accordance with rules adopted by the fire marshal under section 3750.12 of the Revised Code~~ and rules establishing such procedures as are necessary to implement and enforce that requirement~~. The rules may exempt the owner or operator of a facility who, with the approval of the committee, installs and maintains an emergency lock box unit that complies with the rules adopted under division (B)(6) of section 3750.02 of the Revised Code from compliance with requirements for

placarding of bulk hazardous chemical storage areas. As used in this division, "bulk hazardous chemical storage area" has the same meaning as in division (D) of section 3750.12 of the Revised Code. No person shall violate a rule adopted under this division.

(F) Except as provided in division (G) of this section, this section shall not be construed to authorize a political subdivision, other than a municipal corporation or county that has adopted a charter in accordance with Sections 3 and 4 of Article X, Ohio Constitution, to adopt or enforce any ordinance, resolution, rule, or requirement for the reporting or providing of the names or amounts of extremely hazardous substances or hazardous chemicals produced, used, or stored at facilities located within their boundaries; for the reporting or providing of information regarding locations where those substances or chemicals are stored at those facilities; or for the reporting of releases of extremely hazardous substances, hazardous substances, or oil. Nothing in this section or division (E)(5) of section 3750.03 of the Revised Code shall be construed to authorize a local emergency planning committee, municipal corporation, or charter county to enforce any ordinance, resolution, rule, or requirement that identifies or lists as an extremely hazardous substance any substance that is not so identified or listed in rules adopted under division (B)(1)(a) or (C)(5) of section 3750.02 of the Revised Code, that identifies as a hazardous chemical any chemical, other than a chemical identified in division (G)(3) of section 3750.01 of the Revised Code, that is not so identified or listed in rules adopted under division (B)(1)(b) or (C)(5) of that section, or that identifies as a hazardous substance any substance that is not so identified in rules adopted under division (B)(1)(c) or

(C)(5) of that section.

(G) A political subdivision that owns, operates, or is served by a public water system as defined in section 6109.01 of the Revised Code may establish and enforce requirements that provide for the protection of ground water resources that serve as a source of drinking water for its public water system and that are located within scientifically derived wellhead protection areas.

Sec. 3751.02. The director of environmental protection may do ~~any~~ both of the following:

(A) ~~Adopt rules in accordance with Chapter 119. of the Revised Code establishing requirements or authorizations that the director considers necessary or appropriate to implement and administer this chapter.~~

~~(B)~~ As the representative of the governor pursuant to EPCRA, request the administrator of the United States environmental protection agency to apply the toxic chemical release reporting requirements of that act to the owner or operator of any facility in this state that manufactures, processes, or otherwise uses a toxic chemical if, in the director's judgment, such reporting is warranted by the toxicity of the toxic chemical manufactured, processed, or otherwise used at the facility; the proximity of the facility to other facilities that release the toxic chemical or to population centers; or the history of releases of the toxic chemical at the facility;

~~(C)~~ (B) As the representative of the governor pursuant to EPCRA, petition the administrator to, by regulation, add a chemical to or delete a chemical from the list of toxic

chemicals subject to the toxic chemical release reporting requirements of that act if, in the director's judgment, the chemical meets the criteria required by that act.

Sec. 3751.03. (A)(1) On or before the first day of July of each year or as otherwise prescribed by the administrator of the United States environmental protection agency under EPCRA, the owner or operator of a facility described in division (A)(2) of this section shall prepare and submit to the administrator a completed toxic chemical release form for each toxic chemical that was so manufactured, processed, or otherwise used at the facility during the preceding calendar year. The electronic submission of the form to the administrator constitutes simultaneous submission of the form to the director of environmental protection for purposes of EPCRA.

(2) Division (A)(1) of this section applies to the owner or operator of a facility to which all of the following apply:

(a) The facility is in standard industrial classification codes 20 to 39, as those codes were in effect on July 1, 1985, or in any other applicable code added by the administrator.

(b) The owner or operator has ten or more full-time employees.

(c) The facility manufactured, processed, or otherwise used during the calendar year immediately preceding the first day of July or date otherwise prescribed by the administrator, a toxic chemical in an amount exceeding the applicable threshold quantity established by the administrator under EPCRA.

(3) The owner or operator shall submit the information on a uniform toxic chemical release form prescribed by the administrator under EPCRA.

(B) The toxic chemical release forms required by this section are intended to provide information to federal, state, and local governments and the public, including residents of communities surrounding facilities covered by this section.

(C) No owner or operator of a facility who is required by this section to file a toxic chemical release form shall fail to submit a toxic chemical release form as required by this section.

(D) An owner or operator of a facility who is required under this section to file a toxic chemical release form and who knowingly makes a false statement on that form, on a record upon which the information on that form is based, or on other information or records required to be kept or submitted under this chapter ~~and the rules adopted under this chapter~~ is guilty of falsification under section 2921.13 of the Revised Code.

Sec. 3751.05. All civil penalties received under division (B) of section 3751.10 of the Revised Code shall be credited to the toxic chemical release reporting fund, hereby created in the state treasury. Moneys credited to the fund shall be expended by the director exclusively for the purposes of implementing, administering, and enforcing this chapter ~~and the rules adopted~~ and orders issued under it.

Sec. 3751.07. No person shall violate any section of this chapter ~~or a rule adopted~~ or order issued under it.

Sec. 3751.08. The director of environmental protection or ~~his~~the director's authorized representative, upon proper identification and upon stating the purpose and necessity of an inspection, may enter at reasonable times upon any private or public property, real or personal, to inspect or investigate,

obtain samples, and examine and copy records to determine compliance with this chapter ~~and rules adopted~~ and orders issued under it. The director or ~~his~~the director's authorized representative may apply for, and any judge of a court of record may issue for use within the court's territorial jurisdiction, an administrative inspection warrant under division (F) of section 2933.21 of the Revised Code or other appropriate search warrant necessary to achieve the purposes of this chapter.

Sec. 3751.09. The director of environmental protection may issue orders requiring the owner or operator of a facility where toxic chemicals are manufactured, processed, or otherwise used to abate a violation of this chapter ~~or a rule adopted~~ or order issued under it. The director may issue such orders as final orders without issuing a proposed action under section 3745.07 of the Revised Code and, notwithstanding section 119.06 of the Revised Code, without the necessity to hold any adjudication hearing in connection with any such order. Issuance of an order under this section is not a condition precedent to bringing any civil, criminal, or civil penalty action under this chapter.

Sec. 3751.10. (A) The attorney general, the prosecuting attorney of the county, or the city director of law of the city where a violation has occurred or is occurring, upon the written request of the director of environmental protection, shall prosecute to termination or bring an action for injunction against any person who has violated or is violating any section of this chapter ~~or any rule adopted~~ or order issued under it. The court of common pleas in which an action for injunction is filed has the jurisdiction to and shall grant preliminary and permanent injunctive relief upon a showing that the person against whom the action is brought has violated or is violating any section of this chapter ~~or a rule adopted~~ or order issued

under it. The court shall give precedence to such an action over all other cases.

Upon the certified written request of any person, the director shall conduct such investigations and make such inquiries as are necessary to secure compliance with this chapter ~~or rules adopted~~ or orders issued under it. The director may, upon request or upon the director's own initiative, investigate or make inquiries into any violation of this chapter ~~or rules adopted~~ or orders issued under it.

(B) Whoever violates division (C) of section 3751.03, division (B)(1) or (2) of section 3751.04 of the Revised Code, or an order issued under this chapter, shall pay a civil penalty of not more than twenty-five thousand dollars for each day of violation. The attorney general, the prosecuting attorney of the county, or the city director of law of the city where a violation of this chapter ~~or a rule adopted~~ or order issued under it has occurred or is occurring, upon the written request of the director, shall bring an action for imposition of a civil penalty under this division against any person who has committed or is committing any such violation. All civil penalties received under this division shall be credited to the toxic chemical release reporting fund created in section 3751.05 of the Revised Code.

(C) Any action for injunction or civil penalties under division (A) or (B) of this section is a civil action governed by the Rules of Civil Procedure.

Sec. 3752.03. (A) The director of environmental protection, in accordance with Chapter 119. of the Revised Code, shall adopt, and subsequently may amend or rescind, rules doing all of the following:

(1) Establishing guidelines for the demonstrations required to be made in an application for a waiver under division (A) of section 3752.10 of the Revised Code;

(2) Prescribing methods to be used in securing buildings, structures, and outdoor locations of operation in accordance with sections 3752.07, 3752.11, 3752.111, 3752.112, and 3752.113 of the Revised Code;

(3) Defining the phrase "contaminated with" as used in this chapter. The definition shall be consistent with and no more stringent than provisions in state and federal environmental laws dealing with the demonstration that tanks, drums, containers, pipelines, and other vessels are empty and free of regulated substances, including, without limitation, Chapters 3734., 3752., and 6111. of the Revised Code and rules adopted under those chapters; and the "Toxic Substances Control Act," 90 Stat. 2003 (1976), 15 U.S.C.A. 2601, as amended, the "Resource Conservation and Recovery Act of 1976," 90 Stat. 2806, 42 U.S.C.A. 6921, as amended, and the "Comprehensive Environmental Response, Compensation, and Liability Act of 1980," 94 Stat. 2779, 42 U.S.C.A. 9601, as amended, and regulations adopted under those acts.

(B) ~~The director, in accordance with Chapter 119. of the Revised Code, may adopt, amend, and rescind such other rules as he considers necessary or appropriate for the implementation, administration, and enforcement of this chapter.~~

~~(C)~~ No person shall violate a rule adopted under this section.

Sec. 3752.13. (A) If the director of environmental protection determines that conditions at a reporting facility

constitute an imminent and substantial threat to public health or safety or are causing or contributing to, or are threatening to cause or contribute to, air or water pollution or soil contamination, the director may expend moneys from the immediate removal fund created in section 3745.12 of the Revised Code to take such remedial actions as are necessary or appropriate to protect the public health or safety or the environment, provided that a violation or failure to comply with any of the following has occurred or is ~~occuring~~occurring at the facility:

(1) Section 3752.06 of the Revised Code~~, a rule adopted under section 3752.03 of the Revised Code implementing that section,~~ or a term or condition of an order issued under section 3752.16 of the Revised Code to enforce that section or rule;

(2) Section 3752.07 of the Revised Code, a rule adopted under section 3752.03 of the Revised Code implementing that section, or a term or condition of an order issued under section 3752.16 of the Revised Code to enforce that section or rule;

(3) Division (A)(2) of section 3752.09 of the Revised Code;

(4) A term or condition of an order issued under division (A)(3) of section 3752.09 of the Revised Code;

(5) An interim maintenance plan approved under division (A) of section 3752.10 of the Revised Code;

(6) A term or condition of an order issued under division (A) of section 3752.10 of the Revised Code approving or disapproving an application for a waiver;

(7) A term or condition of an order issued under division (B) of section 3752.10 of the Revised Code revoking a waiver;

(8) Division (C)(1) of section 3752.10 of the Revised Code;

(9) A term or condition of an order issued under division (C)(2) of section 3752.10 of the Revised Code;

(10) Section 3752.11, 3752.111, or 3752.113 of the Revised Code or a rule adopted under section 3752.03 of the Revised Code pertaining to the securing of buildings, structures, and outdoor locations of operation in connection with any of those sections.

Expenditures from the fund to perform any such remedial action shall be made pursuant to contracts entered into by the director with persons who agree to furnish all of the materials, equipment, work, and labor as provided in the contract. Agents or employees of persons contracting with the director under this division may enter upon any land, public or private, as necessary to perform a remedial action under this division. The director shall keep a detailed accounting of the cost of each such remedial action.

(B) The owner or operator of a facility where a remedial action is undertaken under division (A) of this section is liable to the state for the total cost of the remedial action in addition to any other liabilities imposed by law. The total cost of the remedial action is a lien upon the facility. The director shall prepare and present for recording in the office of the county recorder of the county in which the facility is located notice of the lien. The county recorder shall not charge a fee for recording a notice of lien under this division.

(C) Upon completion of a remedial action under division (A) of this section, the director shall certify the total cost of the remedial action to the attorney general and shall send a

copy of the notice of the lien to ~~him~~the attorney general. Upon receiving the director's certification and notice, the attorney general shall do one or both of the following:

(1) Bring a civil action to recover the total cost of the remedial action as certified by the director;

(2) Upon the written request of the director, foreclose the lien imposed by division (B) of this section.

All moneys recovered under this division shall be deposited in the state treasury to the credit of the immediate removal fund.

Sec. 3753.01. As used in this chapter:

(A) "Accidental release" means an unanticipated emission of a regulated substance into the ambient air from a stationary source.

(B) "Clean Air Act Amendments" means the "Clean Air Act Amendments of 1990," ~~91~~104 Stat. ~~685~~2399, 42 U.S.C. 7401 et al., as amended, and regulations adopted under it.

(C) "Covered process" means a process that has a regulated substance present in an amount that is in excess of the threshold quantity ~~established in rules adopted under section 3753.02 of the Revised Code~~.

(D) "Environmental receptor" means natural areas such as national or state parks, forests, or natural monuments; federally designated or state-designated wildlife sanctuaries, preserves, refuges, or areas; and federal wilderness areas, that could be exposed at any time to toxic concentrations, radiant heat, or overpressure greater than or equal to the endpoints ~~prescribed in rules adopted under section 3753.02 of the Revised~~

~~Code~~ and that can be identified on United States geological survey maps.

(E) "Owner or operator" means any person who owns, leases, operates, controls, or supervises a stationary source.

(F) "Process" means any activity involving a regulated substance, including any use, storage, manufacturing, handling, or on-site movement of the substance or any combination of these activities. Any group of vessels that are interconnected, or separate vessels that are located in such a manner that a regulated substance potentially could be involved in a release, shall be considered a single process.

(G) "Public" means any person except employees or contractors at a stationary source.

(H) "Public receptor" means off-site residences, institutions such as schools or hospitals, industrial, commercial, and office buildings, parks, or recreational areas inhabited or occupied by the public at any time where the public could be exposed to toxic concentrations, radiant heat, or overpressure as a result of an accidental release.

(I) "Regulated substance" means a toxic or flammable substance ~~listed in rules adopted under section 3753.02 of the Revised Code~~.

(J) "Risk management plan" means a risk management plan required under section 3753.03 of the Revised Code.

(K) "Stationary source" means any buildings, structures, equipment, installations, or substance-emitting stationary activities that belong to the same industrial group as described in the standard industrial classification manual, 1987, that are located on one or more contiguous properties under the control

of the same person or persons, and from which an accidental release may occur. Properties shall not be considered contiguous solely because of a railroad or pipeline right-of-way.

(1) "Stationary source" includes transportation containers that are used for storage not incident to transportation and transportation containers that are connected to equipment at a stationary source for loading and unloading. "Stationary source" does not include the transportation, including storage incident to transportation, of any regulated substance under this chapter. "Stationary source" does not include naturally occurring hydrocarbon reservoirs.

(2) "Transportation" includes, but is not limited to, transportation that is subject to oversight or regulation under 49 C.F.R. part 192, 193, or 195, or to a state natural gas or hazardous liquid program for which the state has in effect a certification to the United States department of transportation under 49 U.S.C. 60105.

(L) "Threshold quantity" means the quantity established for a regulated substance ~~in rules adopted under section 3753.02 of the Revised Code~~ that, if exceeded, subjects an owner or operator to compliance with this chapter and rules adopted under it.

(M) "Vessel" means any reactor, tank, drum, barrel, cylinder, vat, kettle, boiler, pipe, hose, or other container.

Sec. 3753.03. (A) Effective upon the date that the United States environmental protection agency delegates the program created under section 112(r) of the Clean Air Act Amendments to the environmental protection agency of this state, an owner or operator of a stationary source that has a covered process shall

develop and submit a risk management plan no later than the latest of the following:

(1) Not later than ten days after the notice of delegation of the program to the state appears in the federal register, or ten days after the effective date of this amendment, whichever occurs later;

(2) The date on which a regulated substance is first present above a threshold quantity in a process at the stationary source;

(3) Three years after the date on which a regulated substance at the stationary source is first listed under 40 C.F.R. 68.130.

(B) An owner or operator who is subject to division (A) of this section shall submit a single risk management plan that reflects all covered processes at the stationary source by the applicable deadline established under that division and that is in the form required by the director of environmental protection ~~in rules adopted under section 3753.02 of the Revised Code~~. The risk management plan shall include all of the following, as applicable:

(1) A registration that reflects all covered processes at the stationary source pursuant to 40 C.F.R. 68.160;

(2) The applicable information required to be submitted with the plan under section 3753.04 of the Revised Code;

(3) A summary of the actions taken to comply with all of the other applicable requirements established under section 3753.04 of the Revised Code.

(C) An owner or operator who has submitted a risk

management plan as required by division (A) of this section or submitted an update to a risk management plan under division (C) of this section shall revise, update, and submit the risk management plan in accordance with whichever of the following is applicable:

(1) Not later than five years after the initial submission of the risk management plan under division (A) of this section;

(2) Not later than five years after the most recent update of the risk management plan submitted under division (C) of this section;

(3) As otherwise provided in rules adopted by the director ~~under section 3753.02 of the Revised Code~~.

(D) No owner or operator who is required to submit, revise, or update a risk management plan shall fail to do so within the prescribed time.

(E) An owner or operator who is required to submit a risk management plan and who knowingly makes a false statement in the plan, on a record upon which information in the plan is based, or on or pertaining to any other information or records required to be maintained under this chapter or rules adopted under it is guilty of falsification under section 2921.13 of the Revised Code.

Sec. 3753.04. (A) In addition to complying with section 3753.03 of the Revised Code, the owner or operator of a stationary source at which one or more covered processes are present, as part of the owner or operator's risk management program, shall comply with program 1, program 2, or program 3 requirements established under this section or with a combination of those requirements. An owner or operator shall

determine which of those requirements apply to the covered processes that are present at the stationary source as provided in divisions (B) to (D) of this section. An owner or operator shall comply with all levels of program requirements that apply to the covered processes at the owner or operator's stationary source.

(B) The owner or operator of a stationary source at which a covered process is present is subject to program 1 requirements established under division (E) of this section if the covered process meets all of the following conditions:

(1) For the five years prior to the submission of a risk management plan, the process has not had an accidental release of a regulated substance where exposure to the substance, its reaction products, overpressure generated by an explosion involving the substance, or radiant heat generated by a fire involving the substance led to any of the following occurrences off-site:

(a) Death of any person;

(b) Injury to any person;

(c) Response or restoration activities for an environmental receptor.

(2) The distance to a toxic or flammable endpoint for a worst case release assessment conducted pursuant to a hazard assessment as specified in rules adopted under ~~section 3753.02~~ Chapter 119. of the Revised Code is less than the distance to any public receptor;

(3) Emergency response procedures have been coordinated between the stationary source and local emergency planning and response organizations.

(C) The owner or operator of a stationary source at which a covered process is present is subject to program 2 requirements established under division (F) of this section if the covered process does not meet the conditions established under division (B) or (D) of this section.

(D) The owner or operator of a stationary source at which a covered process is present is subject to program 3 requirements established under division (G) of this section if the covered process does not meet the conditions established under division (B) of this section and either of the following conditions is met:

(1) The process is in standard industrial classification code 2611, 2812, 2819, 2821, 2865, 2869, 2873, 2879, or 2911;

(2) The process is subject to the United States occupational safety and health administration safety management standard under 29 C.F.R. 1910.119.

(E) The owner or operator of a stationary source at which one or more covered processes are present that meet the conditions established under division (B) of this section shall comply with all of the following program 1 requirements:

(1) Submit with the risk management plan an analysis of the worst case release scenario for each covered process and documentation that the nearest public receptor is beyond the distance to a toxic or flammable endpoint;

(2) Submit with the risk management plan a five-year accident history for the process;

(3) Ensure that response actions have been coordinated with local emergency planning and response agencies;

(4) Certify in the risk management plan that "~~Based upon criteria in rules adopted under section 3753.02 of the Revised Code, the~~ The distance to the specified endpoint for the worst case release scenario for the following process(es) is less than the distance to the nearest public receptor: (list processes). Within the past five years, the process(es) has (have) had no accidental release that caused off-site impacts~~ as described in rules adopted under section 3753.02 of the Revised Code~~. No additional measures are necessary to prevent off-site impacts from accidental releases. In the event of fire, explosion, or a release of a regulated substance from the process(es), entry within the distance to the specified endpoints may pose a danger to public emergency responders. Therefore, public emergency responders should not enter this area except as arranged with the emergency contact indicated in the risk management plan. The undersigned certifies that, to the best of my knowledge, the information submitted is true, accurate, and complete. (signature, title, date signed)"

(F) The owner or operator of a stationary source at which one or more covered processes are present that meet the conditions established under division (C) of this section shall comply with all of the following program 2 requirements:

(1) Develop and implement a management system in accordance with rules adopted under ~~section 3753.02~~ Chapter 119. of the Revised Code;

(2) Conduct a hazard assessment in accordance with rules adopted under ~~section 3753.02~~ Chapter 119. of the Revised Code;

(3) Implement program 2 prevention requirements or implement program 3 prevention requirements in accordance with rules adopted under ~~section 3753.02~~ Chapter 119. of the Revised

Code;

(4) Submit as part of the risk management plan information on prevention program elements for covered processes that are subject to program 2 requirements;

(5) Develop and implement an emergency response program in accordance with rules adopted under ~~section 3753.02~~ Chapter 119. of the Revised Code.

(G) The owner or operator of a stationary source at which one or more covered processes are present that meet the conditions established under division (D) of this section shall comply with all of the following program 3 requirements:

(1) Develop and implement a management system in accordance with rules adopted under ~~section 3753.02~~ Chapter 119. of the Revised Code;

(2) Conduct a hazard assessment in accordance with rules adopted under ~~section 3753.02~~ Chapter 119. of the Revised Code;

(3) Implement program 3 prevention requirements in accordance with rules adopted under ~~section 3753.02~~ Chapter 119. of the Revised Code;

(4) Submit as part of the risk management plan information on prevention program elements for covered processes that are subject to program 3 requirements;

(5) Develop and implement an emergency response program in accordance with rules adopted under ~~section 3753.02~~ Chapter 119. of the Revised Code.

(H) If at any time a covered process at a stationary source no longer meets the conditions established under this section for its program level, the owner or operator shall

comply with the requirements of the new program level that applies to the covered process and shall update the risk management plan and information submitted with it not later than six months after the change in compliance with this chapter and rules adopted under it.

Sec. 3753.05. (A) Except as provided in division (G) of this section, an owner or operator who is required to submit a risk management plan under this chapter shall pay annually to the environmental protection agency a fee of fifty dollars together with any of the following applicable fees:

(1) A fee of sixty-five dollars if a covered process in the stationary source includes propane and propane is the only regulated substance at the stationary source over the threshold quantity;

(2) A fee of sixty-five dollars if a covered process in the stationary source includes anhydrous ammonia that is sold for use as an agricultural nutrient and is on-site over the threshold quantity;

(3) A fee of two hundred dollars for each regulated substance over the threshold quantity. Propane shall be considered a regulated substance subject to the fee levied under division (A)(3) of this section only if it is not the only regulated substance over the threshold quantity. Anhydrous ammonia shall be considered a regulated substance subject to the fee levied under division (A)(3) of this section only if it is not sold for use as an agricultural nutrient.

(B) ~~In accordance with rules adopted under section 3753.02 of the Revised Code, the~~The fees assessed under division (A) of this section shall be collected for the year 1999 no later than

ten days after the notice of delegation of the risk management program to the state appears in the federal register, or ten days after ~~the effective date of this amendment~~June 30, 1999, whichever occurs later. Thereafter, the fees shall be collected no later than the first day of September of each year. The fees assessed under division (A) of this section for a stationary source shall be based upon the regulated substances present over the threshold quantity identified in the risk management plan on file for calendar year 1999 as of the twenty-first day of June and for each subsequent calendar year as of the first day of September.

(C) An owner or operator who is required to submit a risk management plan under this chapter and who fails to submit such a plan within thirty days after the applicable filing date prescribed in section 3753.03 of the Revised Code shall submit with the risk management plan a late filing fee of three per cent of the total fees due under division (A) of this section.

(D) The director of environmental protection may establish fees to be paid by persons, other than public officers or employees, to cover the costs of obtaining copies of documents or information submitted to the director under this chapter and rules adopted under it. The director shall not charge more than the actual cost of making and delivering such copies or of accessing any computerized data base established or used for the purposes of assisting in the administration of this chapter.

(E) All moneys received by the agency under divisions (A), (C), and (D) of this section shall be transmitted to the treasurer of state to be credited to the risk management plan reporting fund, which is hereby created in the state treasury. The fund shall be administered by the director and used

exclusively for the administration and enforcement of this chapter and rules adopted under it.

(F) Beginning in fiscal year 2001, and every two years thereafter, the director shall review the total amount of moneys in the risk management plan reporting fund to determine if that amount exceeds seven hundred fifty thousand dollars in either of the two preceding fiscal years. If the total amount of moneys in the fund exceeded seven hundred fifty thousand dollars in either fiscal year, the director, after review of the fee structure and consultation with affected persons, shall issue an order reducing the amount of the fees levied under division (A) of this section so that the estimated amount of moneys resulting from the fees will not exceed seven hundred fifty thousand dollars in any fiscal year.

If, upon review of the fees under this division and after the fees have been reduced, the director determines that the total amount of moneys collected and accumulated is less than seven hundred fifty thousand dollars, the director, after review of the fee structure and consultation with affected persons, may issue an order increasing the amount of the fees levied under division (A) of this section so that the estimated amount of moneys resulting from the fees will be approximately seven hundred fifty thousand dollars. Fees shall never be increased to an amount exceeding the amount specified in division (A) of this section.

Notwithstanding section 119.06 of the Revised Code, the director may issue an order under this division without the necessity to hold an adjudicatory hearing in connection with the order. The issuance of an order under this division is not an act or action for purposes of section 3745.04 of the Revised

Code.

(G) This section does not apply to the owner or operator of a business that employs one hundred or fewer individuals and is a small business concern as defined in the "Small Business Act," 72 Stat. 384 (1958), 15 U.S.C.A. 632, as amended.

Sec. 3769.082. (A) There is hereby created in the state treasury the Ohio fairs fund. The director of agriculture shall distribute money in the fund annually, on or before the first day of March, as follows:

(1) To each county agricultural society and to each independent agricultural society conducting an annual fair, twelve per cent of the total money in the Ohio fairs fund, to be allocated for general operations;

(2) To the Ohio expositions commission, the sum of one hundred twenty thousand dollars annually, to be divided equally as purse money among four stake races for two-year-old and three-year-old colts and for four stake races for two-year-old and three-year-old fillies at each gait of trotting and pacing; provided, that five thousand dollars and all entry fees shall be added to each race by the Ohio expositions commission.

(3) To each county agricultural society and each independent agricultural society conducting horse races during its annual fair, the sum of four thousand dollars, to be used as purse money for horse races in accordance with this section, and the additional sum of one thousand dollars to each such county agricultural society and independent agricultural society to be used for race track maintenance and other expenses necessary for the conduct of such horse races or colt stakes.

A grant of four thousand dollars shall be available to

each county or independent agricultural society for the conduct of four stake races for two-year-old and three-year-old colts and for four stake races for two-year-old and three-year-old fillies at each gait of trotting and pacing; provided, that at least five hundred dollars shall be added to each race. Exclusive of entrance fees and the excess money provided in division (A)(4) of this section from the grant of four thousand dollars for purse money provided in this division, a sum not to exceed three thousand dollars may be used by a society to reach the required purse for each of the eight stake races. Such stake races shall be distributed as evenly as possible throughout the racing season.

(4) In the event that the money available on the first day of March of any year ~~are~~ is less than that required to carry out divisions (A)(1), (2), and (3) of this section, the money so available in the Ohio fairs fund shall be prorated equally to the items set forth in such divisions. In the event that the money available on the first day of March of any year ~~are~~ is in excess of that required to carry out divisions (A)(1), (2), and (3) of this section, such excess shall be distributed equally to those county agricultural societies and independent agricultural societies conducting stake races, such excess to be added to the stake races conducted under division (A)(3) of this section. The balance of such excess shall be distributed to provide four per cent of such excess to the Ohio expositions commission to be added to the purses pursuant to division (A)(2) of this section, and the balance shall be distributed to the county and independent agricultural societies conducting stake races, such excess to be added to and divided equally among the stake races conducted under division (A)(3) of this section.

(B) County agricultural societies and independent

agricultural societies participating under division (A)(3) of this section shall, on or before the first day of November in the year immediately preceding the year in which the money ~~are~~ is to be distributed, make application for participation in such distribution to the director of agriculture on forms provided by the director.

(C) Distribution of money pursuant to division (A)(3) of this section shall not be paid to county agricultural societies and independent agricultural societies that conduct on their race courses automobile or motorcycle races during any year for which such distribution is requested, unless such automobile or motorcycle races are not conducted during the days and nights that horse racing is being conducted at such fair.

(D) All the foals in stake races conducted for two-year-old and three-year-old colts and fillies under this section shall have been sired by a stallion registered with the state racing commission. To be eligible for registration, a stallion shall be one of the following:

(1) Owned by a resident of Ohio and regularly standing the entire stud season in Ohio;

(2) Owned by a resident of a state other than Ohio but regularly standing the entire stud season in Ohio and leased by a resident of Ohio for a term of not less than ten years;

(3) Owned jointly by a resident of a state other than Ohio and a resident of Ohio, regularly standing the entire stud season in Ohio, and leased by a resident of Ohio for a term of not less than ten years.

Each race shall be conditioned to admit only registered two-year-old and three-year-old colts and fillies sired by a

registered stallion owned or leased and permanently standing for service at and within this state at the time of the foal's conception. All other conditions for the scheduling and conduct of these races shall be approved by the state racing commission. The races shall be scheduled subject to the right of the commission to prevent conflicts in the event of contemporaneous meetings.

Such stake races shall be open for nomination not earlier than the fifteenth day of February in the year the race is to be held. All entrance fees in such events shall be added to the money distributed under this section as purse money.

(E) The state racing commission shall make unannounced periodic urine, saliva, or blood tests of horses competing in the events raced under this section.

(F) The director of agriculture shall provide forms for application for distribution under division (A)(3) of this section~~, shall adopt such rules as are necessary for carrying out this section,~~ and may make such investigations as are necessary to determine the validity of any claims and applications for distribution of money under this section.

(G) Any county agricultural society or independent agricultural society which uses the money distributed under this section for any purpose other than that provided in this section is not eligible to receive distribution from the Ohio fairs fund for a period of two years after such misuse of such money occurs.

(H) As used in this section, "horse races" and "stake races" include either harness races or running races.

Sec. 3769.083. (A) As used in this section:

(1) An "accredited Ohio thoroughbred horse" means a horse conceived in this state and born in this state which is both of the following:

(a) Born of a mare that is domiciled in this state at the time of the horse's conception, that remains continuously in the state through the date on which the horse is born, and that is registered as required by the rules of the state racing commission;

(b) By a stallion that stands for breeding purposes only in this state in the year in which the horse is conceived, and that is registered as required by the rules of the commission.

(2) An "Ohio foaled horse" means a horse registered as required by the rules of the state racing commission which is either of the following:

(a) A horse born of a mare that enters this state before foaling and remains continuously in this state until the horse is born;

(b) A thoroughbred foal produced within the state by any broodmare shipped into the state to foal and be bred to a registered Ohio stallion. To qualify this foal as an Ohio foaled horse, the broodmare shall remain in this state one year continuously after foaling or continuously through foaling to the cover of the Ohio stallion, whichever is sooner. All horses previously registered as Ohio conceived and foaled shall be considered as Ohio foaled horses effective January 1, 1976.

Any thoroughbred mare may leave this state for periods of time for purposes of activities such as veterinary treatment or surgery, sales purposes, breeding purposes, racing purposes, and similar activities if permission is granted by the state racing

commission and the mare is returned to this state immediately upon the conclusion of the requested activity.

(3) "Horse," "stallion," "mare," or "foal" means a horse of the thoroughbred breed as distinguished from a horse of the standard breed or any other breed, and "race" means a race for thoroughbred horses conducted by a permit holder of the state racing commission.

(4) "Horse" includes animals of all ages and of both sexes.

(B) There is hereby created in the state treasury the Ohio thoroughbred race fund, to consist of moneys paid into it pursuant to sections 3769.08 and 3769.087 of the Revised Code. All investment earnings on the cash balances in the fund shall be credited to it. Moneys to the credit of the fund shall be distributed on order of the state racing commission. The commission, with the advice and assistance of the Ohio thoroughbred racing advisory committee, shall use the fund, except as provided in divisions (C)(2) and (3) and (D) of this section, to promote races and provide purses for races for horses in the following classes:

(1) Accredited Ohio thoroughbred horses;

(2) Ohio foaled horses.

Not less than ten nor more than twenty-five per cent of the total money to be paid from the fund for all types of races shall be allocated to races restricted to accredited Ohio thoroughbred horses. The commission may combine the classes of horses described in divisions (B)(1) and (2) of this section in one race, except in stakes races.

(C)(1) Each permit holder conducting thoroughbred races

shall schedule races each week for horses in the classes named in division (B) of this section; the number of the races shall be prescribed by the state racing commission. The commission, pursuant to division (B) of this section, shall prescribe the class or classes of the races to be held by each permit holder and, with the advice of the Ohio thoroughbred racing advisory committee, shall fix the dates and conditions of the races and the amount of moneys to be paid from the Ohio thoroughbred race fund to be added in each race to the minimum purse established by the permit holder for the class of race held.

(2) The commission, with the advice of the Ohio thoroughbred racing advisory committee, may provide for stakes races to be run each year, and fix the number of stakes races and the time, place, and conditions under which each shall be run. The commission shall fix the amount of moneys to be paid from the Ohio thoroughbred race fund to be added to the purse provided for each stakes race by the permit holder, except that, in at least four stakes races each year, the commission shall require, if four stakes races can be arranged, that the permit holder conducting the stakes race provide no less than fifteen thousand dollars for the purse for the stakes race, and the commission shall provide moneys from the fund to be added to the purse in an amount equal to or greater than the amount provided by the permit holder. The commission may require a nominating, sustaining, and entry fee not to exceed one per cent of the money added from the fund for each horse in any stakes race, which fee shall be added to the purse for the race.

Stakes races where money is added from the Ohio thoroughbred race fund shall be open only to accredited Ohio thoroughbred horses and Ohio foaled horses. Twenty-five per cent of the total moneys to be paid from the fund for stakes races

shall be allocated to races for only accredited Ohio thoroughbred horses. The commission may require a nominating, sustaining, and entry fee, not to exceed one per cent of the money added from the fund, for each horse in any of these stakes races. These fees shall be accumulated by the commission and shall be paid out by the commission at its discretion as part of the purse money for additional races.

(3) The commission may pay from the Ohio thoroughbred race fund to the breeder of a horse of class (1) or (2) of division (B) of this section winning first, second, or third prize money of a purse for a thoroughbred race an amount not to exceed fifteen per cent of the first, second, or third prize money of the purse. For the purposes of this division, the term "breeder" shall be defined by rule of the commission.

The commission also may provide for stallion owners' awards in an amount equal to not less than three nor more than ten per cent of the first, second, or third place share of the purse. The award shall be paid to the owner of the stallion, provided that the stallion was standing in this state as provided in division (A)(1)(b) of this section at the time the horse placing first, second, or third was conceived.

(D) The state racing commission may provide for the expenditure of moneys from the Ohio thoroughbred race fund in an amount not to exceed in any one calendar year ten per cent of the total amount received in the account that year to provide for research projects directed toward improving the breeding, raising, racing, and health and soundness of thoroughbred horses in the state and toward education or promotion of the industry. Research for which the moneys from the fund may be used may include, but shall not be limited to, studies of pre-race blood

testing, post-race testing, improvement of the breed, and nutrition.

(E) The state racing commission shall appoint qualified personnel as may be required to supervise registration of horses under the terms of this section, to determine the eligibility of horses for accredited Ohio thoroughbred races, Ohio foaled races, and the stakes races authorized by division (C)(2) of this section, and to assist the Ohio thoroughbred racing advisory committee and the commission in determining the conditions, class, and quality of the race program to be established under this section so as to carry out the purposes of this section. The personnel shall serve at the pleasure of the commission, and compensation shall be fixed by the commission. The compensation of the personnel and necessary expenses shall be paid out of the Ohio thoroughbred race fund.

The commission ~~shall adopt rules as are necessary to carry out this section and~~ shall administer the stakes race program and other races supported by the Ohio thoroughbred race fund in a manner best designed to aid in the development of the thoroughbred horse industry in the state, to upgrade the quality of horse racing in the state, and to improve the quality of horses conceived and foaled in the state.

(F) The state racing commission shall adopt rules regarding the maintenance and use of money collected for quarter horse development and purses under division (C) of section 3769.08 and division (A) of section 3769.087 of the Revised Code.

Sec. 3769.10. The state racing commission and the tax commissioner shall enforce this chapter and may incur such expenses as are necessary; provided, that the power of the tax

commissioner shall extend only to enforcement and administration of the taxes levied by sections 3769.08, 3769.087, 3769.26, and 3769.28 of the Revised Code as provided in those sections and in sections 3769.088, 3769.101, 3769.102, 3769.103, 5703.05, 5703.17 to 5703.37, 5703.39, 5703.41, and 5703.45 of the Revised Code. ~~The commissioner may adopt, in accordance with section 5703.14 of the Revised Code, such rules as the commissioner considers necessary to administer sections 3769.08, 3769.087, 3769.088, 3769.101, 3769.102, 3769.103, 3769.26, and 3769.28 of the Revised Code.~~

Except as otherwise provided in section 3769.03 of the Revised Code, all taxes, fees, and moneys due the state under sections 3769.01 to 3769.071 and 3769.09 to 3769.14 of the Revised Code shall be paid to, and receipted for by, the secretary of the state racing commission, and shall be paid by the secretary weekly into the state treasury to the credit of the general revenue fund. All taxes due the state under sections 3769.08, 3769.087, and 3769.26 of the Revised Code shall be paid to, and receipted for by, the tax commissioner, and shall be paid by the commissioner monthly into the proper funds.

All vouchers of the commission shall be approved by the commission chairperson or secretary, or both, as authorized by the commission.

Sec. 3770.02. (A) Subject to the advice and consent of the senate, the governor shall appoint a director of the state lottery commission who shall serve at the pleasure of the governor. The director shall devote full time to the duties of the office and shall hold no other office or employment. The director shall meet all requirements for appointment as a member of the commission and shall, by experience and training, possess

management skills that equip the director to administer an enterprise of the nature of a state lottery. The director shall receive an annual salary in accordance with pay range 48 of section 124.152 of the Revised Code.

(B)(1) The director shall attend all meetings of the commission and shall act as its secretary. The director shall keep a record of all commission proceedings and shall keep the commission's records, files, and documents at the commission's principal office. All records of the commission's meetings shall be available for inspection by any member of the public, upon a showing of good cause and prior notification to the director.

(2) The director shall be the commission's executive officer and shall be responsible for keeping all commission records and supervising and administering the state lottery in accordance with this chapter, and carrying out all commission rules adopted under section 3770.03 of the Revised Code.

(C)(1) The director shall appoint deputy directors as necessary and as many regional managers as are required. The director may also appoint necessary professional, technical, and clerical assistants. All such officers and employees shall be appointed and compensated pursuant to Chapter 124. of the Revised Code. Regional and assistant regional managers, sales representatives, and any lottery executive account representatives shall remain in the unclassified service. The assistant director shall act as director in the absence or disability of the director. If the director does not appoint an assistant director, the director shall designate a deputy director to act as director in the absence or disability of the director.

(2) The director, in consultation with the director of

administrative services, may establish standards of proficiency and productivity for commission field representatives.

(D) The director shall request the bureau of criminal identification and investigation, the department of public safety, or any other state, local, or federal agency to supply the director with the criminal records of any job applicant and may periodically request the criminal records of commission employees. At or prior to the time of making such a request, the director shall require a job applicant or commission employee to obtain fingerprint cards prescribed by the superintendent of the bureau of criminal identification and investigation at a qualified law enforcement agency, and the director shall cause these fingerprint cards to be forwarded to the bureau of criminal identification and investigation and the federal bureau of investigation. The commission shall assume the cost of obtaining the fingerprint cards and shall pay to each agency supplying criminal records for each investigation under this division a reasonable fee, as determined by the agency.

(E) The director shall license lottery sales agents pursuant to section 3770.05 of the Revised Code and, when it is considered necessary, may revoke or suspend the license of any lottery sales agent. The director may license video lottery technology providers, independent testing laboratories, and gaming employees~~, and promulgate rules relating thereto~~. When the director considers it necessary, the director may suspend or revoke the license of a video lottery technology provider, independent testing laboratory, or gaming employee, including suspension or revocation without affording an opportunity for a prior hearing under section 119.07 of the Revised Code when the public safety, convenience, or trust requires immediate action.

(F) The director shall confer at least once each month with the commission, at which time the director shall advise it regarding the operation and administration of the lottery. The director shall make available at the request of the commission all documents, files, and other records pertaining to the operation and administration of the lottery. The director shall prepare and make available to the commission each month a complete and accurate accounting of lottery revenues, prize money disbursements and the cost of goods and services awarded as prizes, operating expenses, and all other relevant financial information, including an accounting of all transfers made from any lottery funds in the custody of the treasurer of state to benefit education.

(G) The director may enter into contracts for the operation or promotion of the lottery pursuant to Chapter 125. of the Revised Code.

(H)(1) Pursuant to rules adopted by the commission under section 3770.03 of the Revised Code, the director shall require any lottery sales agents to deposit to the credit of the state lottery fund, in banking institutions designated by the treasurer of state, net proceeds due the commission as determined by the director.

(2) Pursuant to rules adopted by the commission under Chapter 119. of the Revised Code, the director may impose penalties for the failure of a sales agent to transfer funds to the commission in a timely manner. Penalties may include monetary penalties, immediate suspension or revocation of a license, or any other penalty the commission adopts by rule.

(I) The director may arrange for any person, or any banking institution, to perform functions and services in

connection with the operation of the lottery as the director may consider necessary to carry out this chapter.

(J)(1) As used in this chapter, "statewide joint lottery game" means a lottery game that the commission sells solely within this state under an agreement with other lottery jurisdictions to sell the same lottery game solely within their statewide or other jurisdictional boundaries.

(2) If the governor directs the director to do so, the director shall enter into an agreement with other lottery jurisdictions to conduct statewide joint lottery games. If the governor signs the agreement personally or by means of an authenticating officer pursuant to section 107.15 of the Revised Code, the director then may conduct statewide joint lottery games under the agreement.

(3) The entire net proceeds from any statewide joint lottery games shall be used to fund elementary, secondary, vocational, and special education programs in this state.

(4) The commission shall conduct any statewide joint lottery games in accordance with rules it adopts under division (B)(5) of section 3770.03 of the Revised Code.

(K)(1) The director shall enter into an agreement with the department of mental health and addiction services under which the department shall provide a program of gambling addiction services on behalf of the commission. The commission shall pay the costs of the program provided pursuant to the agreement.

(2) As used in this section, "gambling addiction services" has the same meaning as in section 5119.01 of the Revised Code.

Sec. 3770.03. (A)(1) The state lottery commission shall ~~promulgate rules pursuant to Chapter 119. of the Revised Code,~~

~~and shall~~ adopt operating procedures, under which a statewide lottery and statewide joint lottery may be conducted, which ~~includes~~include, and since the original enactment of this section has included, the authority for the commission to operate video lottery terminal games and all other lottery games. Any reference in this chapter to tickets shall not be construed to in any way limit the authority of the commission to operate video lottery terminal games or lottery sports gaming.

(2) ~~Except regarding matters about which this chapter explicitly requires the commission to promulgate rules under Chapter 119. of the Revised Code, the~~The commission ~~instead~~ may adopt operating procedures for the conduct of lottery games. Those operating procedures shall include, but need not be limited to, the following:

(a) The type of lottery to be conducted;

(b) The prices of tickets in the lottery;

(c) The number, nature, and value of prize awards, the manner and frequency of prize drawings, and the manner in which prizes shall be awarded to holders of winning tickets.

(3) The commission shall publish all of its operating procedures on its official web site and shall make copies of its operating procedures available to the public upon request.

(4) An operating procedure adopted under this section is not considered a rule under section 111.15 of the Revised Code.

(5) All rules of the commission that are in effect on ~~the effective date of this amendment~~ October 3, 2023, remain effective unless the commission rescinds them.

(B) The commission shall promulgate rules pursuant to

Chapter 119. of the Revised Code concerning all of the following:

(1) The locations at which lottery tickets may be sold and the manner in which they are to be sold. These rules may authorize the sale of lottery tickets by commission personnel or other licensed individuals from traveling show wagons at the state fair, and at any other expositions the director of the commission considers acceptable. These rules shall prohibit commission personnel or other licensed individuals from soliciting from an exposition the right to sell lottery tickets at that exposition, but shall allow commission personnel or other licensed individuals to sell lottery tickets at an exposition if the exposition requests commission personnel or licensed individuals to do so. These rules may also address the accessibility of sales agent locations to commission products in accordance with the "Americans with Disabilities Act of 1990," 104 Stat. 327, 42 U.S.C. 12101 et seq.

(2) The manner in which lottery sales revenues are to be collected, including authorization for the director to impose penalties for failure by lottery sales agents to transfer revenues to the commission in a timely manner;

(3) The amount of compensation to be paid to licensed lottery sales agents;

(4) The substantive criteria for the licensing of lottery sales agents consistent with section 3770.05 of the Revised Code, and procedures for revoking or suspending their licenses consistent with Chapter 119. of the Revised Code. If circumstances, such as the nonpayment of funds owed by a lottery sales agent, or other circumstances related to the public safety, convenience, or trust, require immediate action, the

director may suspend a license without affording an opportunity for a prior hearing under section 119.07 of the Revised Code.

(5) Special game rules to implement any agreements signed by the governor that the director enters into with other lottery jurisdictions under division (J) of section 3770.02 of the Revised Code to conduct statewide joint lottery games. The rules shall require that the entire net proceeds of those games that remain, after associated operating expenses, prize disbursements, lottery sales agent bonuses, commissions, and reimbursements, and any other expenses necessary to comply with the agreements or the rules are deducted from the gross proceeds of those games, be transferred to the lottery profits education fund under division (B) of section 3770.06 of the Revised Code.

(6) Rules establishing any of the following with respect to the operation of video lottery terminal games:

(a) Any fees, fines, or payment schedules;

(b) Any voluntary exclusion program.

(C) Chapter 2915. of the Revised Code does not apply to, affect, or prohibit lotteries conducted pursuant to this chapter.

(D) The commission may promulgate rules pursuant to Chapter 119. of the Revised Code that establish any standards governing the display of advertising and celebrity images on lottery tickets and on other items that are used in the conduct of, or to promote, the statewide lottery and statewide joint lottery games. Any revenue derived from the sale of advertising displayed on lottery tickets and on those other items shall be considered, for purposes of section 3770.06 of the Revised Code, to be related proceeds in connection with the statewide lottery

or gross proceeds from statewide joint lottery games, as applicable.

(E)(1) The commission shall meet with the director at least once each month and shall convene other meetings at the request of the chairperson or any five of the members. No action taken by the commission shall be binding unless at least five of the members present vote in favor of the action. A written record shall be made of the proceedings of each meeting and shall be transmitted forthwith to the governor, the president of the senate, the senate minority leader, the speaker of the house of representatives, and the house minority leader.

(2) The director shall present to the commission a report each month, showing the total revenues, prize disbursements, and operating expenses of the state lottery for the preceding month. As soon as practicable after the end of each fiscal year, the commission shall prepare and transmit to the governor and the general assembly a report of lottery revenues, prize disbursements, and operating expenses for the preceding fiscal year and any recommendations for legislation considered necessary by the commission.

Sec. 3770.24. (A) The state lottery commission shall operate lottery sports gaming as part of the statewide lottery in accordance with this section and with Chapter 3775. of the Revised Code. ~~The state lottery commission may adopt rules under Chapter 119. of the Revised Code, in consultation with the Ohio casino control commission, to implement sections 3770.23 to 3770.25 of the Revised Code, so long as those rules are not in conflict with the rules of the Ohio casino control commission.~~

(B)(1) Each type C sports gaming proprietor shall contract with the state lottery commission to operate lottery sports

gaming on behalf of the state lottery commission in exchange for a portion of the state's proceeds from lottery sports gaming.

(2) All provisions of Chapter 3775. of the Revised Code that apply to type C sports gaming proprietors and type C sports gaming hosts apply to those persons when they operate or offer lottery sports gaming.

(3) A type C sports gaming proprietor may adapt any existing self-service or clerk-operated lottery terminals owned or operated by the sports gaming proprietor or the state lottery commission also to serve as lottery sports gaming terminals, subject to the rules of the Ohio casino control commission and the state lottery commission.

Sec. 3772.03. (A) To ensure the integrity of casino gaming, the commission shall have authority to complete the functions of licensing, regulating, investigating, and penalizing casino operators, management companies, holding companies, key employees, casino gaming employees, and gaming-related vendors. The commission also shall have jurisdiction over all persons participating in casino gaming authorized by Section 6(C) of Article XV, Ohio Constitution, and this chapter.

(B) All rules adopted by the commission under this chapter shall be adopted under procedures established in Chapter 119. of the Revised Code. The commission may contract for the services of experts and consultants to assist the commission in carrying out its duties under this section.

(C) ~~The commission shall adopt rules as are necessary for completing the functions stated in division (A) of this section and for addressing the subjects enumerated in division (D) of this section.~~

~~(D)~~ The commission shall adopt~~, and as advisable and necessary shall amend or repeal,~~ rules that include all of the following:

(1) The prevention of practices detrimental to the public interest;

(2) Prescribing the method of applying, and the form of application, that an applicant for a license under this chapter must follow as otherwise described in this chapter;

(3) Prescribing the information to be furnished by an applicant or licensee as described in section 3772.11 of the Revised Code;

(4) Describing the certification standards and duties of an independent testing laboratory certified under section 3772.31 of the Revised Code and the relationship between the commission, the laboratory, the gaming-related vendor, and the casino operator;

(5) The minimum amount of insurance that must be maintained by a casino operator, management company, holding company, or gaming-related vendor;

(6) The approval process for a significant change in ownership or transfer of control of a licensee as provided in section 3772.091 of the Revised Code;

(7) The design of gaming supplies, devices, and equipment to be distributed by gaming-related vendors;

(8) Identifying the casino gaming that is permitted, identifying the gaming supplies, devices, and equipment, that are permitted, defining the area in which the permitted casino gaming may be conducted, and specifying the method of operation

according to which the permitted casino gaming is to be conducted as provided in section 3772.20 of the Revised Code, and requiring gaming devices and equipment to meet the standards of this state;

(9) Tournament play in any casino facility;

(10) Establishing and implementing a voluntary exclusion program that provides all of the following:

(a) Except as provided by commission rule, a person who participates in the program shall agree to refrain from entering a casino facility.

(b) The name of a person participating in the program shall be included on a list of persons excluded from all casino facilities.

(c) Except as provided by commission rule, no person who participates in the program shall petition the commission for admittance into a casino facility.

(d) The list of persons participating in the program and the personal information of those persons shall be confidential and shall only be disseminated by the commission to the state lottery commission, casino operators, sports gaming proprietors, and their agents and employees for purposes of enforcement and to other entities, upon request of the participant and agreement by the commission.

(e) A casino operator shall make all reasonable attempts as determined by the commission to cease all direct marketing efforts to a person participating in the program.

(f) A casino operator shall not cash the check of a person participating in the program or extend credit to the person in

any manner. However, the program shall not exclude a casino operator from seeking the payment of a debt accrued by a person before participating in the program.

(g) Any and all locations at which a person may register as a participant in the program shall be published.

(11) Requiring the commission to adopt standards regarding the marketing materials of a licensed casino operator, including allowing the commission to prohibit marketing materials that are contrary to the adopted standards;

(12) Requiring that the records, including financial statements, of any casino operator, management company, holding company, and gaming-related vendor be maintained in the manner prescribed by the commission and made available for inspection upon demand by the commission, but shall be subject to section 3772.16 of the Revised Code;

(13) Permitting a licensed casino operator, management company, key employee, or casino gaming employee to question a person suspected of violating this chapter;

(14) The chips, tokens, tickets, electronic cards, or similar objects that may be purchased by means of an agreement under which credit is extended to a wagerer by a casino operator;

(15) Establishing standards for provisional key employee licenses for a person who is required to be licensed as a key employee and is in exigent circumstances and standards for provisional licenses for casino gaming employees who submit complete applications and are compliant under an instant background check. A provisional license shall be valid not longer than three months. A provisional license may be renewed

one time, at the commission's discretion, for an additional three months. In establishing standards with regard to instant background checks the commission shall take notice of criminal records checks as they are conducted under section 311.41 of the Revised Code using electronic fingerprint reading devices.

(16) Establishing approval procedures for third-party engineering or accounting firms, as described in section 3772.09 of the Revised Code;

(17) Prescribing the manner in which winnings, compensation from casino gaming, and gross revenue must be computed and reported by a licensee as described in Chapter 5753. of the Revised Code;

(18) Prescribing conditions under which a licensee's license may be suspended or revoked as described in section 3772.04 of the Revised Code;

(19) Prescribing the manner and procedure of all hearings to be conducted by the commission or by any hearing examiner;

(20) Prescribing technical standards and requirements that are to be met by security and surveillance equipment that is used at and standards and requirements to be met by personnel who are employed at casino facilities, and standards and requirements for the provision of security at and surveillance of casino facilities;

(21) Prescribing requirements for a casino operator to provide unarmed security services at a casino facility by licensed casino employees, and the training that shall be completed by these employees;

(22) Prescribing standards according to which casino operators shall keep accounts and standards according to which

casino accounts shall be audited, and establish means of assisting the tax commissioner in levying and collecting the gross casino revenue tax levied under section 5753.02 of the Revised Code;

(23) Defining penalties for violation of commission rules and a process for imposing such penalties;

(24) Establishing standards for decertifying contractors that violate statutes or rules of this state or the federal government;

(25) Establishing standards for the repair of casino gaming equipment;

(26) Establishing procedures to ensure that casino operators, management companies, and holding companies are compliant with the compulsive and problem gambling plan submitted under section 3772.18 of the Revised Code;

(27) Prescribing, for institutional investors in or holding companies of a casino operator, management company, holding company, or gaming-related vendor that fall below the threshold needed to be considered an institutional investor or a holding company, standards regarding what any employees, members, or owners of those investors or holding companies may do and shall not do in relation to casino facilities and casino gaming in this state, which standards shall rationally relate to the need to proscribe conduct that is inconsistent with passive institutional investment status;

(28) Providing for any other thing necessary and proper for successful and efficient regulation of casino gaming under this chapter.

~~(E)~~ (D) The commission shall employ and assign gaming

agents as necessary to assist the commission in carrying out the duties of this chapter and Chapters 2915. and 3775. of the Revised Code. In order to maintain employment as a gaming agent, the gaming agent shall successfully complete all continuing training programs required by the commission and shall not have been convicted of or pleaded guilty or no contest to an offense that makes the gaming agent ineligible for appointment or retention under section 3772.07 of the Revised Code.

~~(F)~~ (E) The commission, as a law enforcement agency, and its gaming agents, as law enforcement officers as defined in section 2901.01 of the Revised Code, shall have authority with regard to the detection and investigation of, the seizure of evidence allegedly relating to, and the apprehension and arrest of persons allegedly committing violations of this chapter or gambling offenses as defined in section 2915.01 of the Revised Code or violations of any other law of this state that may affect the integrity of casino gaming, the operation of skill-based amusement machines, or the operation of sports gaming, and shall have access to casino facilities, skill-based amusement machine facilities, and sports gaming facilities to carry out the requirements of this chapter and Chapter 3775. of the Revised Code.

~~(G)~~ (F) The commission may eject or exclude or authorize the ejection or exclusion of and a gaming agent may eject a person from a casino facility for any of the following reasons:

(1) The person's name is on the list of persons voluntarily excluding themselves from all casinos in a program established according to rules adopted by the commission;

(2) The person violates or conspires to violate this chapter or a rule adopted thereunder; or

(3) The commission determines that the person's conduct or reputation is such that the person's presence within a casino facility may call into question the honesty and integrity of the casino gaming operations or interfere with the orderly conduct of the casino gaming operations.

~~(H)~~ (G) A person, other than a person participating in a voluntary exclusion program, may petition the commission for a public hearing on the person's ejection or exclusion under this chapter.

~~(I)~~ (H) A casino operator or management company shall have the same authority to eject or exclude a person from the management company's casino facilities as authorized in division ~~(G)~~ (F) of this section. The licensee shall immediately notify the commission of an ejection or exclusion.

~~(J)~~ (I) The commission shall submit a written annual report with the governor, president and minority leader of the senate, and the speaker and minority leader of the house of representatives before the first day of September each year. The annual report shall cover the previous fiscal year and shall include all of the following:

(1) A statement describing the receipts and disbursements of the commission;

(2) Relevant financial data regarding casino gaming, including gross revenues and disbursements made under this chapter;

(3) Actions taken by the commission;

(4) An update on casino operators', management companies', and holding companies' compulsive and problem gambling plans and the voluntary exclusion program and list;

(5) Information regarding prosecutions for conduct described in division (H) of section 3772.99 of the Revised Code, including, but not limited to, the total number of prosecutions commenced and the name of each person prosecuted;

(6) Any additional information that the commission considers useful or that the governor, president or minority leader of the senate, or speaker or minority leader of the house of representatives requests.

~~(K)~~ (J) To ensure the integrity of skill-based amusement machine operations, the commission shall have jurisdiction over all persons conducting or participating in the conduct of skill-based amusement machine operations authorized by this chapter and Chapter 2915. of the Revised Code, including the authority to complete the functions of licensing, regulating, investigating, and penalizing those persons in a manner that is consistent with the commission's authority to do the same with respect to casino gaming. To carry out this division, the commission may adopt rules under Chapter 119. of the Revised Code~~, including rules~~ establishing fees and penalties related to the operation of skill-based amusement machines.

~~(L)~~ (K) To ensure the integrity of fantasy contests, the commission shall have jurisdiction over all persons conducting or participating in the conduct of a fantasy contest authorized by Chapter 3774. of the Revised Code, including the authority to license, regulate, investigate, and penalize those persons in a manner that is consistent with the commission's authority to do the same with respect to skill-based amusement machines. To carry out this division, the commission may adopt rules under Chapter 119. of the Revised Code~~, including rules~~ establishing fees and penalties related to the operation of fantasy contests.

~~(M)~~ (L) All fees imposed pursuant to the rules adopted under divisions ~~(K)~~ (J) and ~~(L)~~ (K) of this section shall be deposited into the casino control commission fund.

Sec. 3772.37. (A) Pursuant to section 131.02 of the Revised Code, the attorney general shall develop and implement a real time data match program and make it available to each casino operator and management company to identify patrons who owe amounts to the state or a political subdivision.

(B)(1) Before disbursing any casino winnings to a patron that meet or exceed the reportable winnings amount set by 26 U.S.C. 6041, a casino operator or management company shall consult the data match program to determine whether the patron owes any amounts to the state or a political subdivision. If the data match program indicates that the patron owes any amounts to the state or a political subdivision, the casino operator or management company shall withhold from the patron's winnings an amount sufficient to satisfy those amounts, up to the amount of the winnings.

(2) If the data match program described in section 3123.90 of the Revised Code indicates that the patron also is in default under a support order, the casino operator or management company shall transmit to the department of job and family services an amount sufficient to satisfy any past due support owed by the patron, up to the amount of the winnings, before transmitting any remaining amount to the attorney general under division (C) of this section.

(C)(1) Not later than seven days after withholding an amount under division (B) of this section, the casino operator or management company shall transmit to the attorney general any amount withheld and not already disbursed to the department of

job and family services under section 3123.90 of the Revised Code as payment on the amount owed.

(2) If the patron owes more than one amount to the state or a political subdivision as identified by the data match program described in this section, the amount owed to the state shall be satisfied first, except that any amounts owed under section 5739.33 and division (G) of section 5747.07 of the Revised Code shall have first priority.

(D) Except as otherwise provided in section 131.021 of the Revised Code, this section applies only to amounts owed that have become final.

~~(E) The attorney general, in consultation with the commission, may adopt rules under Chapter 119. of the Revised Code as necessary to implement this section.~~

Sec. 3774.01. As used in this chapter:

(A) "Commission" means the Ohio casino control commission.

(B) "Entry fee" means cash or cash equivalent that a fantasy contest operator requires to be paid by a fantasy contest player to participate in a fantasy contest.

(C) "Fantasy contest" means a simulated game or contest with an entry fee that satisfies all of the following conditions:

(1) The value of all prizes and awards offered to winning fantasy contest players is established and made known to the players in advance of the contest.

(2) All winning outcomes reflect the relative knowledge and skill of the fantasy contest players and are determined predominantly by accumulated statistical results of the

performance of managing rosters of athletes whose performance directly corresponds with the actual performance of athletes in professional sports competitions.

(3) Winning outcomes are not based on randomized or historical events, or on the score, point spread, or any performance of any single actual team or combination of teams or solely on any single performance of an individual athlete or player in any single actual event.

(4) The game or contest does not involve horses or horse racing.

(D) "Fantasy contest operator" means a person that offers fantasy contests with an entry fee for a prize or award to the general public. Fantasy contest operator does not include a person that offers a pool not conducted for profit as defined under division (XX) of section 2915.01 of the Revised Code.

(E) "Fantasy contest platform" means any digital or online method through which a fantasy contest operator provides access to a fantasy contest.

(F) "Fantasy contest player" means a person who participates in a fantasy contest offered by a fantasy contest operator.

(G) "Holding company" means any corporation, firm, partnership, limited partnership, limited liability company, trust, or other form of business organization not a natural person that directly or indirectly does any of the following:

(1) Has the power or right to control a fantasy contest operator;

(2) Holds an ownership interest of ten per cent or more,

as determined by the commission, in a fantasy contest operator;

(3) Holds voting rights with the power to vote ten per cent or more of the outstanding voting rights of a fantasy contest operator.

(H) "Key employee" means a person, employed by a fantasy contest operator, who is responsible for ensuring, and has the authority necessary to ensure, that all requirements under this chapter and the rules adopted under this chapter and division ~~(I)~~ (K) of section 3772.03 of the Revised Code are met.

(I) "Management company" means an organization retained by a fantasy contest operator to manage a fantasy contest platform and provide services such as accounting, general administration, maintenance, recruitment, and other operational services.

(J) "Material nonpublic information" means information related to the play of a fantasy contest by a fantasy contest player that is not readily available to the general public and is obtained as a result of a person's employment.

(K) "Script" means a list of commands that a fantasy-contest-related computer program can execute and that is created by a fantasy contest player, or by a third party for a fantasy contest player, to automate processes on a fantasy contest platform.

Sec. 3774.02. (A) A fantasy contest operator may not offer a fantasy contest in this state without first obtaining a license from the commission.

(B)(1) In order to obtain or renew a license to operate fantasy contests in this state, a fantasy contest operator shall pay to the commission a nonrefundable license fee.

(2) Unless a license issued under this chapter is suspended, expires, or is revoked, a license may be renewed. After a determination by the commission that the licensee is in compliance with this chapter and rules adopted by the commission under this chapter or division ~~(L)~~ (K) of section 3772.03 of the Revised Code, the license shall be renewed for not more than three years, as determined by commission rule adopted under this chapter or division ~~(L)~~ (K) of section 3772.03 of the Revised Code.

(C) Notwithstanding division (B) of this section, the commission may investigate a licensee at any time the commission determines it is necessary to ensure that the licensee remains in compliance with this chapter and the rules adopted under this chapter or division ~~(L)~~ (K) of section 3772.03 of the Revised Code. Any fantasy contest operator that applies for or holds a license under this chapter shall establish the operator's suitability for a license by clear and convincing evidence.

Sec. 3774.03. The commission shall adopt rules under Chapter 119. of the Revised Code as are necessary to complete the functions and address the subjects enumerated in division (A) of this section.

(A) The commission may adopt, ~~and as advisable and necessary may~~ amend, or repeal~~,~~ rules ~~that include~~ to do all of the following:

(1) ~~Prohibiting~~ Prohibit fantasy contest operator's employees, relatives living in the same household as those employees, and athletes and referees in the underlying professional sports competitions from competing in any public fantasy contest offered by a fantasy contest operator or from sharing any material nonpublic information with third parties;

(2) ~~Ensuring~~ Ensure fantasy contest operators prohibit access to both of the following:

(a) Individuals under eighteen years of age;

(b) Individuals who, upon request, seek to restrict themselves from entering fantasy contests.

(3) ~~Ensuring~~ Ensure fantasy contest operators segregate fantasy contest player funds from operational funds or maintain a reserve that exceeds the amount of player funds on deposit, which reserve may not be used for operational activities. These reserve funds may take the form of cash, cash equivalents, payment processor reserves, payment processor receivables, an irrevocable letter of credit, a bond, any other method approved by the commission, or a combination thereof, in an amount that must exceed the total balances of the fantasy contest player's accounts. All reserve funds, except payment processor reserves, shall be maintained by or otherwise under the control of a licensed fantasy contest operator, unless otherwise authorized by the commission.

(4) ~~Prescribing~~ Prescribe requirements related to beginning players and highly experienced players;

(5) ~~Prescribing~~ Prescribe requirements for internal procedures~~, including at a minimum, procedures~~ for all of the following:

(a) Complying with all applicable state and federal requirements to protect the privacy and online security of fantasy contest players and their accounts;

(b) Suspending the accounts of players who violate this chapter and the rules adopted by the commission under this chapter or division ~~(L)~~ (K) of section 3772.03 of the Revised

Code;

(c) Providing fantasy contest players with access to information on playing responsibly and seeking assistance for compulsive behavior;

(d) Establishing the maximum number of entries that a fantasy contest player may submit to each fantasy contest;

(e) Any other procedure that the commission determines necessary in the rules adopted under ~~this chapter or~~ division ~~(L)~~ (K) of section 3772.03 of the Revised Code.

(6) ~~Requiring~~ Require a license application to require an applicant for a fantasy contest operator license to designate at least one key employee as a condition to obtain a license;

(7) ~~Establishing~~ Establish the length of time, which shall be not more than three years, that a fantasy contest operator license and renewal license shall be valid;

(8) ~~Establishing~~ Establish the fee for obtaining or renewing a license, which shall not exceed ten thousand dollars for each year of a license and a total of thirty thousand dollars for a three-year license, and which may be paid in equal installments on an annual basis over the term of the license~~; and~~

~~(9) Any other procedure or thing that the commission determines necessary to ensure the integrity of fantasy contests~~.

(B) The commission may not adopt rules to do either of the following:

(1) Limit or regulate the statistical makeup of a game or contest, or the digital platform of a fantasy contest operator;

or

(2) Require licensure of any persons other than fantasy contest operators, holding companies, or management companies.

~~(C) Nothing in this section prohibits the commission from adopting rules establishing consumer protections.~~

Sec. 3774.04. (A) Each fantasy contest operator shall retain and maintain in a place secure from theft, loss, or destruction all of the records required to be maintained by this chapter for at least five years from the date of the record's creation.

(B) Each fantasy contest operator shall retain and maintain accurate, complete, legible, and permanent records, whether in electronic or other format, of any books, records, or documents relating to the fantasy contest operator's business and accounting operations, which includes all of the following:

(1) The fantasy contest operator's business and organizational structure;

(2) Correspondence with or by, or reports to or from, the commission, or any local, state, or federal governmental agency, foreign or domestic;

(3) The fantasy contest operator's financial statements, accounting records, ledgers, and internal and external audit records;

(4) All records related to the conduct of fantasy contests by the fantasy contest operator in this state;

(5) Any materials used to advertise, publicize, or otherwise promote the fantasy contest operator's fantasy contests in this state;

(6) Any other books, records, or documents the commission requires the fantasy contest operator to retain and maintain, in rules adopted by the commission under this chapter or division ~~(L)~~ (K) of section 3772.03 of the Revised Code.

(C) Each fantasy contest operator shall organize all required records in a manner that enables the commission to locate, inspect, review, and analyze the records with reasonable ease and efficiency and, upon request, provide the commission or its executive director, or duly authorized designee thereof, with the records required to be retained and maintained by this section.

Sec. 3774.09. Fantasy contests offered in accordance with this chapter and the rules adopted by the commission under this chapter or division ~~(L)~~ (K) of section 3772.03 of the Revised Code are exempt from Chapter 2915. of the Revised Code.

Sec. 3775.16. (A) Pursuant to section 131.02 of the Revised Code, the attorney general shall develop and implement a real time data match program and make it available to each sports gaming proprietor to identify patrons who owe amounts to the state or a political subdivision.

(B)(1) Subject to division (E) of this section, before disbursing any sports gaming winnings to a patron in an amount for which reporting to the internal revenue service of the amount is required by section 6041 of the Internal Revenue Code, as amended, a sports gaming proprietor shall consult the data match program to determine whether the patron owes any amounts to the state or a political subdivision. If the data match program indicates that the patron owes any amounts to the state or a political subdivision, the sports gaming proprietor shall withhold from the patron's winnings an amount sufficient to

satisfy those amounts, up to the amount of the winnings.

(2) If the data match program described in section 3123.90 of the Revised Code indicates that the patron also is in default under a support order, the sports gaming proprietor shall transmit to the department of job and family services an amount sufficient to satisfy any past due support owed by the patron, up to the amount of the winnings, before transmitting any remaining amount to the attorney general under division (C) of this section.

(C)(1) Not later than fourteen days after withholding an amount under division (B) of this section, the sports gaming proprietor shall transmit to the attorney general any amount withheld and not already disbursed to the department of job and family services under section 3123.90 of the Revised Code as payment on the amount owed.

(2) If the patron owes more than one amount to the state or a political subdivision as identified by the data match program described in this section, the amount owed to the state shall be satisfied first, except that any amounts owed under section 5739.33 and division (G) of section 5747.07 of the Revised Code shall have first priority.

(D) Except as otherwise provided in section 131.021 of the Revised Code, this section applies only to amounts owed that have become final.

(E) A sports gaming proprietor that offers lottery sports gaming through a terminal described in division (B)(3) of section 3770.24 of the Revised Code shall not withhold amounts under this section from winnings from wagers placed through that terminal. The state lottery commission shall withhold amounts

from those winnings under section 3770.073 of the Revised Code.

~~(F) The attorney general, in consultation with the commission, may adopt rules under Chapter 119. of the Revised Code as necessary to implement this section.~~

Sec. 3776.03. (A) The director of health shall adopt and may amend or rescind rules in accordance with Chapter 119. of the Revised Code governing all of the following:

(1) The manner in which the passage of an examination required by section 3776.06 of the Revised Code is verified;

(2) The form for application;

(3) The establishment of criteria for determining what courses may be included toward fulfillment of the science course requirements of section 3776.05 of the Revised Code;

(4) The determination of the continuing education program requirements of section 3776.07 of the Revised Code;

(5) The administration and enforcement of this chapter.

(B) The director may adopt, in accordance with Chapter 119. of the Revised Code, rules of a general application throughout the state for the practice of environmental health ~~that are necessary to administer and enforce this chapter, including rules~~ governing all of the following:

(1) The registration, advancement, and reinstatement of applicants to practice as an environmental health specialist or environmental health specialist in training;

(2) Educational requirements necessary for qualification for registration as an environmental health specialist or an environmental health specialist in training under division ~~of~~

(B) of section 3776.05 of the Revised Code, including criteria for determining what courses may be included toward fulfillment of the science course requirements of that section;

(3) Continuing education requirements for environmental health specialists and environmental health specialists in training, including the process for applying for continuing education credits;

(4) The terms of office for members of the environmental health specialist advisory board created in section 3776.02 of the Revised Code~~;~~

~~(5) Any other rule necessary for the administration and enforcement of this chapter~~.

Sec. 3780.03. Establishment and authority of division of cannabis control; adoption of rules.

(A) There is hereby established a division of cannabis control within the department of commerce.

(B) To ensure the proper oversight and control of the adult use cannabis industry, the division of cannabis control shall have the authority to license, regulate, investigate, and penalize adult use cannabis operators, adult use testing laboratories, and individuals required to be licensed under this chapter.

(C) The division of cannabis control shall adopt~~, and as advisable and necessary shall amend or repeal,~~ rules on the following:

(1) Prevention of practices detrimental to the public interest consistent with this chapter, and also ways to educate the public about this chapter;

(2) Establishing application, licensure, and renewal standards

and procedures for license applicants or license holders related to adult use cannabis operators, adult use testing laboratories, and individuals required to be licensed, including any additional background check requirements, the disqualifying offenses under section 3780.01 of the Revised Code that prohibit licensure, and any exemption criteria from licensing requirements for institutional or private investors who do not have significant control or influence over a license applicant or license holder, and whose ownership in a license is for investment purposes only;

(3) Establishing reasonable application, licensure, and renewal fees amounts to ensure license applicants and license holders under this chapter pay for the actual costs for administration and licensure for the division of cannabis control;

(4) Establishing standards for provisional licenses for an individual who is required to be licensed and who has exigent circumstances. Such standards for provisional licenses must include submission of a complete application and compliance with a required background check. A provisional license shall be valid not longer than three months. A provisional license may be renewed, at the division of cannabis control's discretion, for an additional three months. In establishing standards with regard to instant background checks the division of cannabis control may use all available resources.

(5) Specifying the process and reasons for which a license holder may be fined, suspended either with or without a prior hearing, revoked, or not renewed or issued;

(6) The process and requirements for division of cannabis control approval of any requested change in ownership or transfer of control of an adult use cannabis operator or adult

use testing laboratory;

(7) Establishing processes and standards for expanding the size of the cultivation area for a cultivation facility;

(8) Establishing standards and procedures for the testing of adult use cannabis by an adult use testing laboratory licensed under this chapter. When establishing standards and procedures for the testing of cannabis, the division of cannabis control shall do all of the following:

(a) Specify when testing must be conducted;

(b) Determine the minimum amount of adult use cannabis that must be tested;

(c) Specify the manner in which testing is to be conducted in an effort to ensure uniformity of cannabis products processed and dispensed; and

(d) Specify the manner in which test results are provided.

(9) The minimum amount of insurance or surety bond that must be maintained by an adult use cannabis operator and adult use testing laboratory;

(10) Requiring the division of cannabis control to adopt reasonable standards for any adult use cannabis samples, and advertising as prescribed in section 3780.21 of the Revised Code;

(11) Requiring that the records, including financial statements, of an adult use cannabis operator or adult use testing laboratory be maintained in the manner up to two years as prescribed by the division of cannabis control and which shall be made available for inspection upon demand by the division of cannabis control, but shall be subject to section 3780.31 of the

Revised Code;

(12) Prescribing technical standards and requirements consistent with industry standards that must be met for security and surveillance equipment necessary for the provision of security and surveillance of adult use cannabis operators and adult use testing laboratories;

(13) Prescribing requirements for a license holder's provision of security services for an adult use cannabis operator and adult use testing laboratories which shall include the license holder's option to use armed or unarmed services including through agents of the license holder;

(14) Prescribing standards according to which license holders shall keep accounts and standards according to which adult use cannabis operators and adult use testing laboratories accounts shall be audited, and establish guidance for assisting the department of taxation in levying and collecting the adult use tax levied under section 3780.22 of the Revised Code;

(15) Determining penalties for violation of division of cannabis control rules or this chapter, and a process for imposing such penalties;

(16) Training requirements for employees and agents of adult use cannabis operators and adult use laboratories;

(17) Prescribing standards and procedures to allow for adult use cannabis delivery to adult use consumers, and online and mobile ordering procedures, which may only be conducted by an adult use dispensary or their agent;

(18) Prescribing cannabis inventory requirements to be maintained in an electronic database consistent with section 3780.05 of the Revised Code;

(19) Prescribing standards and procedures for product packaging and labeling of adult use cannabis products;

(20) Establishing a tetrahydrocannabinol content limit for adult use cannabis, which for plant material the content limit shall be not less than thirty-five per cent and for extracts the content limit shall be not less than ninety per cent, but that such content limits may be increased or eliminated by the division of cannabis control; and

(21) Prescribing duty to update requirements for license holders.

(D) All rules adopted under this section and chapter shall be adopted in accordance with Chapter 119. of the Revised Code.

(E) ~~In addition to the rules described in division (C) of this section, the division of cannabis control may adopt any other rules it considers necessary for the administration, implementation, and enforcement of this chapter consistent with this chapter.~~

~~(F)~~ When adopting rules under this section, the division of cannabis control shall consider standards and procedures that have been found to be best practices relative to the use and regulation of adult use cannabis and shall harmonize any rules with the rules adopted pursuant to sections 3796.03 and 3796.04 of the Revised Code to minimize duplication of operational requirements and fees as much as possible. If there is a conflict with Chapter 3796. of the Revised Code and related rules, and Chapter 3780. of the Revised Code and related rules, then Chapter 3780. of the Revised Code and related rules shall govern.

Sec. 3780.04. Allowable forms of adult use cannabis.

(A) Only adult use cannabis may be sold under this chapter in the following forms: plant material and seeds, live plants, clones, extracts, drops, lozenges, oils, tinctures, edibles, patches, smoking or combustible product, vaporization of product, beverages, pills, capsules, suppositories, oral pouches, oral strips, oral and topical sprays, salves, lotions or similar cosmetic products, and inhalers.

(B) Any person may submit a petition to the division of cannabis control requesting that an additional form or method of adult use cannabis be approved. A petition shall be submitted to the division of cannabis control in a manner prescribed by the division of cannabis control.

(C) On receipt of a petition, the division of cannabis control shall determine whether or not to approve the form or method of adult use cannabis described in the petition within sixty days of petition receipt.

~~(D) The division of cannabis control may adopt rules as necessary to implement this section.~~

Sec. 3780.07. Facilities.

(A) Except as provided in divisions (B), (C), and (D) of this section, no adult use cannabis operator or adult use testing laboratory shall be located within five hundred feet of the end boundaries of a parcel of real estate having situated on it a prohibited facility.

If a relocation of an adult use cannabis operator or adult use testing laboratory licensed under this chapter results in the adult use cannabis operator or adult use testing laboratory being located within five hundred feet of the boundaries of a prohibited facility, the division of cannabis control shall deny

the relocation and the adult use cannabis operator or adult use testing laboratory may apply with the division of cannabis control to request a relocation to a different location.

(B) Division (A) does not apply to:

(1) Current facilities and properties of adult use cannabis operators if the license holder or applicant, or the owners of the license holder or applicant, also have a certificate of operation and is doing business at that same location; or

(2) Research related to adult use cannabis conducted at a state university, academic medical center, or private or public research and development organization as part of a research protocol approved by an institutional review board or equivalent entity, or any other entity as approved by the division of cannabis control.

(C) Upon a level I cultivator or level II cultivator with a certificate of operation, or the same owners of the level I or level II cultivator, receiving a license from the division of cannabis control as a level I adult use cultivator or level II adult use cultivator, the license holder may expand its cultivation area and facility as authorized in this chapter notwithstanding any limitation resulting from Chapter 3796. of the Revised Code or Chapter 3796. of the Administrative Code.

(D) Upon the division of cannabis control's receipt of a request from an adult use cultivator or level III adult use cultivator for expansion beyond what is authorized in this chapter, the division of cannabis control shall have ninety days to review and approve or deny a request for expansion consistent with division of cannabis control rule.

(E) After the review and approval from the division of cannabis

control, an adult use cultivator may relocate all or a portion of the authorized cultivation area to more than one cultivation facility as long as any relocation complies with this chapter, the relocated facility is operated under the same license, and so long as the aggregate square footage for all related cultivation area and facilities does not exceed the square footage limitations under the license as authorized under this chapter. A level I adult use cultivator or level II adult use cultivator who also has, or whose same owner also has, a certification of operation, may only relocate cultivation area that is above the original approved cultivation area under Chapter 3796. of the Revised Code and Chapter 3796. of the Administrative Code.

(F) A level III adult use cultivator's cultivation area shall not exceed five thousand square feet unless authorized by the division of cannabis control under this chapter.

~~(G) The division of cannabis control may adopt rules as necessary to implement this section.~~

Sec. 3780.10. Adult use cannabis operator and adult use testing laboratory licenses.

(A) No person shall operate as an adult use cannabis operator or adult use testing laboratory without a license issued pursuant to this chapter.

(B) The following licenses shall be issued by the division of cannabis control within nine months of December 7, 2023, if the license applicant is in compliance with section 3780.11 of the Revised Code and this chapter, and the license applicant has, or the same owners of the license applicant have, a certificate of operation or medical provisional license issued as of December

7, 2023:

(1) A dispensary issued a certificate of operation or medical provisional license shall be issued an adult use dispensary license under this chapter for the current location of the dispensary;

(2) A level I cultivator issued a certificate of operation or medical provisional license shall be issued under this chapter three adult use dispensary licenses at locations designated in a license application, and one level I adult use cultivator license for the current location of the level I cultivation facility;

(3) A level II cultivator issued a certificate of operation or medical provisional license shall be issued under this chapter one adult use dispensary license at a location designated in the license application, and one level II adult use cultivator license for the current location of the level II cultivation facility;

(4) A dispensary issued a certificate of operation or medical provisional license shall be issued under this chapter one adult use dispensary license at a different location as designated in the license application if the dispensary does not have any common ownership or control with any level I adult use cultivator, level II adult use cultivator, or adult use processor license applicant or licensee;

(5) A processor issued a certificate of operation or medical provisional license shall be issued under this chapter one adult use processor license for the current location of the processor; and

(6) A testing laboratory issued a certificate of operation shall

be issued under this chapter one adult use testing laboratory license for the current location of the testing laboratory.

Notwithstanding anything in this section, a license shall not be issued pursuant to division (B) of this section to a license applicant holding only a related medical provisional license unless the medical provisional license holder is issued a certificate of operation within two years of December 7, 2023.

(C) The division of cannabis control shall issue up to forty level III adult use cultivator licenses consistent with this chapter. No person may have any ownership or control in more than one level III adult use cultivator license under this chapter. No adult use cultivator or adult use processor may have any ownership or control in a level III adult use cultivator license.

(D) The division of cannabis control shall issue up to fifty additional adult use dispensary licenses in conformity with this chapter.

(E) Following twenty-four months from the first date of issuance of an adult use operator license, the division of cannabis control shall review the number of adult use cannabis operator licenses on a biannual basis and may authorize additional licenses after considering:

(1) The current and anticipated market growth and consumer demand, including the number of adult use consumers seeking adult use cannabis;

(2) The current and projected supply of adult use cannabis produced by licensed adult use cultivators, level III adult use cultivators, and adult use processors; and

(3) The geographic distribution of adult use dispensary sites in

an effort to ensure adult use customer access to adult use cannabis.

(F)(1) The division of cannabis control shall provide a report and recommendation within ninety days of the conclusion of the requirements in division (E) of this section to the director for consideration.

(2) ~~The division of cannabis control may adopt rules as necessary to implement this division.~~

~~(3)~~ The division of cannabis control shall adopt a rule regarding the number of licenses a license holder may hold for each type of license consistent with this chapter. As of December 7, 2023, and notwithstanding any other provision of this chapter, no person shall be issued more than eight adult use dispensary licenses, not more than one adult use cultivator license, and not more than one adult use processor license at any time, unless authorized by the division of cannabis control after an analysis supporting the licensing pursuant to rule.

(G) The division of cannabis control may authorize additional adult use testing laboratory licenses at any time.

Sec. 3780.20. Operations.

(A) Adult use cannabis operators and adult use testing laboratories shall adopt operating procedures and comply with operation requirements required by rules under section 3780.03 of the Revised Code, which include, but are not limited to, the following as applicable:

(1) Quality assurance;

(2) Package and labeling;

(3) Waste disposal;

(4) Inventory control and storage;

(5) Monitoring, surveillance, and security requirements;

(6) Laboratory testing;

(7) Records and reporting requirements;

(8) Hours of operation and procedures when location is closed;

(9) Receipt of adult use cannabis;

(10) Dispensing errors reporting and review;

(11) Destruction and disposal of adult cannabis;

(12) Recall procedures; and

(13) Transportation of adult use cannabis.

(B) No adult use cannabis operator may sell or dispense adult use cannabis without remuneration unless authorized under rule pursuant to section 3780.03 of ~~this chapter~~ the Revised Code.

~~(C) The division of cannabis control may adopt other operation rules as necessary consistent with this chapter.~~

Sec. 3780.24. Tax administration and enforcement.

The tax commissioner shall administer and enforce section 3780.22 of the Revised Code. In addition to any other powers conferred upon the tax commissioner by law, the tax commissioner may:

(A) Prescribe all forms that are required to be filed under section 3780.22 of the Revised Code;

(B) ~~Adopt rules that are necessary and proper to carry out section 3780.22 of the Revised Code; and~~

~~(C)~~ Appoint professional, technical, and clerical employees as

are necessary to carry out the tax commissioner's duties under section 3780.22 of the Revised Code.

Sec. 3781.10. (A)(1) The board of building standards shall formulate and adopt rules governing the erection, construction, repair, alteration, and maintenance of all buildings or classes of buildings specified in section 3781.06 of the Revised Code, including land area incidental to those buildings, the construction of industrialized units, the installation of equipment, and the standards or requirements for materials used in connection with those buildings. The board shall incorporate those rules into separate residential and nonresidential building codes. The standards shall relate to the conservation of energy and the safety and sanitation of those buildings.

(2)(a) The rules governing nonresidential buildings are the lawful minimum requirements specified for those buildings and industrialized units, except that no rule other than as provided in division (C) of section 3781.108 of the Revised Code that specifies a higher requirement than is imposed by any section of the Revised Code is enforceable.

(b) The rules governing residential buildings are uniform requirements in any area with a building department certified to enforce the state residential building code in accordance with division (E) of this section, for both of the following:

(i) The erection and construction of new residential buildings;

(ii) The repair and alteration of existing residential buildings.

(c) In no case shall any local code or regulation differ from the state residential building code for either the erection

and construction of new residential buildings or for the repair and alteration of existing residential buildings unless that code or regulation addresses subject matter not addressed by the state residential building code or is adopted pursuant to section 3781.01 of the Revised Code.

(3) The rules adopted pursuant to this section are complete, lawful alternatives to any requirements specified for buildings or industrialized units in any section of the Revised Code. ~~Except as otherwise provided in division (I) of this section, the board shall, on its own motion or on application made under sections 3781.12 and 3781.13 of the Revised Code, formulate, propose, adopt, modify, amend, or repeal the rules to the extent necessary or desirable to effectuate the purposes of sections 3781.06 to 3781.18 of the Revised Code.~~

(B) The board shall report to the general assembly proposals for amendments to existing statutes relating to the purposes declared in section 3781.06 of the Revised Code that public health and safety and the development of the arts require and shall recommend any additional legislation to assist in carrying out fully, in statutory form, the purposes declared in that section. The board shall prepare and submit to the general assembly a summary report of the number, nature, and disposition of the petitions filed under sections 3781.13 and 3781.14 of the Revised Code.

(C) On its own motion or on application made under sections 3781.12 and 3781.13 of the Revised Code, and after thorough testing and evaluation, the board shall determine by rule that any particular fixture, device, material, process of manufacture, manufactured unit or component, method of manufacture, system, or method of construction complies with

performance standards adopted pursuant to section 3781.11 of the Revised Code. The board shall make its determination with regard to adaptability for safe and sanitary erection, use, or construction, to that described in any section of the Revised Code, wherever the use of a fixture, device, material, method of manufacture, system, or method of construction described in that section of the Revised Code is permitted by law. The board shall amend or annul any rule or issue an authorization for the use of a new material or manufactured unit on any like application. No department, officer, board, or commission of the state other than the board of building standards or the board of building appeals shall permit the use of any fixture, device, material, method of manufacture, newly designed product, system, or method of construction at variance with what is described in any rule the board of building standards adopts or issues or that is authorized by any section of the Revised Code. Nothing in this section shall be construed as requiring approval, by rule, of plans for an industrialized unit that conforms with the rules the board of building standards adopts pursuant to section 3781.11 of the Revised Code.

(D) The board shall recommend rules, codes, and standards to help carry out the purposes of section 3781.06 of the Revised Code and to help secure uniformity of state administrative rulings and local legislation and administrative action to the bureau of workers' compensation, the director of commerce, any other department, officer, board, or commission of the state, and to legislative authorities and building departments of counties, townships, and municipal corporations, and shall recommend that they audit those recommended rules, codes, and standards by any appropriate action that they are allowed pursuant to law or the constitution.

(E)(1) The board shall certify municipal, township, and county building departments, the personnel of those building departments, persons described in division (E)(7) of this section, and employees of individuals, firms, the state, or corporations described in division (E)(7) of this section to exercise enforcement authority, to accept and approve plans and specifications, and to make inspections, pursuant to sections 3781.03, 3791.04, and 4104.43 of the Revised Code.

(2) The board shall certify departments, personnel, and persons to enforce the state residential building code for the erection and construction of new residential buildings, to enforce the nonresidential building code, or to enforce both the residential and the nonresidential building codes. A department certified to enforce the state residential building code for the erection and construction of new residential buildings may also enforce the state residential building code for the repair and alteration of existing residential buildings upon obtaining the appropriate certification from the board, in accordance with this section, for the department and its personnel. Any department, personnel, or person may enforce only the type of building code for which certified.

(3) The board shall not require a building department, its personnel, or any persons that it employs to be certified for residential building code enforcement if that building department does not enforce the state residential building code. The board shall specify, in rules adopted pursuant to Chapter 119. of the Revised Code, the requirements for certification for residential and nonresidential building code enforcement, which shall be consistent with this division. The requirements for residential and nonresidential certification may differ. Except as otherwise provided in this division, the requirements shall

include, but are not limited to, the satisfactory completion of an initial examination and, to remain certified, the completion of a specified number of hours of continuing building code education within each three-year period following the date of certification which shall be not less than thirty hours. The rules shall provide that continuing education credits and certification issued by the council of American building officials, national model code organizations, and agencies or entities the board recognizes are acceptable for purposes of this division. The rules shall specify requirements that are consistent with the provisions of section 5903.12 of the Revised Code relating to active duty military service and are compatible, to the extent possible, with requirements the council of American building officials and national model code organizations establish.

(4) The board shall establish and collect a certification and renewal fee for building department personnel, and persons and employees of persons, firms, or corporations as described in this section, who are certified pursuant to this division.

(5) Any individual certified pursuant to this division shall complete the number of hours of continuing building code education that the board requires or, for failure to do so, forfeit certification.

(6) This division does not require or authorize the board to certify personnel of municipal, township, and county building departments, and persons and employees of persons, firms, or corporations as described in this section, whose responsibilities do not include the exercise of enforcement authority, the approval of plans and specifications, or making inspections under the state residential and nonresidential

building codes.

(7) Enforcement authority for approval of plans and specifications and enforcement authority for inspections may be exercised, and plans and specifications may be approved and inspections may be made on behalf of a municipal corporation, township, or county, by any of the following who the board of building standards certifies:

(a) Officers or employees of the municipal corporation, township, or county;

(b) Persons, or employees of persons, firms, or corporations, pursuant to a contract to furnish architectural, engineering, or other services to the municipal corporation, township, or county;

(c) Officers or employees of, and persons under contract with, a municipal corporation, township, county, health district, or other political subdivision, pursuant to a contract to furnish architectural, engineering, or other services;

(d) Officers or employees of the division of industrial compliance in the department of commerce pursuant to a contract authorized by division (B) of section 121.083 of the Revised Code.

(8) Municipal, township, and county building departments have jurisdiction within the meaning of sections 3781.03, 3791.04, and 4104.43 of the Revised Code, only with respect to the types of buildings and subject matters for which they are certified under this section.

(9) A certified municipal, township, or county building department may exercise enforcement authority, accept and approve plans and specifications, and make inspections pursuant

to sections 3781.03, 3791.04, and 4104.43 of the Revised Code for a park district created pursuant to Chapter 1545. of the Revised Code upon the approval, by resolution, of the board of park commissioners of the park district requesting the department to exercise that authority and conduct those activities, as applicable.

(10) Certification shall be granted upon application by the municipal corporation, the board of township trustees, or the board of county commissioners and approval of that application by the board of building standards. The application shall set forth:

(a) Whether the certification is requested for residential or nonresidential buildings, or both;

(b) If the certification is requested for residential buildings, whether the requested certification is for only the erection and construction of new residential buildings or also the repair and alteration of existing residential buildings;

(c) The number and qualifications of the staff composing the building department;

(d) The names, addresses, and qualifications of persons, firms, or corporations contracting to furnish work or services pursuant to division (E)(7)(b) of this section;

(e) The names of any other municipal corporation, township, county, health district, or political subdivision under contract to furnish work or services pursuant to division (E)(7) of this section;

(f) The proposed budget for the operation of the building department;

(g) Whether the building department intends to accept plans examination and inspection reports from a third-party examiner or inspector in accordance with rules adopted by the board of building standards pursuant to division (E)(15) of this section.

(11) The board of building standards shall adopt rules governing all of the following:

(a) The certification of building department personnel and persons and employees of persons, firms, or corporations exercising authority pursuant to division (E)(7) of this section. The rules shall disqualify any employee of the department or person who contracts for services with the department from performing services for the department when that employee or person would have to pass upon, inspect, or otherwise exercise authority over any labor, material, or equipment the employee or person furnishes for the construction, alteration, or maintenance of a building or the preparation of working drawings or specifications for work within the jurisdictional area of the department. The department shall provide other similarly qualified personnel to enforce the residential and nonresidential building codes as they pertain to that work.

(b) The minimum services to be provided by a certified building department.

(12) The board of building standards may revoke or suspend certification to enforce the residential and nonresidential building codes, on petition to the board by any person affected by that enforcement or approval of plans, or by the board on its own motion. Hearings shall be held and appeals permitted on any proceedings for certification or revocation or suspension of

certification in the same manner as provided in section 3781.101 of the Revised Code for other proceedings of the board of building standards.

(13) Upon certification, and until that authority is revoked, any county or township building department shall enforce the residential and nonresidential building codes for which it is certified without regard to limitation upon the authority of boards of county commissioners under Chapter 307. of the Revised Code or boards of township trustees under Chapter 505. of the Revised Code.

(14) The board shall certify a person to exercise enforcement authority, to accept and approve plans and specifications, or to make inspections in this state in accordance with Chapter 4796. of the Revised Code if either of the following applies:

(a) The person holds a license or certificate in another state.

(b) The person has satisfactory work experience, a government certification, or a private certification as described in that chapter in the same profession, occupation, or occupational activity as the profession, occupation, or occupational activity for which the certificate is required in this state in a state that does not issue that license or certificate.

(15)(a) In addition to the personnel and persons certified by the board of building standards pursuant to this section to enforce the state residential building code and nonresidential building code, the board may adopt rules authorizing certified municipal, township, and county building departments to accept

plans examination and inspection reports from a third-party examiner or inspector.

(b) The rules may require the third-party examiner or inspector be certified pursuant to sections 3781.10 and 3783.03 of the Revised Code and authorized to conduct such plans examination or inspection elsewhere in this state or to demonstrate equivalent competency as specified and determined by the board of building standards.

(c) Fees charged by a third-party examiner or inspector are in addition to any fees prescribed by the political subdivision pursuant to section 3781.102 of the Revised Code and are the responsibility of the building owner.

(d) The issuance of certificates of plan approval under section 3791.04 of the Revised Code and certificates of occupancy or completion remains the exclusive authority of the certified personnel employed by or under contract with a certified municipal, township, and county building department and shall not be issued by a third-party examiner or inspector.

(F) In addition to hearings sections 3781.06 to 3781.18 and 3791.04 of the Revised Code require, the board of building standards shall make investigations and tests, and require from other state departments, officers, boards, and commissions information the board considers necessary or desirable to assist it in the discharge of any duty or the exercise of any power mentioned in this section or in sections 3781.06 to 3781.18, 3791.04, and 4104.43 of the Revised Code.

(G) The board shall adopt rules and establish reasonable fees for the review of all applications submitted where the applicant applies for authority to use a new material, assembly,

or product of a manufacturing process. The fee shall bear some reasonable relationship to the cost of the review or testing of the materials, assembly, or products and for the notification of approval or disapproval as provided in section 3781.12 of the Revised Code.

(H) The residential construction advisory committee shall provide the board with a proposal for a state residential building code that the committee recommends pursuant to division (D)(1) of section 4740.14 of the Revised Code. Upon receiving a recommendation from the committee that is acceptable to the board, the board shall adopt rules establishing that code as the state residential building code.

(I)(1) The committee may provide the board with proposed rules to update or amend the state residential building code that the committee recommends pursuant to division (E) of section 4740.14 of the Revised Code.

(2) If the board receives a proposed rule to update or amend the state residential building code as provided in division (I)(1) of this section, the board either may accept or reject the proposed rule for incorporation into the residential building code. If the board does not act to either accept or reject the proposed rule within ninety days after receiving the proposed rule from the committee as described in division (I)(1) of this section, the proposed rule shall become part of the residential building code.

(J) The board shall cooperate with the director of children and youth when the director promulgates rules pursuant to section 5104.05 of the Revised Code regarding safety and sanitation in type A family child care homes.

(K) The board shall adopt rules to implement the requirements of section 3781.108 of the Revised Code.

Sec. 3781.105. (A) The board of building standards shall certify individuals who design fire protection systems for buildings and who meet the requirements specified in this section. The board may establish separate certification categories for specific types of fire protection systems.

(B) Any individual who wishes to obtain certification shall make application to the board on a form prescribed by the board. The application shall be accompanied by an application fee and an initial certification fee. The initial certification fee shall be refunded if the applicant fails to obtain certification. Certification may be renewed annually upon payment of a renewal fee.

Fees required to be paid under this division shall be established by rule adopted by the board. The application fee shall bear a reasonable relationship to processing the individual's application, the certification fee shall bear a reasonable relationship to certifying the individual, and the certification renewal fee shall bear a reasonable relationship to renewing the individual's certification.

(C) Each applicant shall submit evidence satisfactory to the board that the applicant has directly engaged in designing and preparing drawings for the category of the type of fire protection system for which the applicant seeks certification.

(D) The board shall certify any qualified applicant who passes an examination prescribed either by the board or by the national institute for certification in engineering technologies. The examination shall demonstrate the applicant's

knowledge and understanding of the category of the type of fire protection system for which the applicant seeks certification.

(E) The board, after a hearing in accordance with Chapter 119. of the Revised Code, may suspend or revoke any category of certification of any individual who proves at any time to be incompetent to submit and certify plans and specifications for that category to the appropriate building department under section 3791.04 of the Revised Code, and may suspend or revoke all categories of certification of any individual who engages in any illegal or fraudulent acts in connection with the design of fire protection systems.

(F) ~~The board may adopt rules in accordance with Chapter 119. of the Revised Code for the administration and enforcement of this section.~~

~~(G)~~ Notwithstanding any other provision of this section to the contrary, the board shall certify an applicant in accordance with Chapter 4796. of the Revised Code if either of the following applies:

(1) The applicant is licensed or certified in another state.

(2) The applicant has satisfactory work experience, a government certification, or a private certification as described in that chapter as a designer of fire protection systems in a state that does not issue that license or certificate.

Sec. 3781.21. (A)(1) Any appeal of an order requested under section 3781.19 or 3781.20 of the Revised Code may be requested to be expedited. If the expedited appeal is requested, the state board of building appeals or a certified municipal or

county board of appeals shall do both of the following:

(a) Commence the appeal within one day after the request was made, excluding Saturdays, Sundays, and legal holidays as defined in section 1.14 of the Revised Code;

(b) Hold a hearing within five days after the request was made, excluding Saturdays, Sundays, and legal holidays as defined in section 1.14 of the Revised Code.

(2)(a) If a person requests an appeal of an order pursuant to section 3781.19 or 3781.20 of the Revised Code and the person did not request the appeal to be expedited under division (A)(1) of this section, the person may request the remainder of the appeal proceeding be expedited if, during the course of the appeal, the board issues a continuance of the hearing, such that no decision is made and additional evidence is requested in order to continue the proceeding. A person may request that any follow-up hearing be expedited within five days of the continuance being issued.

(b) If the expedited appeal is requested under division (A)(2)(a) of this section, the board shall hold the follow-up hearing within five days of the request, excluding Saturdays, Sundays, and legal holidays as defined in section 1.14 of the Revised Code.

(3) Any expedited appeal under this division shall apply notwithstanding the seven-day notice requirement under section 119.07 of the Revised Code or any other conflicting provision of the Revised Code. However, a board conducting an expedited appeal under this section shall provide all parties a notice of the hearing prior to conducting the hearing.

(B) The person making the request for an expedited appeal

pursuant to division (A) of this section shall pay any fee established by the state board of building appeals under section 3781.19 of the Revised Code or a certified municipal or county board of appeals under section 3781.20 of the Revised Code, which shall not exceed five hundred dollars for each day the appeal is pending and shall not exceed a total of one thousand dollars for the entire expedited appeal.

(C) Notwithstanding any provision of the Revised Code to the contrary, the state board of building appeals or a certified municipal or county board of appeals may conduct an expedited hearing, as described under this section, by means of teleconference, video conference, or any other similar electronic technology.

~~(D) The board of building standards may adopt rules to implement this section.~~

Sec. 3783.05. ~~The board of building standards, in accordance with Chapters 119., 3781., and 3791. of the Revised Code, shall adopt, amend, or repeal such rules as may be reasonably necessary to administer this chapter.~~ All fees collected by the board pursuant to this chapter shall be paid into the state treasury to the credit of the industrial compliance operating fund created in section 121.084 of the Revised Code.

Sec. 3794.07. Duties of the Department of Health.

This chapter shall be enforced by the department of health and its designees. The director of health shall within six months of December 7, 2006:

(A) ~~Promulgate rules in accordance with Chapter 119. of the Revised Code to implement and enforce all provisions of this~~

~~chapter;~~

~~(B)~~ Promulgate rules in accordance with Chapter 119. of the Revised Code to prescribe a schedule of fines for violations of this chapter designed to foster compliance with the provisions of this chapter. The amount of a fine for a violation of divisions (A) and (B) of section 3794.02 and divisions (A) and (B) of section 3794.06 of the Revised Code shall not be less than one hundred dollars and the maximum for a violation shall be twenty five hundred dollars. The amount of a fine for a violation of division (D) of section 3794.02 of the Revised Code shall be up to a maximum of one hundred dollars per violation. Each day of a violation shall constitute a separate violation. The schedule of fines that apply to a proprietor shall be progressive based on the number of prior violations by the proprietor. Violations which occurred more than two years prior to a subsequent violation shall not be considered if there has been no finding of a violation in the intervening time period. The fine schedule shall set forth specific factors that may be considered to decrease or waive the amount of a fine that otherwise would apply. Fines shall be doubled for intentional violations~~.~~;

~~(C)~~ (B) Promulgate rules in accordance with Chapter 119. of the Revised Code to prescribe a procedure for providing a proprietor or individual written notice of a report of a violation and the opportunity to present in writing any statement or evidence to contest the report, and prescribing procedures for making findings whether a proprietor or individual violated a provision of this chapter and for imposing fines for violations;

~~(D)~~ (C) Establish a system for receiving reports of

violations of the provisions of this chapter from any member of the public, including, but not limited to, by mail and one or more e-mail addresses and toll-free telephone numbers exclusively for such purpose. A person shall not be required to disclose his or her identity in order to report a violation;

~~(E)~~ (D) Inform proprietors of public places and places of employment of the requirements of this chapter and how to comply with its provisions, including, but not limited to, by providing printed and other materials and a toll-free telephone number and e-mail address exclusively for such purposes; ~~and~~

~~(F)~~ (E) Design and implement a program to educate the public regarding the provisions of this chapter, including, but not limited to, through the establishment of an internet web site and how a violation may be reported~~.~~ ;

~~(G)~~ (F) Adopt rules to prescribe fines for a violation of division (E) of section 3794.03 of the Revised Code. Division ~~(B)~~ (A) of this section does not apply to a fine for a violation of division (E) of section 3794.03 of the Revised Code.

Sec. 3796.03. (A) The division of marijuana control shall adopt rules establishing standards and procedures for the medical marijuana control program.

All rules adopted under this section shall be adopted in accordance with Chapter 119. of the Revised Code.

(B) The rules shall do all of the following:

(1) Establish application procedures and fees for licenses it issues under this chapter;

(2) Specify both of the following:

(a) The conditions that must be met to be eligible for

licensure;

(b) In accordance with section 9.79 of the Revised Code, the criminal offenses for which an applicant will be disqualified from licensure pursuant to that section.

(3) Establish, in accordance with section 3796.05 of the Revised Code, the number of cultivator licenses and retail dispensary licenses that will be permitted at any one time;

(4) Establish a license renewal schedule, renewal procedures, and renewal fees;

(5) Specify reasons for which a license may be suspended, including without prior hearing, revoked, or not be renewed or issued and the reasons for which a civil penalty may be imposed on a license holder;

(6) Establish standards under which a license suspension may be lifted;

(7) Establish procedures for registration of patients and caregivers and requirements that must be met to be eligible for registration;

(8) Establish training requirements for employees of retail dispensaries;

(9) Specify if a cultivator, processor, retail dispensary, or laboratory that is licensed under this chapter and that existed at a location before a school, church, public library, public playground, or public park became established within five hundred feet of the cultivator, processor, retail dispensary, or laboratory, may remain in operation or shall relocate or have its license revoked by the division;

(10) Specify, by form and tetrahydrocannabinol content, a

maximum ninety-day supply of medical marijuana that may be possessed;

(11) Specify the paraphernalia or other accessories that may be used in the administration to a registered patient of medical marijuana;

(12) Establish procedures for the issuance of patient or caregiver identification cards;

(13) Specify the forms of or methods of using medical marijuana that are attractive to children;

(14) Specify both of the following:

(a) Subject to division (B)(14)(b) of this section, the criminal offenses for which a person will be disqualified from employment with a license holder;

(b) Which of the criminal offenses specified pursuant to division (B)(14)(a) of this section will not disqualify a person from employment with a license holder if the person was convicted of or pleaded guilty to the offense more than five years before the date the employment begins.

(15) Establish a program to assist patients who are veterans or indigent in obtaining medical marijuana in accordance with this chapter;

(16) Establish, in accordance with section 3796.05 of the Revised Code, standards and procedures for the testing of medical marijuana by a laboratory licensed under this chapter.

(C) ~~In addition to the rules described in division (B) of this section, the division may adopt any other rules it considers necessary for the program's administration and the implementation and enforcement of this chapter.~~

~~(D)~~ When adopting rules under this section, the division shall consider standards and procedures that have been found to be best practices relative to the use and regulation of medical marijuana.

Sec. 3796.061. (A) Any person may submit a petition to the state division of marijuana control requesting that a form of or method of using medical marijuana be approved for the purposes of section 3796.06 of the Revised Code. A petition shall be submitted to the division in a manner prescribed by the division. A petition shall not seek to approve a method of using medical marijuana that involves smoking or combustion.

(B) On receipt of a petition, the division shall review it to determine whether to approve the form of or method of using medical marijuana described in the petition. The division may consolidate the review of petitions for the same or similar forms or methods. In making its determination, the division shall consult with one or more experts and review any relevant scientific evidence.

(C) The division shall approve or deny the petition in accordance with any rules adopted by the division under this section. The division's decision is final.

~~(D) The division may adopt rules as necessary to implement this section. The rules shall be adopted in accordance with Chapter 119. of the Revised Code.~~

Sec. 3796.16. (A)(1) The division of marijuana control shall attempt in good faith to negotiate and enter into a reciprocity agreement with any other state under which a medical marijuana registry identification card or equivalent authorization that is issued by the other state is recognized in

this state, if the division determines that both of the following apply:

(a) The eligibility requirements imposed by the other state for that authorization are substantially comparable to the eligibility requirements for a patient or caregiver registration and identification card issued under this chapter.

(b) The other state recognizes a patient or caregiver registration and identification card issued under this chapter.

(2) The division shall not negotiate any agreement with any other state under which an authorization issued by the other state is recognized in this state other than as provided in division (A)(1) of this section.

(B) If a reciprocity agreement is entered into in accordance with division (A) of this section, the authorization issued by the other state shall be recognized in this state, shall be accepted and valid in this state, and grants the patient or caregiver the same right to use, possess, obtain, or administer medical marijuana in this state as a patient or caregiver who was registered and issued an identification card under this chapter.

~~(C) The division may adopt any rules as necessary to implement this section.~~

Sec. 3797.08. The attorney general shall do all of the following:

(A) In consultation with county sheriffs and not later than July 1, 2006, adopt rules that do all of the following:

(1) ~~Contain guidelines necessary for the implementation of this chapter;~~

~~(2)~~ Prescribe the registration, notice of intent to reside, and verification of current address forms to be used by registrants and sheriffs under sections 3797.02, 3797.03, and 3797.04 of the Revised Code;

~~(3)~~(2) Establish procedures for the forwarding of forms by the sheriff to the attorney general;

~~(4)~~(3) Designate a geographic area or areas within which the notice described in division (B) of section 3797.06 of the Revised Code must be given to the persons identified in divisions (A)(2) to (8) of that section;

~~(5)~~(4) At the attorney general's discretion, establish one or more categories of neighbors of a registrant who, in addition to the occupants of residential premises and other persons specified in division (A) of section 3797.06 of the Revised Code, must be given the notice described in division (B) of that section.

(B) Make copies of the forms described in division ~~(A)(2)~~ (A)(1) of this section available to sheriffs and judges;

(C) Not later than January 1, 2007, establish and operate on the internet a civil registry of persons against whom a court has entered a declaratory judgment under section 2721.21 of the Revised Code that contains information for each of those persons who registers in any county in this state pursuant to section 3797.02 of the Revised Code. The attorney general shall determine the information to be provided on the registry for each registrant. The information provided for each registrant shall include at least the name, current residential and employment addresses, and photograph of the registrant, the name of the court that entered a declaratory judgment against the

registrant pursuant to section 2721.21 of the Revised Code, and the date on which the judgment was entered. The registry shall be a public record open for inspection under section 149.43 of the Revised Code, and it shall be searchable by registrant name, by county, by zip code, and by school district. The registry shall provide a link to the web site of each sheriff of a county who has established and operates on the internet a database that contains information for registrants who register in that county pursuant to section 3797.02 or 3797.03 of the Revised Code.

(D) Upon the request of any sheriff, provide technical guidance to the requesting sheriff in establishing on the internet a database of registrants for the public dissemination of information that relates to registrants who are registered in the sheriff's county and that is a public record.

Sec. 3901.041. The superintendent of insurance shall ~~adopt, amend, and rescind rules and~~ make adjudications~~,~~ necessary to discharge the superintendent's duties and exercise the superintendent's powers, including, but not limited to, the superintendent's duties and powers under Chapters 1751. and 1753. and Title XXXIX of the Revised Code, subject to Chapter 119. of the Revised Code.

Sec. 3901.042. The superintendent of insurance may adopt rules in accordance with Chapter 119. of the Revised Code ~~for the purpose of implementing amended substitute House Bill 478 of the 119th General Assembly, including rules~~ that establish fees for any service or transaction that is required by ~~that act~~H.B. 478 of the 119th general assembly. The rules shall specify each such service or transaction and the amount of the fee that is so charged. Any fee collected pursuant to those rules shall be paid into the state treasury to the credit of the department of

insurance operating fund.

Sec. 3901.074. (A)(1) An insurer or insurance group shall have discretion regarding the format of its corporate governance annual disclosure.

(2) The CGAD shall be prepared consistent with ~~the~~ rules adopted by the superintendent pursuant to ~~section 3901.077~~ Chapter 119. of the Revised Code regarding the required content of the CGAD and shall contain the material information necessary for the superintendent to gain an understanding of the insurer's or group's corporate governance structure, policies, and practices.

(3) All documentation and supporting information shall be maintained and made available for examination upon request of the superintendent.

(B) The superintendent may request additional information the superintendent considers material and necessary to provide a clear understanding of the insurer's or insurance group's corporate governance policies and the reporting or information system or controls implementing those policies.

Sec. 3901.212. (A) As used in sections 3901.212 to 3901.213 of the Revised Code, "consumer" means a policyholder, potential policyholder, certificate holder, potential certificate holder, insured, potential insured, or applicant.

(B) The superintendent may adopt rules pursuant to Chapter 119. of the Revised Code~~ to implement the practices set forth in section 3901.213 of the Revised Code to ensure consumer protection. Such regulations~~, consistent with applicable law, ~~may~~ to address all of the following regarding practices set forth in section 3901.213 of the Revised Code:

(1) Consumer data protections and privacy;

(2) Consumer disclosure;

(3) Unfair discrimination~~;~~

~~(4) Any other matter the superintendent considers pertinent~~.

Sec. 3901.31. (A) Every person who is directly or indirectly the beneficial owner of more than ten per cent of any class of any equity security of a domestic stock insurance company which is not a wholly owned subsidiary of an insurance holding company system or who is a director or officer of such company, shall file with the superintendent of insurance within ten days after the person becomes such beneficial owner, director, or officer, a statement in such form as the superintendent of insurance may prescribe, of the amount of all equity securities of such company of which the person is the beneficial owner, and within ten days after the close of each calendar month thereafter, if there has been a change in such ownership during such month, shall file with the superintendent of insurance a statement, in such form as the superintendent of insurance may prescribe, indicating the person's ownership at the close of the calendar month and such changes in the person's ownership as have occurred during such calendar month.

(B) For the purpose of preventing the unfair use of information which may have been obtained by such beneficial owner, director, or officer by reason of the beneficial owner's, director's, or officer's relationship to such company, any profit realized by the beneficial owner, director, or officer from any purchase and sale, or any sale and purchase, of any equity security of such company within any period of less than

six months, unless such security was acquired in good faith in connection with a debt previously contracted, shall inure to and be recoverable by the company, irrespective of any intention on the part of such beneficial owner, director, or officer in entering into such transaction of holding the security purchased or of not repurchasing the security sold for a period exceeding six months. Suit to recover such profit may be instituted at law or in equity in any court of competent jurisdiction by the company, or by the owner of any security of the company in the name and in behalf of the company if the company fails or refuses to bring such suit within sixty days after request or fails diligently to prosecute the same thereafter; but no such suit shall be brought more than two years after the date such profit was realized. Division (B) of this section shall not be construed to cover any transaction where such beneficial owner was not such both at the time of purchase and sale, or the sale and purchase, of the security involved~~, or any transaction or transactions which the superintendent of insurance by rules may exempt as not comprehended within the purpose of division (B) of this section~~.

(C) No such beneficial owner, director, or officer, directly or indirectly, shall sell any equity security of such company if the person selling the security or the person's principal does not own the security sold, or if owning the security, does not deliver it against such sale within twenty days thereafter, or does not within five days after such sale deposit it in the mails or other usual channels of transportation; but no person shall be deemed to have violated division (C) of this section if the person proves that notwithstanding the exercise of good faith the person was unable to make such delivery or deposit within such time, or that to do

so would cause undue inconvenience or expense.

(D) A domestic insurance company having at least fifty shareholders or any other person soliciting proxies with respect to such domestic insurance company shall not solicit voting proxies from any shareholder or other person except upon a proxy statement and pursuant to a notice of meeting, which statement and notice have been submitted to the superintendent of insurance at least ten days prior to being mailed to the intended recipients. Such proxy statement and notice of meeting shall make such disclosures pertinent to the business to be carried on at the meeting or meetings with respect to which such proxies are solicited and such notices are given as the superintendent by rule requires. The superintendent shall retain such proxy material for examination by any interested party for at least one year.

(E) Division (B) of this section does not apply to any purchase and sale, or sale and purchase, and division (C) of this section does not apply to any sale, of an equity security of a domestic stock insurance company not then or theretofore held in an investment account, by a dealer in the ordinary course of the dealer's business and incident to the establishment or maintenance by the dealer of a primary or secondary market for such security. ~~The superintendent of insurance may, by such rules as the superintendent considers necessary or appropriate in the public interest, describe and define the terms and conditions with respect to securities held in an investment account and transactions made in the ordinary course of business and incident to the establishment or maintenance of a primary or secondary market.~~

(F) Divisions (A), (B), and (C) of this section do not

apply to foreign or domestic arbitrage transactions unless made in contravention of such rules as the superintendent of insurance may adopt in order to carry out the purposes of this section.

(G) "Equity security" when used in this section means any stock or similar security; or any security convertible, with or without consideration, into such a security, or carrying any warrant or right to subscribe to or purchase such a security; or any such warrant or right~~; or any other security which the superintendent of insurance determines to be of similar nature and considers necessary or appropriate, by such rules as the superintendent may prescribe in the public interest or for the protection of investors, to treat as an equity security~~.

(H) ~~The superintendent of insurance may adopt, amend, and rescind rules, pursuant to Chapter 119. of the Revised Code, which will enable the superintendent to carry out the duties imposed by this section.~~

~~(I)~~ This section applies to health insuring corporations in the same manner in which this section applies to domestic stock insurance companies.

Sec. 3901.321. (A) For the purposes of this section:

(1) "Acquiring party" means any person by whom or on whose behalf a merger or other acquisition of control is to be effected.

(2) "Domestic insurer" includes any person controlling a domestic insurer unless the person, as determined by the superintendent of insurance, is either directly or through its affiliates primarily engaged in business other than the business of insurance.

(3) "Person" does not include any securities broker holding, in the usual and customary broker's function, less than twenty per cent of the voting securities of an insurance company or of any person that controls an insurance company.

(B)(1) Subject to compliance with division (B)(2) of this section, no person other than the issuer shall do any of the following if, as a result, the person would, directly or indirectly, including by means of conversion or the exercise of any right to acquire, be in control of a domestic insurer:

(a) Make a tender offer for any voting security of a domestic insurer;

(b) Make a request or invitation for tenders of any voting security of a domestic insurer;

(c) Enter into any agreement to exchange securities of a domestic insurer;

(d) Seek to acquire or acquire, in the open market or otherwise, any voting security of a domestic insurer;

(e) Enter into an agreement to merge with, or otherwise to acquire control of, a domestic insurer.

(2)(a) No person shall engage in any transaction described in division (B)(1) of this section, unless all of the following conditions are met:

(i) The person has filed with the superintendent of insurance a statement containing the information required by division (C) of this section;

(ii) The person has sent the statement to the domestic insurer;

(iii) The offer, request, invitation, agreement, or acquisition has been approved by the superintendent in the manner provided in division (F) of this section.

(b) The requirements of division (B)(2)(a) of this section shall be met at the time any offer, request, or invitation is made, or any agreement is entered into, or prior to the acquisition of the securities if no offer or agreement is involved.

(3) Any controlling person of a domestic insurer seeking to divest its controlling interest in the domestic insurer shall file a confidential notice of its proposed divestiture with the superintendent at least thirty days prior to the cessation of control, and provide a copy of the confidential notice to the insurer. The superintendent may require the person seeking to divest the controlling interest to file for and obtain approval of the transaction. The information shall remain confidential until the conclusion of the transaction unless the superintendent, in the superintendent's discretion, determines that the confidential treatment will interfere with enforcement of this section. If the statement required by division (B)(2) of this section is otherwise filed with the superintendent in relation to all parties that acquire a controlling interest as a result of the divestiture, this division shall not apply.

(C) The statement required by division (B)(2) of this section shall be made under oath or affirmation, and shall contain all of the following information:

(1) The name and address of each acquiring party;

(2) If the acquiring party is an individual, the individual's principal occupation and all offices and positions

held during the past five years, and any conviction of crimes other than minor traffic violations during the past ten years;

(3) If the acquiring party is not an individual, a report of the nature of its business operations during the past five years or for such lesser period as the acquiring party and any of its predecessors shall have been in existence; an informative description of the business intended to be done by the acquiring party and the acquiring party's subsidiaries; and a list of all individuals who are or who have been selected to become directors or executive officers of the acquiring party, who perform or will perform functions appropriate to such positions. The list shall include for each individual the information required by division (C)(2) of this section.

(4) The source, nature, and amount of the consideration used or to be used in effecting the merger or other acquisition of control, a description of any transaction in which funds were or are to be obtained for any such purpose, including any pledge of the domestic insurer's stock, or the stock of any of its subsidiaries or controlling affiliates, and the identity of persons furnishing such consideration;

(5) Fully audited financial information as to the earnings and financial condition of each acquiring party for its preceding five fiscal years, or for such lesser period as the acquiring party and any of its predecessors shall have been in existence, and similar unaudited information as of a date not earlier than ninety days prior to the filing of the statement;

(6) Any plans or proposals which each acquiring party may have to liquidate such domestic insurer, to sell its assets or merge or consolidate it with any person, or to make any other material change in its business or corporate structure or

management;

(7) The number of shares of any security of such issuer or such controlling person that each acquiring party proposes to acquire, and the terms of the offer, request, invitation, agreement, or acquisition, and a statement as to the method by which the fairness of the proposal was determined;

(8) The amount of each class of any security of such issuer or such controlling person which is beneficially owned or concerning which there is a right to acquire beneficial ownership by each acquiring party;

(9) A full description of any contracts, arrangements, or understandings with respect to any security of such issuer or such controlling person in which any acquiring party is involved, including but not limited to transfer of any of the securities, joint ventures, loan or option arrangements, puts or calls, guarantees of loans, guarantees against loss or guarantees of profits, division of losses or profits, or the giving or withholding of proxies. The description shall identify the persons with whom such contracts, arrangements, or understandings have been made.

(10) A description of the purchase of any security of such issuer or such controlling person during the year preceding the filing of the statement, by any acquiring party, including the dates of purchase, names of the purchasers, and consideration paid or agreed to be paid therefor;

(11) A description of any recommendations to purchase any security of such issuer or such controlling person made during the year preceding the filing of the statement, by any acquiring party, or by anyone based upon interviews or at the suggestion

of the acquiring party;

(12) Copies of all tender offers for, requests, or invitations for tenders of, exchange offers for, and agreements to acquire or exchange any securities of such issuer or such controlling person, and, if distributed, of additional solicitation material relating thereto;

(13) The terms of any agreement, contract, or understanding made with or proposed to be made with any broker or dealer as to solicitation of securities of such issuer or such controlling person for tender, and the amount of any fees, commissions, or other compensation to be paid to brokers or dealers with regard thereto;

(14) With respect to proposed affiliations between depository institutions or any affiliate thereof, within the meaning of Title I, section 104(c) of the "Gramm-Leach-Bliley Act," Pub. L. No. 106-102, 113 Stat. 1338 (1999), and a domestic insurer, the proposed effective date of the acquisition or change of control;

(15) An agreement by the person required to file the statement required by division (B) of this section that the person will provide the annual registration required by division (K) of section 3901.33 of the Revised Code for so long as the person has control of the domestic insurer;

(16) An acknowledgment by the person required to file the statement required by division (B) of this section that the person and all subsidiaries within the person's control in the insurance holding company system will provide information to the superintendent upon request as necessary to evaluate enterprise risk to the insurer~~;~~

~~(17) Such additional information as the superintendent may by rule prescribe as necessary or appropriate for the protection of policyholders of the domestic insurer or in the public interest~~.

(D)(1) If the person required to file the statement required by division (B)(2) of this section is a partnership, limited partnership, syndicate, or other group, the superintendent may require that the information required by division (C) of this section be furnished with respect to each partner of such partnership or limited partnership, each member of such syndicate or group, and each person that controls such partner or member. If any such partner, member, or person is a corporation, or the person required to file the statement is a corporation, the superintendent may require that the information required by division (C) of this section be furnished with respect to the corporation, each officer and director of the corporation, and each person that is directly or indirectly the beneficial owner of more than ten per cent of the outstanding voting securities of the corporation.

(2) If any material change occurs in the facts set forth in the statement required by division (B)(2) of this section, an amendment setting forth such change, together with copies of all documents and other material relevant to the change, shall be filed with the superintendent by the person subject to division (B)(2) of this section and sent to the domestic insurer within two business days after such person learns of the occurrence of the material change.

(E) If any offer, request, invitation, agreement, or acquisition described in division (B)(1) of this section is proposed to be made by means of a registration statement under

the "Securities Act of 1933," 48 Stat. 74, 15 U.S.C.A. 78a, or in circumstances requiring the disclosure of similar information under the "Securities Exchange Act of 1934," 48 Stat. 881, 15 U.S.C.A. 78a, or under a state law requiring similar registration or disclosure, the person required to file the statement required by division (B)(2) of this section may use such documents in furnishing the information required by that statement.

(F)(1) The superintendent shall approve any merger or other acquisition of control described in division (B)(1) of this section unless, after a public hearing, the superintendent finds that any of the following apply:

(a) After the change of control, the domestic insurer would not be able to satisfy the requirements for the issuance of a license to write the line or lines of insurance for which it is presently licensed;

(b) The effect of the merger or other acquisition of control would be substantially to lessen competition in insurance in this state or tend to create a monopoly;

(c) The financial condition of any acquiring party is such as might jeopardize the financial stability of the domestic insurer, or prejudice the interests of its policyholders;

(d) The plans or proposals that the acquiring party has to liquidate the domestic insurer, sell its assets, or consolidate or merge it with any person, or to make any other material change in its business or corporate structure or management, are unfair and unreasonable to policyholders of the domestic insurer and not in the public interest;

(e) The competence, experience, and integrity of those

persons that would control the operation of the domestic insurer are such that it would not be in the interest of policyholders of the domestic insurer and of the public to permit the merger or other acquisition of control;

(f) The acquisition is likely to be hazardous or prejudicial to the insurance-buying public.

(2)(a) Chapter 119. of the Revised Code, except for section 119.09 of the Revised Code, applies to any hearing held under division (F)(1) of this section, including the notice of the hearing, the conduct of the hearing, the orders issued pursuant to it, the review of the orders, and all other matters relating to the holding of the hearing, but only to the extent that Chapter 119. of the Revised Code is not inconsistent or in conflict with this section.

(b) The notice of a hearing required under this division shall be transmitted in accordance with sections 119.05 and 119.07 of the Revised Code to the persons and addresses designated to receive notices and correspondence in the information statement filed under division (B)(2) of this section.

(c) The hearing shall be held at the offices of the superintendent within ten calendar days, but not earlier than seven calendar days, of the date of transmission of the notice of hearing by any means, unless it is postponed or continued; but in no event shall the hearing be held unless notice is received at least three days prior to the hearing. The superintendent may postpone or continue the hearing upon receipt of a written request by an acquiring party, or upon the superintendent's motion, provided, however, a hearing in connection with a proposed change of control involving a

depository institution or any affiliate thereof, within the meaning of Title I, section 104(c) of the "Gramm-Leach-Bliley Act," Pub. L. No. 106-102, 113 Stat. 1338 (1999), and a domestic insurer, may be postponed or continued only upon the request of an acquiring party, or upon the superintendent's motion when the acquiring party agrees in writing to extend the sixty-day period provided for in section 104(c) of the "Gramm-Leach-Bliley Act," by a number of days equal to the number of days of such postponement or continuance.

(d) For the purpose of conducting any hearing held under this section, the superintendent may require the attendance of such witnesses and the production of such books, records, and papers as the superintendent desires, and may take the depositions of witnesses residing within or without the state in the same manner as is prescribed by law for the taking of depositions in civil actions in the court of common pleas, and for that purpose the superintendent may, and upon the request of an acquiring party shall, issue a subpoena for any witnesses or a subpoena duces tecum to compel the production of any books, records, or papers, directed to the sheriff of the county where such witness resides or is found, which shall be served and returned in the same manner as a subpoena in a criminal case is served and returned. The fees of the sheriff shall be the same as that allowed in the court of common pleas in criminal cases. Witnesses shall be paid the fees and mileage provided for under section 119.094 of the Revised Code. Fees and mileage shall be paid from the fund in the state treasury for the use of the superintendent in the same manner as other expenses of the superintendent are paid. In any case of disobedience or neglect of any subpoena served on any person or the refusal of any witness to testify in any matter regarding which the witness may

lawfully be interrogated, the court of common pleas of any county where such disobedience, neglect, or refusal occurs or any judge thereof, on application by the superintendent, shall compel obedience by attachment proceedings for contempt, as in the case of disobedience of the requirements of a subpoena issued from the court or a refusal to testify therein.

In any hearing held under this section, a record of the testimony, as provided by stenographic means or by use of audio electronic recording devices, as determined by the superintendent, and other evidence submitted shall be taken at the expense of the superintendent. The record shall include all of the testimony and other evidence, and rulings on the admissibility thereof, presented at the hearing.

The superintendent shall pass upon the admissibility of evidence, but a party to the proceedings may at that time object to the rulings of the superintendent, and if the superintendent refuses to admit evidence, the party offering the evidence shall proffer the evidence. The proffer shall be made a part of the record of the hearing.

In any hearing held under this section, the superintendent may call any person to testify under oath as upon cross-examination. The superintendent, or any one delegated by the superintendent to conduct a hearing, may administer oaths or affirmations.

In any hearing under this section, the superintendent may appoint a hearing officer to conduct the hearing; the hearing officer has the same powers and authority in conducting the hearing as is granted to the superintendent. The hearing officer shall have been admitted to the practice of law in the state and be possessed of any additional qualifications as the

superintendent requires. The hearing officer shall submit to the superintendent a written report setting forth the hearing officer's finding of fact and conclusions of law and a recommendation of the action to be taken by the superintendent. A copy of the written report and recommendation shall, within seven days of the date of filing thereof, be served upon the acquiring party or the acquiring party's attorney or other representative of record in accordance with section 119.05 of the Revised Code. The acquiring party may, within three days of receipt of the copy of the written report and recommendation, file with the superintendent written objections to the report and recommendation, which objections the superintendent shall consider before approving, modifying, or disapproving the recommendation. The superintendent may grant extensions of time to the acquiring party within which to file such objections. No recommendation of the hearing officer shall be approved, modified, or disapproved by the superintendent until after three days following the service of the report and recommendation as provided in this section. The superintendent may order additional testimony to be taken or permit the introduction of further documentary evidence. The superintendent may approve, modify, or disapprove the recommendation of the hearing officer, and the order of the superintendent based on the report, recommendation, transcript of testimony, and evidence, or the objections of the acquiring party, and additional testimony and evidence shall have the same effect as if the hearing had been conducted by the superintendent. No such recommendation is final until confirmed and approved by the superintendent as indicated by the order entered in the record of proceedings, and if the superintendent modifies or disapproves the recommendations of the hearing officer, the reasons for the modification or disapproval shall be included in the record of proceedings.

After the order is entered, the superintendent shall transmit in the manner and by any of the methods set forth in division (F)(2)(b) of this section a certified copy of the order and a statement of the time and method by which an appeal may be perfected. A copy of the order shall be mailed to the attorneys or other representatives of record representing the acquiring party.

(e) An order of disapproval issued by the superintendent may be appealed to the court of common pleas in accordance with section 119.12 of the Revised Code by filing a notice of appeal with the superintendent and a copy of the notice of appeal with the court, within fifteen calendar days after the transmittal of the copy of the order of disapproval. The notice of appeal shall set forth the order appealed from and the grounds for appeal, in accordance with section 119.12 of the Revised Code.

(3) The superintendent may retain at the acquiring party's expense any attorneys, actuaries, accountants, and other experts not otherwise a part of the superintendent's staff as may be reasonably necessary to assist the superintendent in reviewing the proposed acquisition of control.

(G) This section does not apply to either of the following:

(1) Any transaction that is subject to section 3921.14, or sections 3925.27 to 3925.31, 3941.35 to 3941.46, or section 3953.19 of the Revised Code;

(2) Any offer, request, invitation, agreement, or acquisition that the superintendent by order exempts from this section on either of the following bases:

(a) It has not been made or entered into for the purpose

and does not have the effect of changing or influencing the control of a domestic insurer;

(b) It is not otherwise comprehended within the purposes of this section.

(H) Nothing in this section or in any other section of Title XXXIX of the Revised Code shall be construed to impair the authority of the attorney general to investigate or prosecute actions under any state or federal antitrust law with respect to any merger or other acquisition involving domestic insurers.

(I) In connection with a proposed change of control involving a depository institution or any affiliate thereof, within the meaning of Title I, section 104(c) of the "Gramm-Leach-Bliley Act," Pub. L. No. 106-102, 113 Stat. 1338 (1999), and a domestic insurer, not later than sixty days after the date of the notification of the proposed change in control submitted pursuant to division (B)(2) of this section, the superintendent shall make any determination that the person acquiring control of the insurer shall maintain or restore the capital of the insurer to the level required by the laws and regulations of this state.

Sec. 3901.352. (A)(1) The superintendent of insurance is authorized to act as the group-wide supervisor for any internationally active insurance group in accordance with this section. However, the superintendent may otherwise acknowledge a regulatory official from another jurisdiction as the group-wide supervisor for an internationally active insurance group, if the group meets any of the following conditions:

(a) Does not have substantial insurance operations in the United States;

(b) Has substantial operations in the United States, but not in this state;

(c) Has substantial insurance operations in the United States and this state, but the superintendent has determined pursuant to the factors set forth in divisions (B) and (F) of this section that the other regulatory official is the appropriate group-wide supervisor.

(2) An insurance holding company system that does not otherwise qualify as an internationally active insurance group may request that the superintendent make a determination or acknowledgment as to a group-wide supervisor for the insurance holding company system pursuant to this section.

(B)(1) In cooperation with other state, federal, and international regulatory agencies, the superintendent shall identify one group-wide supervisor for each internationally active insurance group. The superintendent may determine that the superintendent is the appropriate group-wide supervisor for an internationally active insurance group that conducts substantial insurance operations concentrated in this state. However, the superintendent may acknowledge that a regulatory official from another jurisdiction is the appropriate group-wide supervisor for the internationally active insurance group. The superintendent shall consider the following factors when making a determination or acknowledgment under division (B)(1) of this section:

(a) The place of domicile of the insurers within the internationally active insurance group that hold the largest share of the group's written premiums, assets, or liabilities;

(b) The place of domicile of the top-tiered insurer in the

internationally active insurance group's insurance holding company system;

(c) The location of the executive offices or largest operational offices of the internationally active insurance group;

(d) For the purposes of division (C)(1) of this section, whether another regulatory official is acting or is seeking to act as the group-wide supervisor for the internationally active insurance group under a regulatory system that the superintendent determines to be either of the following:

(i) Substantially similar to the regulatory system under the laws of this state;

(ii) Otherwise sufficient in terms of providing for group-wide supervision, enterprise risk analysis, and cooperation with other regulatory officials.

(e) Whether another regulatory official acting, or seeking to act, as the group-wide supervisor for the internationally active insurance group provides the superintendent with reasonably reciprocal recognition and cooperation.

(2) If the superintendent is identified in division (B)(1) of this section as the group-wide supervisor of an internationally active insurance group, the superintendent may determine that it is appropriate to acknowledge another supervisor to serve as the group-wide supervisor. The acknowledgment of the new group-wide supervisor shall be made in accordance with all of the following:

(a) After consideration of the factors listed in division (B)(1) of this section;

(b) In cooperation with and subject to the acknowledgment of other regulatory officials involved with supervision of members of the internationally active insurance group;

(c) In consultation with the internationally active insurance group.

(C)(1) Notwithstanding any other provision of law, when another regulatory official is acting as the group-wide supervisor of an internationally active insurance group, the superintendent shall acknowledge that regulatory official as the group-wide supervisor.

(2) The superintendent shall make a determination or acknowledgment under division (B) of this section as to the appropriate group-wide supervisor for an internationally active insurance group if a material change in the internationally active insurance group results in either of the following:

(a) The internationally active insurance group's insurers domiciled in this state holding the largest share of the group's premiums, assets, or liabilities;

(b) This state being the place of domicile of the top-tiered insurer in the internationally active insurance group's insurance holding company system.

(D)(1) Pursuant to section 3901.35 of the Revised Code, the superintendent may collect from any insurer registered under section 3901.33 of the Revised Code all information necessary to determine whether the superintendent may act as the group-wide supervisor of an internationally active insurance group or if the superintendent may acknowledge another regulatory official to act as the group-wide supervisor.

(2) Prior to issuing a determination that an

internationally active insurance group is subject to group-wide supervision by the superintendent, the superintendent shall notify the insurer registered under section 3901.33 of the Revised Code and the ultimate controlling person within the internationally active insurance group. The superintendent shall give the internationally active insurance group not less than thirty days to provide the superintendent with additional information pertinent to the pending determination.

(3) The superintendent shall publish on its internet web site the identity of internationally active insurance groups that the superintendent has determined are subject to group-wide supervision by the superintendent.

(E) If the superintendent is the group-wide supervisor for an internationally active insurance group, the superintendent may engage in any of the following activities:

(1) Assess the enterprise risks within the internationally active insurance group to ensure all of the following:

(a) That the material financial condition and liquidity risks to members of the internationally active insurance group that are engaged in the business of insurance are identified by management;

(b) That reasonable and effective mitigation measures are in place.

(2) Request from any member of an internationally active insurance group subject to the superintendent's supervision information necessary and appropriate to assess enterprise risk, including information about the members of the internationally active insurance group regarding all of the following:

(a) Governance, risk assessment, and management;

(b) Capital adequacy;

(c) Material intercompany transactions.

(3) Coordinate and, through the authority of the regulatory officials of the jurisdictions in which members of the internationally active insurance group are domiciled, compel development and implementation of reasonable measures designed to ensure that the internationally active insurance group is able to timely recognize and mitigate enterprise risks to members of the internationally active insurance group that are engaged in the business of insurance;

(4) Communicate with other state, federal, and international regulatory agencies for members of the internationally active insurance group and share relevant information, subject to the confidentiality provisions of section 3901.36 of the Revised Code, through a supervisory college as set forth in section 3901.351 of the Revised Code or otherwise;

(5) Enter into agreements with or obtain documentation from any insurer registered under section 3901.33 of the Revised Code, any member of the internationally active insurance group, and any other state, federal, and international regulatory agency for members of the internationally active insurance group, that provides the basis for or otherwise clarifies the superintendent's role as group-wide supervisor. The agreements or documentation may include provisions for resolving disputes with other regulatory officials. The agreements or documentation shall not serve as evidence in any proceeding to show that any insurer or person within an insurance holding company system not domiciled or incorporated in this state is doing business in this state or is otherwise subject to jurisdiction in this

state.

(6) Any other group-wide supervision activities consistent with this section that the superintendent considers necessary.

(F) If the superintendent acknowledges that another regulatory official from a jurisdiction that is not accredited by the national association of insurance commissioners is the group-wide supervisor of an internationally active insurance group, the superintendent may reasonably cooperate, through a supervisory college as set forth in section 3901.351 of the Revised Code or otherwise, with group-wide supervision undertaken by the group-wide supervisor if all of the following are true:

(1) The superintendent's cooperation is in compliance with the Revised Code.

(2) The regulatory official also recognizes and cooperates with the superintendent's activities as a group-wide supervisor for other internationally active insurance groups, as applicable. If such recognition and cooperation is not reasonably reciprocal, the superintendent may refuse to recognize and cooperate with the regulatory official as group-wide supervisor.

(G) The superintendent may enter into agreements with or obtain documentation from any insurer registered under section 3901.33 of the Revised Code, any affiliate of the insurer, and other state, federal, and international regulatory agencies for members of the internationally active insurance group that provides the basis for or otherwise clarifies a regulatory official's role as group-wide supervisor of an internationally active insurance group.

(H) An insurer registered under section 3901.33 of the Revised Code shall be liable for and shall pay the reasonable expenses of the superintendent's participation in the administration of this section, including engaging attorneys, actuaries, and any other professionals and all reasonable travel expenses.

~~(I) The superintendent may adopt rules in accordance with Chapter 119. of the Revised Code as necessary to implement this section.~~

Sec. 3901.382. Beginning six months after the date specified in section 262 of the "Health Insurance Portability and Accountability Act of 1996," 110 Stat. 2027, 42 U.S.C.A. 1320d-4, on which a third-party payer is initially required to comply with a standard or implementation specification for the electronic exchange of health information, as adopted or established by the United States secretary of health and human services pursuant to that act, sections 3901.381, 3901.384, 3901.385, 3901.389, 3901.3810, 3901.3811, and 3901.3812~~, and 3901.3813~~ of the Revised Code apply to a claim submitted to a third-party payer for payment for health care services only if the claim is submitted electronically. A provider and third-party payer may enter into a contractual arrangement under which the third-party payer agrees to process claims that are not submitted electronically because of the financial hardship that electronic submission of claims would create for the provider or any other extenuating circumstance.

Sec. 3901.383. (A) A provider and a third-party payer may do either of the following:

(1) Enter into a contractual agreement under which time periods shorter than those set forth in section 3901.381 of the

Revised Code are applicable to the third-party payer in paying a claim for any amount due for health care services rendered by the provider;

(2) Enter into a contractual agreement under which the timing of payments by the third-party payer is not directly related to the receipt of a claim form. The contractual arrangement may include periodic interim payment arrangements, capitation payment arrangements, or other periodic payment arrangements acceptable to the provider and the third-party payer. Under a capitation payment arrangement, the third-party payer shall begin paying the capitated amounts to the beneficiary's primary care provider not later than sixty days after the date the beneficiary selects or is assigned to the provider. Under any other contractual periodic payment arrangement, the contractual agreement shall state, with specificity, the timing of payments by the third-party payer.

(B) Regardless of whether a third-party payer is exempted under division (D) of section 3901.3814 from sections 3901.38 and 3901.381 to ~~3901.3813~~ 3901.3812 of the Revised Code, a provider and the third-party payer, including a third-party payer that provides coverage under the medicaid program, shall not enter into a contractual arrangement under which time periods longer than those provided for in paragraph (c)(1) of 42 C.F.R. 447.46 are applicable to the third-party payer in paying a claim for any amount due for health care services rendered by the provider.

Sec. 3901.3814. Sections 3901.38 and 3901.381 to ~~3901.3813~~ 3901.3812 of the Revised Code do not apply to the following:

(A) Policies offering coverage that is regulated under Chapters 3935. and 3937. of the Revised Code;

(B) An employer's self-insurance plan and any of its administrators, as defined in section 3959.01 of the Revised Code, to the extent that federal law supersedes, preempts, prohibits, or otherwise precludes the application of any provisions of those sections to the plan and its administrators;

(C) A third-party payer for coverage provided under the medicare advantage program operated under Title XVIII of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 301, as amended;

(D) A third-party payer for coverage provided under the medicaid program;

(E) A third-party payer for coverage provided under the tricare program offered by the United States department of defense.

Sec. 3901.41. (A) As used in this section:

(1) "Automated transaction" has the same meaning as in section 1306.01 of the Revised Code, and includes electronic transactions between two or more persons conducting business pursuant to the laws of this state relating to insurance.

(2) "Contact point" means any electronic identification to which messages can be sent, including, but not limited to, any of the following:

(a) An electronic mail address;

(b) An instant message identity;

(c) A wireless telephone number, or any other personal electronic communication device;

(d) A facsimile number.

(3) "Insured" means a certificate holder, contract owner, customer, policyholder, or subscriber as those terms are used in the laws of this state relating to insurance.

(4) "Insurer" has the same meaning as in section 3901.32 of the Revised Code.

(5) "Laws of this state relating to insurance" has the same meaning as in section 3901.04 of the Revised Code.

(6) "Personally identifiable information" means any individually identifiable information gathered in connection with an insurance transaction, including a person's name, address, social security number, and banking information.

(7) "Secure web site" means a web site that meets both of the following criteria:

(a) The web site uses the hypertext transfer protocol secure communication protocol or other equally secure communication protocol.

(b) The web site requires a person to enter a unique user credential to access personally identifiable information for which the person has the legal right to access.

(B) Notwithstanding any laws of this state relating to insurance, sections 1306.01 to 1306.23 of the Revised Code, the "Uniform Electronics Transactions Act," apply to the business of insurance in this state.

(C)(1) If an insured agrees to conduct the business of insurance via an automated transaction, any information issued or delivered in writing may be issued or delivered electronically to a contact point provided by the insured, as long as both of the following apply:

(a) The transmission of information is in compliance with sections 1306.07 and 1306.14 of the Revised Code.

(b) The details of the automated transaction are fully disclosed to the insured in the application, policy, certificate, contract of insurance, or by another method that ensures notice to the insured. An insurer's form used only to notify an insured of and obtain consent for an automated transaction does not need to be approved or accepted by the superintendent of insurance.

(2)(a) Except for notices of cancellation, nonrenewal, or termination, an insurer may deliver information via a secure web site if the insurer sends an electronic notice to a contact point and the electronic notice includes a hyperlink to the secure web site.

(b) If an insurer uses a secure web site to deliver changes in terms or conditions in an insured's policy, certificate, or contract of insurance, including any endorsements or amendments, the electronic notice to the insured's contact point shall include all of the following:

(i) A list or summary of the changes;

(ii) A link to the complete document located on the insurer's secure web site;

(iii) The following or substantially similar statement displayed in a prominent manner:

"There are changes in the terms or conditions of your policy, certificate, or contract of insurance."

(3) At a minimum, the details of the automated transaction shall include all of the following:

(a) A clear and conspicuous statement informing the insured of any right or option of the insured to receive a record on paper;

(b) The right of the insured to withdraw the insured's consent, and any consequences or fees if the insured withdraws consent;

(c) A description of the procedures the insured must use to withdraw consent and to update the insured's contact point.

(4) Agreement to participate in a part of an automated transaction shall not be used to confirm the insured's consent to transact the entire business of insurance pursuant to this section.

(5) A withdrawal of consent by an insured shall be effective within a reasonable time period, not to exceed ten business days after the receipt of the withdrawal by the insurer.

(D) The insurer shall send all notices of cancellation, nonrenewal, termination, or changes in the terms or conditions of the policy, certificate, or contract of insurance to the last known contact point supplied by the insured. If the insurer has knowledge that the insured's contact point is no longer valid, the insurer shall send the information via regular mail to the last known address furnished to the insurer by the insured.

(E) Any insurer conducting the business of insurance via an automated transaction shall allow the insurer's insureds who agree to participate in an automated transaction the option to withdraw consent from participating in the automated transaction.

(F) Notwithstanding any laws or regulations of this state

relating to insurance, any policy, certificate, or contract of insurance, including any endorsements or amendments, that do not contain personally identifiable information may be posted to the insurer's web site in lieu of any other method of delivery. If the insurer elects to post any policy, certificate, or contract of insurance to the insurer's web site, all of the following shall apply:

(1) The policy, certificate, or contract of insurance is readily accessible by the insured and, once the policy, certificate, or contract of insurance is no longer used by the insurer in this state, it is stored in a readily accessible archive;

(2) The policy, certificate, or contract of insurance is posted in such a manner that the insured can easily identify the insured's applicable policy, certificate, or contract and print or download the insured's documents without charge and without the use of any special program or application that is not readily available to the public without charge;

(3) The insurer provides written notice at the time of issuance of the initial policy, certificate, contract, or any renewal forms of a method by which the insured may obtain upon request a paper or electronic copy of their policy, certificate, or contract without charge;

(4) The insurer clearly identifies the applicable policy, endorsements, amendments, certificate, or contract of insurance purchased by the insured on any declaration page, certificate of insurance, summary of benefits, or other evidence of coverage issued to the insured;

(5) The insurer gives notice, in the manner it customarily

communicates with an insured, of any changes to the policy, certificate, or contract of insurance, including any endorsements or amendments, and of the insured's right to obtain upon request a paper or electronic copy of the policy, endorsements, or amendments without charge.

(G) Notwithstanding any other section of Title XXXIX or Chapters 1739. or 1751. of the Revised Code or rules adopted thereunder to the contrary, an insurer may deliver any notices, documents, or information to an insured via an automated transaction pursuant to this section.

(H) This section does not supersede any time periods, filing requirements, or content of notices, documents, notices to insureds' agents required pursuant to sections 3937.25, 3937.26, and 3937.27 of the Revised Code, or information otherwise required by a law other than this section relating to insurance. This section does not apply to disclosures through electronic media of certificates, explanation of benefit statements, and other mandated materials under the "Employee Retirement Income Security Act of 1974," 88 Stat. 829, 29 U.S.C. 1001, as amended, and any regulation adopted thereunder.

(I) If the consent of an insured to receive certain notices, documents, or information in an electronic form is on file with an insurer before September 4, 2014, if the consent was not accompanied by the details of the automated transaction described in division (C)(3) of this section, and if, pursuant to this section, an insurer intends to deliver additional notices, documents, or information to that insured in an electronic form, then, prior to delivering or at the time of delivering such additional notice, documents, or information electronically, the insurer shall notify the insured of the

details of the automated transaction in compliance with division (C)(3) of this section.

(J)(1) The purchase of a policy of insurance through an online platform shall be considered an agreement to conduct the business of insurance via an automated transaction under this section, and the insured shall be considered to have affirmatively consented to have all notices and documents related to the policy delivered to the insured electronically.

(2) Notwithstanding division (J)(1) of this section, if an insured purchasing a policy of insurance via an online platform requests to receive all notices and documents in paper format, the insurer shall provide all notices and other documents related to the policy to the insured in paper format.

(3) Nothing in division (J) of this section requires an insurer to offer or otherwise provide an online platform to conduct the business of insurance.

(4) As used in division (J) of this section, "online platform" means a web site or other digital application designed to facilitate the purchase of insurance policies by parties from a licensed insurer.

~~(K) The superintendent of insurance may adopt rules in accordance with Chapter 119. of the Revised Code as the superintendent considers necessary to carry out the purposes of this section.~~

Sec. 3901.80. (A) As used in this section:

(1) "Living organ donor" means a living person who donates an organ to another living person.

(2) "Policy of insurance" means a life insurance policy,

disability insurance policy, or long-term care insurance policy.

(B) Notwithstanding any provision of law to the contrary, an insurer shall not unfairly discriminate against a living organ donor in the offering, issuance, premium, or conditions of a policy of insurance based solely, and without any additional actuarial risks, on that person's status as a living organ donor.

(C) A violation of division (B) of this section shall be considered an unfair and deceptive practice in the business of insurance under section 3901.21 of the Revised Code.

~~(D) The superintendent of insurance may adopt rules as necessary to carry out the requirements of this section.~~

Sec. 3901.83. As used in sections 3901.83 to ~~3901.833~~ 3901.832 of the Revised Code:

(A) "Clinical practice guidelines" means a systematically developed statement to assist health care provider and patient decisions with regard to appropriate health care for specific clinical circumstances and conditions.

(B) "Clinical review criteria" means the written screening procedures, decision abstracts, clinical protocols, and clinical practice guidelines used by a health plan issuer or utilization review organization to determine whether or not health care services or drugs are appropriate and consistent with medical or scientific evidence.

(C) "Health benefit plan" and "health plan issuer" have the same meanings as in section 3922.01 of the Revised Code.

(D) "Medical or scientific evidence" has the same meaning as in section 3922.01 of the Revised Code.

(E) "Step therapy exemption" means an overriding of a step therapy protocol in favor of immediate coverage of the health care provider's selected prescription drug.

(F) "Step therapy protocol" means a protocol or program that establishes a specific sequence in which prescription drugs that are for a specified medical condition and that are consistent with medical or scientific evidence for a particular patient are covered, under either a medical or prescription drug benefit, by a health benefit plan, including both self-administered and physician-administered drugs.

(G) "Urgent care services" has the same meaning as in section 3923.041 of the Revised Code.

(H) "Utilization review organization" has the same meaning as in section 1751.77 of the Revised Code.

Sec. 3902.30. (A) As used in this section:

(1) "Cost sharing" means the cost to a covered individual under a health benefit plan according to any coverage limit, copayment, coinsurance, deductible, or other out-of-pocket expense requirements imposed by the plan.

(2) "Health benefit plan," "health care services," and "health plan issuer" have the same meanings as in section 3922.01 of the Revised Code.

(3) "Health care professional" has the same meaning as in section 4743.09 of the Revised Code.

(4) "In-person health care services" means health care services delivered by a health care professional through the use of any communication method where the professional and patient are simultaneously present in the same geographic location.

(5) "Telehealth services" has the same meaning as in section 4743.09 of the Revised Code.

(B)(1) A health benefit plan shall provide coverage for telehealth services on the same basis and to the same extent that the plan provides coverage for the provision of in-person health care services.

(2) A health benefit plan shall not exclude coverage for a service solely because it is provided as a telehealth service.

(3) A health plan issuer shall reimburse a health care professional for a telehealth service that is covered under a patient's health benefit plan. Division (B)(3) of this section shall not be construed to require a specific reimbursement amount.

(C) A health benefit plan shall not impose any annual or lifetime benefit maximum in relation to telehealth services other than such a benefit maximum imposed on all benefits offered under the plan.

(D)(1) A health benefit plan shall not impose a cost-sharing requirement for telehealth services that exceeds the cost-sharing requirement for comparable in-person health care services.

(2)(a) A health benefit plan shall not impose a cost-sharing requirement for a communication when all of the following apply:

(i) The communication was initiated by the health care professional.

(ii) The patient consented to receive a telehealth service from that provider on any prior occasion.

(iii) The communication is conducted for the purposes of preventive health care services only.

(b) If a communication described in division (D)(2)(a) of this section is coded based on time, then only the time the health care professional spends engaged in the communication is billable.

(E) This section shall not be construed as doing any of the following:

(1) Requiring a health plan issuer to reimburse a health care professional for any costs or fees associated with the provision of telehealth services that would be in addition to or greater than the standard reimbursement for comparable in-person health care services;

(2) Requiring a health plan issuer to reimburse a telehealth provider for telehealth services at the same rate as in-person services;

(3) Requiring a health plan issuer to provide coverage for asynchronous communication that differs from the coverage described in the applicable health benefit plan.

~~(F) The superintendent of insurance may adopt rules in accordance with Chapter 119. of the Revised Code as necessary to carry out the requirements of this section. Any such rules adopted by the superintendent are not subject to the requirements of division (F) of section 121.95 of the Revised Code.~~

Sec. 3902.36. (A) As used in this section:

(1) "Health benefit plan" and "health plan issuer" have the same meanings as in section 3922.01 of the Revised Code.

(2) "Mental Health Parity and Addiction Equity Act" means the federal "Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008," Pub. L. No. 110-343, as amended, and any federal regulations implementing that act.

(B) Each health plan issuer and health benefit plan subject to the Mental Health Parity and Addiction Equity Act shall comply with all applicable requirements of that act. The requirements of this section do not apply to a health plan issuer or a health benefit plan that is exempt from the requirements of that act by operation of law or other federal guidance.

(C) The superintendent of insurance shall implement and enforce all applicable provisions of the Mental Health Parity and Addiction Equity Act and shall do all of the following:

(1) Proactively ensure compliance by health plan issuers;

(2) Evaluate all consumer and provider complaints regarding mental health and substance use disorder benefits for possible parity violations;

(3) Adopt rules in accordance with Chapter 119. of the Revised Code as necessary to ~~do both of the following:~~

~~(a) Effectuate~~ effectuate any provisions of the Mental Health Parity and Addiction Equity Act that relate to the business of insurance~~;~~

~~(b) Enforce, monitor compliance with, and ensure continued compliance with this section~~.

(D) Nothing in this section is subject to the requirements of section 3901.71 of the Revised Code.

Sec. 3902.53. (A)(1) Except as provided in division (A)(2)

of this section, sections 3901.38 to 3901.3814 of the Revised Code shall not apply with respect to a claim during a period of negotiation under section 3902.51 of the Revised Code or a period of arbitration under section 3902.52 of the Revised Code. Sections 3901.38 to 3901.3814 of the Revised Code shall apply upon the completion of a successful negotiation or upon the rendering of an arbitration decision.

(2) The superintendent of insurance may adopt rules pursuant to ~~division (D) of section 3902.54~~ Chapter 119. of the Revised Code specifying situations in which sections 3901.38 to 3901.3814 of the Revised Code apply during periods of negotiation under section 3902.51 of the Revised Code.

(B) A pattern of continuous or repeated violations of section 3902.51 or 3902.52 of the Revised Code by a health plan issuer is an unfair and deceptive act or practice in the business of insurance under sections 3901.19 to 3901.26 of the Revised Code.

(C) A provider who violates section 3902.51 or 3902.52 of the Revised Code shall be subject to professional discipline under Title XLVII of the Revised Code as applicable.

Sec. 3902.54. (A)(1) The superintendent of insurance shall contract with a single arbitration entity to perform all arbitrations described in section 3902.52 of the Revised Code. The superintendent shall ensure that the arbitration entity, any arbitrators the arbitration entity designates to conduct an arbitration, and any officer, director, or employee of the arbitration entity do not have any material, professional, familial, or financial connection with any of the following:

(a) The health plan issuer involved in a dispute;

(b) An officer, director, or employee of the health plan issuer;

(c) A provider, facility, emergency facility, ambulance, medical group, or independent practice organization involved with the service in question;

(d) The development or manufacture of any principal drug, device, procedure, or other therapy in dispute;

(e) The covered person who received the service that is the subject of a dispute or the covered person's immediate family.

(2) The superintendent shall require the arbitration entity to do all of the following:

(a) Utilize arbitrators who are knowledgeable and experienced in applicable principles of contract and insurance law;

(b) Ensure that the arbitrators have access to appropriate specialists including certified coding specialists, physicians, nurses, other clinicians, and health insurance experts as necessary to render a determination;

(c) Utilize a secure electronic portal for the submission, processing, and management of arbitration applications;

(d) Perform all arbitrations under section 3902.52 of the Revised Code on a flat fee basis.

(B) In selecting the arbitration entity with which to contract, the superintendent shall at minimum require a prospective arbitration entity to submit to the superintendent a disclosure containing all of the following accompanied by an application fee prescribed by the superintendent:

(1) The name, telephone number, and address of the applicant;

(2) If the applicant has issued any outstanding shares that are listed on a national securities exchange or are regularly quoted in an over-the-counter market by one or more members of a national or affiliated securities association, the name of each person holding more than five per cent stock or call or put options in the applicant;

(3) The name of each person holding bonds or notes issued by the applicant totaling over one hundred thousand dollars;

(4) The name of each entity the applicant controls and the nature and extent of such control, including the nature of the controlled entity's business;

(5) The name of each entity in which the applicant has more than five per cent ownership interest, including the nature of the entity's business;

(6) The name, contact information, and work history of each director, officer, and executive and any current or previous relationship each of those persons has or had with a health plan issuer, provider, facility, emergency facility, medical group, or independent practice organization;

(7) The percentage of revenue the arbitration entity receives from its arbitration services;

(8) A description of the applicant's arbitration process, including information about how the applicant will meet the superintendent's standards and how the applicant will avoid conflicts of interest;

(9) The fee the applicant would charge for an arbitration.

(C)(1) The superintendent shall require the contracted arbitration entity to submit to the superintendent on an annual basis the disclosure described in division (B) of this section.

(2) The superintendent shall require the contracted arbitration entity to submit to the superintendent on an annual basis, and the superintendent shall issue, a report containing all of the following:

(a) The number of arbitrations conducted under section 3902.52 of the Revised Code;

(b) The provider type, whether individual, practice, facility, emergency facility, or ambulance, that engaged in the arbitrations;

(c) The specialty of the provider engaging in the arbitrations;

(d) The out-of-network situation;

(e) The percentage of times the arbitrator decides in favor of the health plan issuer versus the provider, facility, emergency facility, or ambulance.

(D) The superintendent of insurance ~~shall~~ may adopt rules pursuant to Chapter 119. of the Revised Code ~~as necessary to implement sections 3902.50 to 3902.54 of the Revised Code.~~

~~Rules adopted by the superintendent may relate~~ related to the definitions of "provider," "facility," "emergency facility," and "ambulance." The requirements of section 121.95 of the Revised Code do not apply to rules adopted in accordance with this division.

Sec. 3902.61. (A) Notwithstanding ~~section~~ sections 3901.71 ~~and sections~~ , 3901.831 ~~to 3901.833~~ , and 3901.832 of the

Revised Code, a health benefit plan issued, delivered, or renewed in this state on or after ~~the effective date of this section~~ March 24, 2021, that directly or indirectly covers the treatment of stage four advanced metastatic cancer shall not make coverage of a drug that is prescribed to treat such cancer or associated conditions dependent upon a covered person demonstrating either of the following:

(1) Failure to successfully respond to a different drug;

(2) A history of failing to respond to a different drug or drugs.

(B) Division (A) of this section applies only to uses of such drug or drugs that are consistent with either of the following:

(1) An indication approved by, or described in, as applicable, either of the following for the treatment of stage four advanced metastatic cancer:

(a) The United States food and drug administration;

(b) The national comprehensive cancer network drugs and biologics compendium.

(2) The best practices for the treatment of stage four advanced metastatic cancer, as supported by peer-reviewed medical literature.

(C) A violation of this section is an unfair and deceptive practice in the business of insurance under sections 3901.19 to 3901.26 of the Revised Code.

Sec. 3903.07. (A) In any proceeding under sections 3903.01 to 3903.59 of the Revised Code, the superintendent of insurance and ~~his~~the superintendent's deputies are responsible on their

official bonds for the faithful performance of their duties. If the court considers it desirable for the protection of the assets, it may at any time require an additional bond from the superintendent or ~~his~~the superintendent's deputies, and such bonds shall be paid for out of the assets of the insurer as a cost of administration.

(B) Sections 9.86 and 9.87 of the Revised Code and sections 109.36 to ~~109.366~~109.365 of the Revised Code apply, for purposes of any proceeding under sections 3903.01 to 3903.59 of the Revised Code, to the superintendent, any deputy liquidator, any employee of the department of insurance, any employee appointed by the superintendent as liquidator, and any employee who serves under the liquidator.

(C) For the sole purpose of the application of sections 9.86 and 9.87 of the Revised Code and sections 109.36 to ~~109.366~~ 109.365 of the Revised Code, each person described in division (B) of this section is deemed to be an officer or employee as defined in division (A) of section 9.85 of the Revised Code and division (A) of section 109.36 of the Revised Code.

Sec. 3903.81. As used in sections 3903.81 to ~~3903.93~~ 3903.92 of the Revised Code:

(A) "Adjusted RBC report" means an RBC report that has been adjusted by the superintendent of insurance in accordance with division (C) of section 3903.82 of the Revised Code.

(B) "Authorized control level RBC" means the number determined under the risk-based capital formula in accordance with the RBC instructions.

(C) "Company action level RBC" means the product of 2.0 and an insurer's authorized control level RBC.

(D) "Corrective order" means an order issued by the superintendent of insurance in accordance with division (B)(3) of section 3903.84 of the Revised Code specifying corrective actions that the superintendent has determined are required.

(E) "Domestic insurer" means any insurance company organized under Chapter 3907. or 3925. of the Revised Code.

(F) "Foreign insurer" means any insurance company licensed under section 3909.01 or 3927.01 of the Revised Code.

(G) "Life or health insurer" means any insurance company licensed under section 3907.08 or 3909.01 of the Revised Code, a company possessing a certificate of authority pursuant to section 3929.01 of the Revised Code that writes only accident and health insurance, a fraternal benefit society licensed under Chapter 3921. of the Revised Code, or a multiple employer welfare arrangement issued a certificate of authority under Chapter 1739. of the Revised Code.

(H) "Mandatory control level RBC" means the product of.70 and an insurer's authorized control level RBC.

(I) "NAIC" means the national association of insurance commissioners.

(J) "Negative trend" means a negative trend over a period of time for a life or health insurer as determined in accordance with the trend test calculation included in the RBC instructions.

(K) "Property and casualty insurer" means any insurance company that has a certificate of authority pursuant to section 3929.01 of the Revised Code. "Property and casualty insurer" does not include monoline mortgage guarantee insurers, financial guarantee insurers, or title insurers.

(L) "RBC" means risk-based capital.

(M) "RBC instructions" means the RBC report, including risk-based capital instructions, as adopted by the NAIC and as amended by the NAIC from time to time in accordance with the procedures adopted by the NAIC. "RBC instructions" shall also include any modifications adopted by the superintendent, as the superintendent considers to be necessary.

(N) "RBC level" means an insurer's company action level RBC, regulatory action level RBC, authorized control level RBC, or mandatory control level RBC.

(O) "RBC plan" means a comprehensive financial plan containing the elements specified in division (B) of section 3903.83 of the Revised Code.

(P) "Revised RBC plan" means an RBC plan rejected by the superintendent of insurance and then revised by an insurer with or without incorporating the superintendent of insurance's recommendation.

(Q) "RBC report" means the report required by section 3903.82 of the Revised Code.

(R) "Regulatory action level RBC" means the product of 1.5 and an insurer's authorized control level RBC.

(S) "Total adjusted capital" means the sum of both of the following:

(1) An insurer's statutory capital and surplus as determined in accordance with the statutory accounting applicable to the annual statements prepared on a form adopted under section 3901.77 of the Revised Code, as required to be filed by sections 3907.19, 3909.06, and 3929.30 of the Revised

Code;

(2) Such other items, if any, as the RBC instructions may provide.

Sec. 3903.82. (A) Each domestic insurer shall, on or prior to the first day of March of every year, prepare and submit to the superintendent of insurance a report on its RBC levels as of the end of the calendar year just ended, in a form and containing such information as is required by the RBC instructions. In addition, every domestic insurer shall file its RBC report as follows:

(1) With the NAIC, in accordance with the RBC instructions;

(2) With the insurance regulatory authority of any other state in which the insurer is authorized to do business, if the insurance regulatory authority of that state has sent a written request to the insurer for the RBC report. The insurer shall file an RBC report in that state no later than the later of:

(a) Fifteen days after the insurer's receipt of the insurance regulatory authority's request for the RBC report;

(b) Prior to the first day of March.

(B)(1) A life or health insurer's RBC levels shall be determined in accordance with the formula set forth in the RBC instructions. The formula shall take the following risks into account, and may adjust for the covariance between these risks:

(a) Asset risk;

(b) Insurance risk;

(c) Interest rate risk;

(d) All other business risks and such other relevant risks as are set forth in the RBC instructions.

(2) A property and casualty insurer's RBC levels shall be determined in accordance with the formula set forth in the RBC instructions, applying the factors in the manner set forth in the RBC instructions. The formula shall take the following risks into account, and may adjust for the covariance between these risks:

(a) Asset risk;

(b) Credit risk;

(c) UNDERWRITING risk;

(d) All other business risks and such other relevant risks as are set forth in the RBC instructions.

(C) If a domestic insurer files an RBC report that is inaccurate in the judgment of the superintendent, the superintendent shall adjust the RBC report to correct the inaccuracy and then shall provide a copy of the adjusted RBC report to the insurer. The superintendent shall also provide the insurer with a statement of the reasons for any adjustment.

(D) In enacting sections 3903.81 to ~~3903.93~~ 3903.92 of the Revised Code, the general assembly finds all of the following:

(1) An excess of capital over the amount produced by the risk-based capital requirements of sections 3903.81 to ~~3903.93~~ 3903.92 of the Revised Code, and the formulas, schedules, and instructions referenced in sections 3903.81 to ~~3903.93~~ 3903.92 of the Revised Code, is desirable in the business of insurance.

(2) Insurers, accordingly, should seek to maintain capital above the RBC levels required under sections 3903.81 to ~~3903.93~~

3903.92 of the Revised Code.

(3) Additional capital is used and is useful in the insurance business, helping to secure an insurer against various risks inherent in, or affecting, the business of insurance, which risks are not accounted for or are only partially measured by the risk-based capital requirements contained in sections 3903.81 to ~~3903.93~~ 3903.92 of the Revised Code.

Sec. 3903.83. (A) For purposes of sections 3903.81 to ~~3903.93~~ 3903.92 of the Revised Code, a "company action level event" is any of the following events:

(1) A domestic or foreign insurer's filing of an RBC report that indicates that the insurer's total adjusted capital is greater than or equal to its regulatory action level RBC but less than its company action level RBC;

(2) A life or health insurer's filing of an RBC report that indicates that the insurer's total adjusted capital is greater than or equal to its company action level RBC but less than the product of 3.0 and its authorized control level RBC, and that indicates a negative trend;

(3) A property and casualty insurer's filing of an RBC report that indicates that the insurer's total adjusted capital is greater than or equal to its company action level RBC but less than the product of its authorized control level RBC and 3.0, and that triggers the trend test determined in accordance with the trend test calculation included in the property and casualty RBC instructions;

(4) The notification by the superintendent of insurance to an insurer of an adjustment to the insurer's RBC report, which adjusted RBC report shows the insurer's total adjusted capital

within the range described in either division (A)(1) or (2) of this section, provided that the insurer does not challenge the adjusted RBC report under section 3903.87 of the Revised Code;

(5) The superintendent's notification to an insurer, following the hearing required under section 3903.87 of the Revised Code, that the superintendent has rejected the insurer's challenge to an adjusted RBC report showing the insurer's total adjusted capital within the range described in either division (A)(1) or (2) of this section.

(B) In the case of a company action level event, the insurer shall prepare and submit to the superintendent an RBC plan that shall:

(1) Identify the conditions that contributed to the company action level event;

(2) Contain proposals of corrective actions that the insurer intends to take to eliminate the conditions leading to the company action level event;

(3) Provide projections of the insurer's financial results in the current year and at least the four succeeding years, both in the absence of the proposed corrective actions and giving effect to the proposed corrective actions. The projections shall include projections of statutory operating income, net income, capital, and surplus. Projections for both new and renewal business may include separate projections for each major line of business, and may separately identify each significant income, expense, and benefit component of the projection.

(4) Identify the key assumptions impacting the insurer's projections made pursuant to division (B)(3) of this section, and describe the sensitivity of the projections to the

assumptions;

(5) Identify the quality of, and problems associated with, the insurer's business, including, but not limited to, its assets, anticipated business growth and associated surplus strain, extraordinary exposure to risk, mix of business, and use of reinsurance.

(C) The RBC plan shall be submitted within forty-five days after a company action level event. However, if an insurer has challenged an adjusted RBC report pursuant to section 3903.87 of the Revised Code, the RBC plan need not be submitted until after the hearing required under section 3903.87 of the Revised Code. If the superintendent rejects the insurer's challenge, the RBC plan shall be submitted within forty-five days after the superintendent's notification to the insurer of the rejection of the challenge.

(D)(1) Within sixty days after an insurer submits an RBC plan to the superintendent, the superintendent shall either require the insurer to implement the RBC plan or shall notify the insurer that the RBC plan is unsatisfactory in the judgment of the superintendent. If the superintendent has determined that the RBC plan is unsatisfactory, the notification to the insurer shall set forth the reasons for the determination, and may set forth proposed revisions that will render the RBC plan satisfactory in the judgment of the superintendent. Upon such notification from the superintendent, the insurer shall prepare and submit a revised RBC plan, which may incorporate by reference any revisions proposed by the superintendent.

(2) If an insurer challenges, under section 3903.87 of the Revised Code, a notification from the Superintendent that the insurer's RBC plan or a revised RBC plan is unsatisfactory,

submission of a revised RBC plan need not be made unless the superintendent rejects the insurer's challenge following the hearing required by section 3903.87 of the Revised Code and then notifies the insurer of this rejection.

(3) An insurer shall submit a revised RBC plan to the superintendent within forty-five days after receiving notification from the superintendent that its RBC plan is unsatisfactory, or, that its challenge to a notification made under division (D)(1) of this section has been rejected, as applicable.

(E) Notwithstanding division (D) of this section, if the superintendent notifies an insurer that its RBC plan or revised RBC plan is unsatisfactory, the superintendent may, at the superintendent's discretion, but subject to the insurer's right to a hearing under section 3903.87 of the Revised Code, specify in the notification that the notification constitutes a regulatory action level event.

(F) Every domestic insurer that submits an RBC plan or revised RBC plan to the superintendent shall file a copy of the RBC plan or revised RBC plan with the insurance regulatory authority of every state in which the insurer is authorized to do business upon receiving the insurance regulatory authority's written request for a copy of the plan, if the state has a confidentiality law with provisions substantially similar to those set forth in divisions (A) and (B) of section 3903.88 of the Revised Code. The insurer shall file the copy in that state no later than the later of:

(1) Fifteen days after receiving the request for a copy of the plan;

(2) The date on which the RBC plan or revised RBC plan is filed pursuant to division (C) or (D) of this section.

Sec. 3903.84. (A) For purposes of sections 3903.81 to ~~3903.93~~ 3903.92 of the Revised Code, a "regulatory action level event" is any of the following events:

(1) The filing of an RBC report by an insurer that indicates that the insurer's total adjusted capital is greater than or equal to its authorized control level RBC but less than its regulatory action level RBC;

(2) The notification by the superintendent of insurance to an insurer of an adjustment to the insurer's RBC report, which adjusted RBC report shows the insurer's total adjusted capital within the range described in division (A)(1) of this section, provided that the insurer does not challenge the adjusted RBC report under section 3903.87 of the Revised Code;

(3) The notification by the superintendent to an insurer, following the hearing required under section 3903.87 of the Revised Code, that the superintendent has rejected the insurer's challenge to an adjusted RBC report, which report shows the insurer's total adjusted capital within the range described in division (A)(1) of this section;

(4) The failure of an insurer to file an RBC report by the first day of March of every year, unless the insurer has provided an explanation for such failure that is satisfactory to the superintendent and has cured the failure within ten days after the filing date;

(5) The failure of an insurer to submit an RBC plan to the superintendent within the time period set forth in division (C) of section 3903.83 of the Revised Code;

(6) The notification by the superintendent to an insurer of both of the following:

(a) The RBC plan or revised RBC plan submitted by the insurer is unsatisfactory in the judgment of the superintendent;

(b) The superintendent's notification constitutes a regulatory action level event with respect to the insurer, provided that the insurer has not challenged the determination under section 3903.87 of the Revised Code.

(7) The superintendent's notification to an insurer, following the hearing required under section 3903.87 of the Revised Code, that the superintendent has rejected the insurer's challenge to the superintendent's determination under division (A)(6) of this section;

(8) The superintendent's notification to an insurer that the superintendent has determined that the insurer has failed to adhere to its RBC plan or revised RBC plan, and this failure has had a substantial adverse effect on the ability of the insurer to eliminate the conditions leading to the company action level event in accordance with its RBC plan or revised RBC plan, provided that the insurer does not challenge this determination under section 3903.87 of the Revised Code;

(9) The superintendent's notification to an insurer, following the hearing required under section 3903.87 of the Revised Code, that the superintendent has rejected the insurer's challenge to a determination made by the superintendent under division (A)(8) of this section.

(B) In the case of a regulatory action level event the superintendent shall do all of the following:

(1) Require the insurer to prepare and submit an RBC plan,

or, if applicable, a revised RBC plan;

(2) Perform such examination or analysis as the superintendent considers necessary of the assets, liabilities, and operations of the insurer, including a review of the insurer's RBC plan or revised RBC plan and the results of any sensitivity tests undertaken pursuant to the RBC instructions;

(3) Issue a corrective order specifying such corrective actions as the superintendent determines are required, based upon the superintendent's examination or analysis under division (B)(2) of this section.

(C)(1) The RBC plan or revised RBC plan required by division (B)(1) of this section shall be submitted to the superintendent within forty-five days after the regulatory action level event, except by an insurer that files a challenge to an adjusted RBC report or a revised RBC plan pursuant to section 3903.87 of the Revised Code. If the superintendent determines the challenge is frivolous, the time limit for the submission of the RBC plan or revised RBC plan shall not be altered by the filing of the challenge.

(2) If an insurer files a nonfrivolous challenge to an adjusted RBC report or a revised RBC plan, the RBC plan or revised RBC plan required by division (B)(1) of this section shall only be submitted to the superintendent if the superintendent rejects the challenge following the hearing required under section 3903.87 of the Revised Code. The RBC plan or revised RBC plan shall be submitted within forty-five days after the superintendent's notification to the insurer of the superintendent's rejection of the insurer's challenge.

(D) The superintendent may retain actuaries, investment

experts, and such other consultants, as may be necessary in the superintendent's judgment, to review an insurer's RBC plan or revised RBC plan, to examine or analyze the assets, liabilities, and operation of the insurer, and to formulate a corrective order for the insurer. The fees, costs, and expenses relating to these consultants shall be borne by the affected insurer.

Sec. 3903.85. (A) For purposes of sections 3903.81 to ~~3903.93~~ 3903.92 of the Revised Code, an "authorized control level event" is any of the following events:

(1) The filing of an RBC report by an insurer that indicates that the insurer's total adjusted capital is greater than or equal to its mandatory control level RBC but less than its authorized control level RBC;

(2) The notification by the superintendent of insurance to an insurer of an adjustment to the insurer's RBC report, the adjusted RBC report showing the insurer's total adjusted capital within the range described in division (A)(1) of this section, provided that the insurer does not challenge the adjusted RBC report under section 3903.87 of the Revised Code;

(3) The superintendent's notification to an insurer, following the hearing required under section 3903.87 of the Revised Code, that the superintendent has rejected the insurer's challenge to an adjusted RBC report showing the insurer's total adjusted capital within the range described in division (A)(1) of this section;

(4) The failure of an insurer to respond, in a manner satisfactory to the superintendent, to a corrective order issued under division (B)(3) of section 3903.84 of the Revised Code, provided that the insurer has not challenged the corrective

order under section 3903.87 of the Revised Code;

(5) The failure of an insurer to respond, in a manner satisfactory to the superintendent, to a corrective order issued under division (B)(3) of section 3903.84 of the Revised Code, subsequent to the superintendent's modification of an earlier order or the superintendent's rejection of the insurer's challenge of the order under section 3903.87 of the Revised Code.

(B) In the case of an authorized control level event, the superintendent shall do the following:

(1) Take the actions required under section 3903.84 of the Revised Code for regulatory action level events;

(2) If the superintendent considers it to be in the best interests of the policyholders and creditors of the insurer and of the public, take such actions as are necessary to place the insurer under regulatory control under sections 3903.01 to 3903.59 of the Revised Code. The authorized control level event shall be deemed sufficient grounds for the superintendent to take action under sections 3903.01 to 3903.59 of the Revised Code. Nothing in sections 3903.81 to ~~3903.93~~ 3903.92 of the Revised Code shall impair or restrict the rights, powers, and protections afforded to the superintendent and to insurers under sections 3903.01 to 3903.59 of the Revised Code.

Sec. 3903.86. (A) For purposes of sections 3903.81 to ~~3903.93~~ 3903.92 of the Revised Code, a "mandatory control level event" is any of the following events:

(1) The filing of an RBC report by an insurer that indicates that the insurer's total adjusted capital is less than its mandatory control level RBC;

(2) The notification by the superintendent of insurance to an insurer of an adjustment to the insurer's RBC report, which adjusted RBC report shows the insurer's total adjusted capital at less than its mandatory control level RBC, provided the insurer does not challenge the adjusted RBC report under section 3903.87 of the Revised Code;

(3) The superintendent's notification to an insurer, following the hearing required under section 3903.87 of the Revised Code, that the superintendent has rejected the insurer's challenge to an adjusted RBC report.

(B) In the case of a mandatory control level event, the superintendent shall do the following:

(1) With respect to a life or health insurer, take such actions as are necessary to place the insurer under regulatory control under sections 3903.01 to 3903.59 of the Revised Code. The mandatory control level event shall be deemed sufficient grounds for the superintendent to take action under sections 3903.01 to 3903.59 of the Revised Code. Nothing in sections 3903.81 to ~~3903.93~~ 3903.92 of the Revised Code shall impair or restrict the rights, powers, and protections afforded to the superintendent and to insurers under sections 3903.01 to 3903.59 of the Revised Code. However, the superintendent may defer action under this division for up to ninety days after the mandatory control level event if the superintendent finds that there is a reasonable expectation the insurer may be able to eliminate the conditions leading to the mandatory control level event within the ninety-day period.

(2) With respect to a property and casualty insurer, take such actions as are necessary to place the insurer under regulatory control under sections 3903.01 to 3903.59 of the

Revised Code. In the case of a property and casualty insurer that is writing no business, and that is running-off its existing business, the superintendent may allow the insurer to continue the run-off under the supervision of the superintendent. The mandatory control level event shall be deemed sufficient grounds, however, for the superintendent to take action under sections 3903.01 to 3903.59 of the Revised Code, regardless of whether a property and casualty insurer is running-off its existing business. Nothing in sections 3903.81 to ~~3903.93~~ 3903.92 of the Revised Code shall impair or restrict the rights, powers, and protections afforded to the superintendent and to insurers under sections 3903.01 to 3903.59 of the Revised Code. The superintendent may defer action for up to ninety days after the mandatory control level event if the superintendent finds that there is a reasonable expectation the insurer may be able to eliminate the conditions leading to the mandatory control level event within the ninety-day period.

Sec. 3903.87. (A) An insurer has the right to a hearing upon receiving any of the following from the superintendent of insurance:

(1) An adjusted RBC report;

(2) Notification that the insurer's RBC plan or revised RBC plan is unsatisfactory and a statement that the notification constitutes a regulatory action level event for the insurer;

(3) Notification that the superintendent has determined that the insurer has failed to adhere to its RBC plan or revised RBC plan, which failure has a substantial adverse effect on the ability of the insurer to eliminate the conditions leading to a company action level event in accordance with its RBC plan or revised RBC plan;

(4) A corrective order issued under division (B)(3) of section 3903.84 of the Revised Code.

(B) An insurer shall notify the superintendent of its request for a hearing within five days after its receipt of any item listed in division (A) of this section. Upon the superintendent's receipt of the insurer's request for a hearing, the superintendent shall set a date for the hearing, which date shall be no less than ten days and no more than thirty days after the superintendent's receipt of the insurer's request.

(C) An insurer may challenge any determination or action taken by the superintendent under sections 3903.81 to ~~3903.93~~ 3903.92 of the Revised Code at the hearing held pursuant to this section. The hearing shall not be a public hearing, unless the insurer requests a public hearing.

Sec. 3903.89. Unless otherwise provided, all notices sent to an insurer by the superintendent of insurance that may result in regulatory action under sections 3903.81 to ~~3903.93~~ 3903.92 of the Revised Code shall be effective upon dispatch if transmitted by registered or certified mail. Any other notice transmitted shall be effective upon the insurer's receipt of the notice.

Sec. 3903.91. There shall be no liability on the part of, and no cause of action shall arise against, the superintendent of insurance, or the department of insurance, its employees, or its agents, for any action taken in their performance of the powers and duties under sections 3903.81 to ~~3903.93~~ 3903.92 of the Revised Code.

Sec. 3903.92. The superintendent may exempt any domestic property and casualty insurer from the application of sections

3903.81 to ~~3903.93~~ 3903.92 of the Revised Code, if the insurer meets all of the following requirements:

(A) The insurer writes direct business only in this state;

(B) The insurer writes direct annual premiums of three million dollars or less;

(C) The insurer assumes no reinsurance in excess of five per cent of direct premium written.

Sec. 3905.01. As used in this chapter:

(A) "Affordable Care Act" means the "Patient Protection and Affordable Care Act," 124 Stat. 119, 42 U.S.C. 18031 (2011).

(B) "Business entity" means a corporation, association, partnership, limited liability company, limited liability partnership, or other legal entity.

(C) "Home state" means the state or territory of the United States, including the District of Columbia, in which an insurance agent maintains the insurance agent's principal place of residence or principal place of business and is licensed to act as an insurance agent.

(D) "In-person assister" means any person, other than a navigator, who receives any funding from, or who is selected or designated by, an exchange, the state, or the federal government to perform any of the activities and duties identified in division (i) of section 1311 of the Affordable Care Act. "In-person assister" includes any individual that is employed by, supervised by, or affiliated with an in-person assister and performs any of the activities and duties identified in division (i) of section 1311 of the Affordable Care Act, any non-navigator assistance personnel, and any other person deemed as

such by rules adopted by the superintendent under division ~~(L)~~ (K) of section 3905.471 of the Revised Code.

(E) "Insurance" means any of the lines of authority set forth in Chapter 1739., 1751., or 1761. or Title XXXIX of the Revised Code, or as additionally determined by the superintendent of insurance.

(F) "Insurance agent" or "agent" means any person that, in order to sell, solicit, or negotiate insurance, is required to be licensed under the laws of this state, including limited lines insurance agents and surplus line brokers.

(G) "Insurer" has the same meaning as in section 3901.32 of the Revised Code.

(H) "License" means the authority issued by the superintendent to a person to act as an insurance agent for the lines of authority specified, but that does not create any actual, apparent, or inherent authority in the person to represent or commit an insurer.

(I) "Limited line credit insurance" means credit life, credit disability, credit property, credit unemployment, involuntary unemployment, mortgage life, mortgage guaranty, mortgage disability, guaranteed automobile protection insurance, or any other form of insurance offered in connection with an extension of credit that is limited to partially or wholly extinguishing that credit obligation and that is designated by the superintendent as limited line credit insurance.

(J) "Limited line credit insurance agent" means a person that sells, solicits, or negotiates one or more forms of limited line credit insurance to individuals through a master, corporate, group, or individual policy.

(K) "Limited lines insurance" means those lines of authority set forth in divisions (B)(7) to (13) of section 3905.06 of the Revised Code ~~or in rules adopted by the superintendent,~~ or any lines of authority the superintendent considers necessary to recognize for purposes of complying with section 3905.072 of the Revised Code.

(L) "Limited lines insurance agent" means a person authorized by the superintendent to sell, solicit, or negotiate limited lines insurance.

(M) "NAIC" means the national association of insurance commissioners.

(N) "Insurance navigator" means a person selected to perform the activities and duties identified in division (i) of section 1311 of the Affordable Care Act that is certified by the superintendent of insurance under section 3905.471 of the Revised Code. "Insurance navigator" refers to a navigator specified in section 1311 of the Affordable Care Act, 42 U.S.C. 13031.

(O) "Negotiate" means to confer directly with, or offer advice directly to, a purchaser or prospective purchaser of a particular contract of insurance with respect to the substantive benefits, terms, or conditions of the contract, provided the person that is conferring or offering advice either sells insurance or obtains insurance from insurers for purchasers.

(P) "Person" means an individual or a business entity.

(Q) "Sell" means to exchange a contract of insurance by any means, for money or its equivalent, on behalf of an insurer.

(R) "Self-service storage facility" means an entity that is engaged in the business of providing real property designed

and used for the purpose of renting or leasing individual storage space to the public who are to have access to the space for the purpose of storing and removing personal property on a self-service basis, but does not include a garage or other storage area in a private residence.

(S) "Solicit" means to attempt to sell insurance, or to ask or urge a person to apply for a particular kind of insurance from a particular insurer.

(T) "Superintendent" or "superintendent of insurance" means the superintendent of insurance of this state.

(U) "Terminate" means to cancel the relationship between an insurance agent and the insurer or to terminate an insurance agent's authority to transact insurance.

(V) "Uniform application" means the NAIC uniform application for resident and nonresident agent licensing, as amended by the NAIC from time to time.

(W) "Uniform business entity application" means the NAIC uniform business entity application for resident and nonresident business entities, as amended by the NAIC from time to time.

(X) "Exchange" means a health benefit exchange established by the state government of Ohio or an exchange established by the United States department of health and human services in accordance with the "Patient Protection and Affordable Care Act," 124 Stat. 119, 42 U.S.C. 18031 (2011).

Sec. 3905.04. (A) Except as otherwise provided in this section or in section 3905.041 of the Revised Code, a resident individual applying for an insurance agent license for any of the lines of authority described in division (B) of this section shall take and pass a written examination prior to application

for licensure. The examination shall test the knowledge of the individual with respect to the lines of authority for which application will be made, the duties and responsibilities of an insurance agent, and the insurance laws of this state. Before admission to the examination, each individual shall pay the nonrefundable examination fee.

(B) The examination described in division (A) of this section shall be required for the following lines of authority:

(1) Any of the lines of authority set forth in divisions (B)(1) to (5) of section 3905.06 of the Revised Code;

(2) Title insurance;

(3) Surety bail bonds as provided in sections 3905.83 to ~~3905.95~~ 3905.941 of the Revised Code;

(4) Any other line of authority designated by the superintendent of insurance.

(C)(1) An individual shall not be permitted to take the examination described in division (A) of this section unless one of the following applies:

(a) The individual has earned a bachelor's or associate's degree in insurance from an accredited institution.

(b) The individual has earned a professional designation approved by the superintendent.

(c) The individual has completed, for each line of authority for which the individual has applied, twenty hours of study in a program of insurance education approved by the superintendent, under criteria established by the superintendent, which may include the option for all of the following types of courses and programs or combination thereof:

(i) Classroom;

(ii) Online;

(iii) Self-study.

(2) Division (C) of this section does not apply with respect to title insurance or any other line of authority designated by the superintendent.

(D) An individual who fails to appear for an examination as scheduled, or fails to pass an examination, may reapply for the examination if the individual pays the required fee and submits any necessary forms prior to being rescheduled for the examination.

~~(E)(1) The superintendent may, in accordance with Chapter 119. of the Revised Code, adopt any rule necessary for the implementation of this section.~~

~~(2)~~(E) The superintendent may make any necessary arrangements, including contracting with an outside testing service, for the administration of the examinations and the collection of the fees required by this section.

Sec. 3905.06. (A)(1) The superintendent of insurance shall issue a resident insurance agent license to an individual applicant whose home state is Ohio upon submission of a completed application and payment of any applicable fee required under this chapter, if the superintendent finds all of the following:

(a) The applicant is at least eighteen years of age.

(b) The applicant has not committed any act that is a ground for the denial, suspension, or revocation of a license under section 3905.14 of the Revised Code.

(c) If required under section 3905.04 of the Revised Code, the applicant has completed a program of insurance education for each line of authority for which the applicant has applied.

(d) If required under section 3905.04 of the Revised Code, the applicant has passed an examination for each line of authority for which the applicant has applied.

(e) Any applicant applying for variable life-variable annuity line of authority is registered with the financial industry regulatory authority (FINRA) as a registered representative after having passed at least one of the following examinations administered by the FINRA: the series 6 examination, the series 7 examination, the series 63 examination, the series 66 examination, or any other FINRA examination approved by the superintendent.

(f) If required under section 3905.051 of the Revised Code, the applicant has consented to a criminal records check and the results of the applicant's criminal records check are determined to be satisfactory by the superintendent in accordance with section 9.79 of the Revised Code.

(g) The applicant is a United States citizen or has provided proof of having legal authorization to work in the United States.

(h) The applicant is honest and trustworthy and is otherwise suitable to be licensed.

(2) The superintendent shall issue a resident insurance agent license to a business entity applicant upon submission of a completed application and payment of any applicable fees required under this chapter if the superintendent finds all of the following:

(a) Except as provided under division (C)(2) of section 3905.062 or division (C)(2) of section 3905.063 of the Revised Code, the applicant either is domiciled in Ohio or maintains its principal place of business in Ohio.

(b) The applicant has designated a licensed insurance agent who will be responsible for the applicant's compliance with the insurance laws of this state.

(c) The applicant has not committed any act that is a ground for the denial, suspension, or revocation of a license under section 3905.14 of the Revised Code.

(d) Any applicant applying for a portable electronics insurance license line of authority satisfies the requirements of division (C)(1) of section 3905.062 of the Revised Code or any applicant applying for a self-service storage insurance license line of authority satisfies the requirements of division (C)(1) of section 3905.063 of the Revised Code.

(e) The applicant has submitted any other documents requested by the superintendent.

(B) An insurance agent license issued pursuant to division (A) of this section shall state the licensee's name, the license number, the date of issuance, the date the license expires, the line or lines of authority for which the licensee is qualified, and any other information the superintendent deems necessary.

A licensee may be qualified for any of the following lines of authority:

(1) Life, which is insurance coverage on human lives, including benefits of endowment and annuities, and may include benefits in the event of death or dismemberment by accident and benefits for disability income;

(2) Accident and health, which is insurance coverage for sickness, bodily injury, or accidental death, and may include benefits for disability income;

(3) Property, which is insurance coverage for the direct or consequential loss or damage to property of any kind;

(4) Casualty, which is insurance coverage against legal liability, including coverage for death, injury, or disability or damage to real or personal property;

(5) Personal lines, which is property and casualty insurance coverage sold to individuals and families for noncommercial purposes;

(6) Variable life and variable annuity products, which is insurance coverage provided under variable life insurance contracts and variable annuities;

(7) Credit, which is limited line credit insurance;

(8) Title, which is insurance coverage against loss or damage suffered by reason of liens against, encumbrances upon, defects in, or the unmarketability of, real property;

(9) Surety bail bond, which is the authority set forth in sections 3905.83 to ~~3905.95~~ 3905.941 of the Revised Code;

(10) Portable electronics insurance, which is a limited line described in section 3905.062 of the Revised Code;

(11) Self-service storage insurance, which is a limited line described in section 3905.063 of the Revised Code;

(12) Travel insurance, which is a limited line described in sections 3905.064 to ~~3905.0611~~ 3905.0610 of the Revised Code;

(13) Any other line of authority designated by the

superintendent.

(C)(1) An individual seeking to renew a resident insurance agent license shall apply biennially for a renewal of the license on or before the last day of the licensee's birth month. A business entity seeking to renew a resident insurance agent license shall apply biennially for a renewal of the license on or before the date determined by the superintendent. The superintendent shall send a renewal notice to all licensees at least one month prior to the renewal date.

Applications shall be submitted to the superintendent on forms prescribed by the superintendent. Each application shall be accompanied by a biennial renewal fee. The superintendent also may require an applicant to submit any document reasonably necessary to verify the information contained in the renewal application.

(2) To be eligible for renewal, an individual applicant shall complete the continuing education requirements pursuant to section 3905.481 of the Revised Code prior to the renewal date.

(3) If an applicant submits a completed renewal application, qualifies for renewal pursuant to divisions (C)(1) and (2) of this section, and has not committed any act that is a ground for the refusal to issue, suspension of, or revocation of a license under section 3905.14 of the Revised Code, the superintendent shall renew the applicant's resident insurance agent license.

(D) If an individual or business entity does not apply for the renewal of the individual or business entity's license on or before the license renewal date specified in division (C)(1) of this section, the individual or business entity may submit a

late renewal application along with all applicable fees required under this chapter prior to the first day of the second month following the license renewal date.

(E) A license issued under this section that is not renewed on or before its renewal date pursuant to division (C) of this section or its late renewal date pursuant to division (D) of this section automatically is suspended for nonrenewal on the first day of the second month following the renewal date. If a license is suspended for nonrenewal pursuant to this division, the individual or business entity is eligible to apply for reinstatement of the license within the twelve-month period following the date by which the license should have been renewed by complying with the reinstatement procedure established by the superintendent and paying all applicable fees required under this chapter.

(F) A license that is suspended for nonrenewal that is not reinstated pursuant to division (E) of this section automatically is canceled unless the superintendent is investigating any allegations of wrongdoing by the agent or has initiated proceedings under Chapter 119. of the Revised Code. In that case, the license automatically is canceled after the completion of the investigation or proceedings unless the superintendent revokes the license.

(G) An individual licensed as a resident insurance agent who is unable to comply with the license renewal procedures established under this section and who is unable to engage in the business of insurance due to military service, a long-term medical disability, or some other extenuating circumstance may request an extension of the renewal date of the individual's license. To be eligible for such an extension, the individual

shall submit a written request with supporting documentation to the superintendent. At the superintendent's discretion, the superintendent may not consider a written request made after the renewal date of the license.

Sec. 3905.064. As used in sections 3905.064 to ~~3905.0611~~ 3905.0610 of the Revised Code:

(A) "Aggregator site" means a web site that provides access to information regarding insurance products from more than one insurer, including product and insurer information, for use in comparison shopping.

(B) "Blanket travel insurance" means a policy of travel insurance issued to any eligible group providing coverage for specific classes of persons defined in the policy with coverage provided to all members of the eligible group without a separate charge to individual members of the eligible group.

(C) "Cancellation fee waiver" means a contractual agreement between a supplier of travel services and its customer to waive some or all of the nonrefundable cancellation fee provisions of the supplier's underlying travel contract, with or without regard to the reason for the cancellation or form of reimbursement.

(D) "Eligible group" means, solely for the purposes of travel insurance, two or more persons who are engaged in a common enterprise, or have an economic, educational, or social affinity or relationship. "Eligible group" includes any of the following:

(1) Any entity engaged in the business of providing travel or travel services, including all of the following:

(a) Tour operators;

(b) Lodging providers;

(c) Vacation property owners;

(d) Hotels and resorts;

(e) Travel clubs;

(f) Travel agencies;

(g) Property managers;

(h) Cultural exchange programs;

(i) Common carriers or the operator, owner, or lessor of a means of transportation of passengers, including airlines, cruise lines, railroads, steamship companies, and public bus carriers that, with regard to any particular travel or type of travel or travelers, subjects all members or customers of the group to a common exposure to risk attendant to such travel;

(2) Any college, school, or other institution of learning, obtaining travel insurance covering students, teachers, employees, or volunteers;

(3) Any employer obtaining travel insurance coverage for any group of employees, volunteers, contractors, board of directors, dependents, or guests;

(4) Any sports team, camp, or sponsor thereof, obtaining travel insurance coverage for participants, members, campers, employees, officials, supervisors, or volunteers;

(5) Any religious, charitable, recreational, educational, or civic organization, or branch thereof, obtaining travel insurance coverage for any group of members, participants, or volunteers;

(6) Any financial institution or financial institution

vendor, or parent holding company, trustee, or agent of, or designated by, one or more financial institutions or financial institution vendors, including account holders, credit card holders, debtors, guarantors, or purchasers;

(7) Any incorporated or unincorporated association, including labor unions, that have a common interest, constitution, and bylaws, and that are organized and maintained in good faith for purposes other than obtaining insurance for members or participants of such association covering its members;

(8) Any trust or the trustees of a fund established, created, or maintained for the benefit of and covering members, employees, or customers of one or more associations meeting the requirements of division (D)(7) of this section, subject to the superintendent's permitting the use of a trust and the state's premium tax provisions in section 3905.068 of the Revised Code;

(9) Any entertainment production company obtaining travel insurance coverage for any group of participants, volunteers, audience members, contestants, or workers;

(10) Any volunteer fire department, ambulance, rescue, police, or court, or any first aid, civil defense, or other such volunteer group;

(11) Preschools, child care centers, adult day-care institutions, and senior citizen clubs;

(12) Any automobile or truck rental or leasing company obtaining travel insurance coverage for a group of individuals who may become renters, lessees, or passengers, defined by their travel status, on the rented or leased vehicles;

(13) Any other group whose members the superintendent has

determined are engaged in a common enterprise, or that have an economic, educational, or social affinity or relationship, if the superintendent also determines that issuance of the travel insurance policy would not be contrary to the public interest.

(E) "Fulfillment materials" means documentation sent to the purchaser of a travel protection plan confirming the purchase and providing the travel protection plan's coverage and assistance details.

(F) "Group travel insurance" means travel insurance issued to any eligible group.

(G) "Limited lines travel insurance agent" means an individual or business entity licensed to sell, solicit, or negotiate travel insurance under section 3905.065 of the Revised Code. "Limited lines travel insurance agent" includes a licensed insurance agent and a travel administrator.

(H) "Offer and sell" means providing general information, including a description of the coverage and price, as well as processing the application and collecting premiums.

(I) "Primary certificate holder" means an individual person who elects and purchases travel insurance under a group policy.

(J) "Primary policyholder" means an individual person who elects and purchases individual travel insurance.

(K) "Travel administrator" means a person who directly or indirectly underwrites, collects charges, collateral, or premiums from, or adjusts or settles claims on residents of this state, in connection with travel insurance. The following persons shall not be considered a travel administrator if they engage in no other activities that would cause them to be

considered a travel administrator:

(1) A person working for a travel administrator to the extent that the person's activities are subject to the supervision and control of the travel administrator;

(2) An insurance agent selling insurance or engaged in administrative and claims-related activities within the scope of the agent's license;

(3) A travel retailer offering and selling travel insurance and registered under the license of a limited-lines travel insurance agent in accordance with sections 3905.065 and 3905.066 of the Revised Code;

(4) An individual adjusting or settling claims in the normal course of that individual's practice or employment as an attorney at law and who does not collect charges or premiums in connection with insurance coverage;

(5) A business entity affiliated with a licensed insurer while that insurer is acting as a travel administrator for the direct and assumed insurance business of a separate affiliated insurer.

(L) "Travel assistance services" means noninsurance services for which the consumer is not indemnified based on a fortuitous event, and where providing the service does not result in transfer or shifting of risk that would constitute the business of insurance. "Travel assistance services" include all of the following:

(1) Security advisories;

(2) Destination information;

(3) Vaccination and immunization information services;

(4) Travel reservation services;

(5) Entertainment;

(6) Activity and event planning;

(7) Translation assistance;

(8) Emergency messaging;

(9) International legal and medical referrals;

(10) Medical case monitoring;

(11) Coordination of transportation arrangements;

(12) Emergency cash transfer assistance;

(13) Medical prescription replacement assistance;

(14) Passport and travel document replacement assistance;

(15) Lost luggage assistance;

(16) Concierge services;

(17) Any other service that is furnished in connection with planned travel.

(M)(1) "Travel insurance" means insurance coverage for personal risks incident to planned travel, including all of the following:

(a) Interruption or cancellation of a trip or event;

(b) Loss of baggage or personal effects;

(c) Damages to accommodations or rental vehicles;

(d) Sickness, accident, disability, or death occurring during travel;

(e) Emergency evacuation;

(f) Repatriation of remains;

(g) Any other contractual obligations to indemnify or pay a specified amount to the traveler upon determinable contingencies related to travel as approved by the superintendent of insurance.

(2) "Travel insurance" does not include any of the following:

(a) Major medical plans that provide comprehensive medical protection for a traveler with a trip lasting six months or longer, including a plan covering a person working overseas as an expatriate or in a deployed military unit;

(b) Any other product that requires a specific insurance agent license;

(c) Travel assistance services;

(d) Cancellation fee waivers.

(N) "Travel insurer" means an insurer, as defined in section 3901.32 of the Revised Code, that provides travel insurance.

(O) "Travel protection plan" means a plan that provides one or more of the following: travel insurance, travel assistance services, and cancellation fee waivers.

(P) "Travel retailer" means a business entity that makes, arranges, or offers travel services, and that may offer or sell travel insurance as a service to its customers on behalf of, and under the direction of, a limited lines travel insurance agent in conjunction with the making, arranging, or offering of travel services.

Sec. 3905.065. (A) No person shall offer or sell travel insurance except as provided in sections 3905.064 to ~~3905.0611~~ 3905.0610 of the Revised Code.

(B) Notwithstanding any other provision of law, the superintendent of insurance may issue to an individual or business entity a limited lines travel insurance agent license that authorizes the holder of the license to sell, solicit, or negotiate travel insurance through a licensed insurer if both of the following requirements are met:

(1) The individual or business entity has submitted an application to the superintendent for the license on a form and in a manner prescribed by the superintendent.

(2) The individual or business entity has paid all fees applicable under this chapter.

(C)(1) At the time the superintendent of insurance issues a license under this section, the limited lines travel insurance agent shall establish and maintain, on a form prescribed by the superintendent, a register of each travel retailer that offers or sells travel insurance on the limited lines travel agent's behalf.

(2)(a) The register shall include the name, address, and contact information of the travel retailer and an officer or person who directs or controls the travel retailer's operations, and the travel retailer's federal tax identification number.

(b) The limited lines travel insurance agent shall update the register as needed to maintain its accuracy.

(3)(a) The limited lines travel insurance agent shall submit the register to the department of insurance upon reasonable request and shall certify that the registered travel

retailer complies with 18 U.S.C. 1033.

(b) The superintendent may apply the grounds for license suspension, license revocation, and the imposition of penalties that are found in section 3905.14 of the Revised Code and that are applicable to resident insurance agents, to limited lines travel insurance agents and travel retailers.

(D) A limited lines travel insurance agent, as well as any travel retailer and the retailer's employees that are registered under division (C) of this section, are exempt from any examination and education requirements as set forth in section 3905.04 of the Revised Code for purposes of sections 3905.064 to ~~3905.0611~~ 3905.0610 of the Revised Code only.

(E) Travel insurance may be provided under an individual, group, or blanket insurance policy.

(F) A person authorized to offer a travel protection plan under sections 3905.064 to ~~3905.0611~~ 3905.0610 of the Revised Code may offer a travel protection plan for one price for the combined features that the travel protection plan offers in this state if all of the following are met:

(1) At or prior to the time of purchase, the travel protection plan does both of the following:

(a) Clearly discloses to the consumer that it includes travel insurance, travel assistance services, and cancellation fee waivers, as applicable;

(b) Provides information and an opportunity for the consumer to obtain additional information regarding the features and pricing of each of the combined features.

(2) The fulfillment materials provided to the consumer

include all of the following, as applicable:

(a) A description and delineation of the travel insurance, travel assistance services, and cancellation fee waivers in the travel protection plan;

(b) The travel insurance disclosures;

(c) The contact information for persons providing travel assistance services and cancellation fee waivers, as applicable.

(G) In the event of a conflict between sections 3905.064 to ~~3905.0611~~ 3905.0610 of the Revised Code and any other provision of Title XXXIX of the Revised Code regarding the sale and marketing of travel insurance and travel protection plans, the provisions of sections 3905.064 to ~~3905.0611~~ 3905.0610 of the Revised Code control.

(H)(1) All documents provided to consumers prior to the purchase of travel insurance, including sales materials, advertising materials, and marketing materials, shall be consistent with the travel insurance policy itself, including forms, endorsements, policies, rate filings, and certificates of insurance.

(2) For travel insurance policies or certificates that contain pre-existing condition exclusions, information and an opportunity to learn more about the pre-existing condition exclusions shall be provided any time prior to the time of purchase and in the coverage's fulfillment materials.

(3) The fulfillment materials and the information described in division (A)(1) of section 3905.066 of the Revised Code shall be provided to a policyholder or certificate holder as soon as practicable after the purchase of a travel protection plan.

(4) The travel insurer shall disclose in the policy documentation and fulfillment materials whether the travel insurance is primary or secondary to other applicable coverage.

(I)(1) Unless the insured has either started a covered trip or filed a claim under the travel insurance coverage, a policyholder or certificate holder may cancel a travel insurance policy or certificate for a full refund of the travel protection plan price in accordance with the following:

(a) If the travel protection plan's fulfillment materials are delivered by postal mail, the policyholder or certificate holder may cancel within fifteen days following the date of delivery.

(b) If the travel protection plan's fulfillment materials are delivered by means other than postal mail, the policyholder or certificate holder may cancel within ten days following the date of delivery.

(2) For the purposes of this division, "delivery" includes handing fulfillment materials to the policyholder or certificate holder or sending fulfillment materials by postal mail or electronic means to the policyholder or certificate holder.

(J) No person offering, selling, or negotiating travel insurance or travel protection plans on an individual or group basis may do so by using a negative option or opt out when the consumer purchases a trip. As used in this division, "using a negative option or opt out" includes requiring a consumer to take an affirmative action to deselect coverage, such as unchecking a box on an electronic form.

(K) A license issued under this section shall be renewed on a biennial basis as set forth in sections 3905.06 and 3905.07

of the Revised Code.

Sec. 3905.066. (A) Notwithstanding any other provision of law, a travel retailer may offer and sell travel insurance under a limited lines travel insurance agent that is a business entity if all of the following conditions are met:

(1) The limited lines travel insurance agent or travel retailer provides all of the following information to purchasers of travel insurance at the time of sale or in the fulfillment materials provided to purchasers:

(a) A description of the material terms or the actual terms of the insurance coverage;

(b) A description of the process for filing a claim;

(c) A description of the review or cancellation process for the travel insurance policy;

(d) The identity and contact information of the insurer and limited lines travel insurance agent.

(2)(a) The limited lines travel insurance agent designates one of the agent's employees, who is a licensed individual agent, as the responsible insurance agent who is responsible for the limited lines travel insurance agent's compliance with the travel insurance laws and rules of this state applicable to the limited lines travel insurance agent and its registrants. The designated responsible insurance agent must be a licensed insurance agent qualified in any of the following lines of authority in accordance with section 3905.06 of the Revised Code:

(i) Travel;

(ii) Property;

(iii) Personal.

(b) The responsible insurance agent, president, secretary, treasurer, and any other officer or person who directs or controls the limited lines travel insurance agent's insurance operations shall comply with the fingerprinting requirements of section 3905.051 of the Revised Code or the applicable fingerprinting requirements of the home state of the limited lines travel insurance agent.

(3) The limited lines travel insurance agent business entity and the responsible insurance agent are responsible for the acts of the travel retailer and use reasonable means to ensure compliance with sections 3905.064 to ~~3905.0611~~ 3905.0610 of the Revised Code by the travel retailer.

(4)(a) The limited lines travel insurance agent requires each employee and authorized representative of the travel retailer, whose duties include offering or selling travel insurance, to receive a program of instruction or training that is subject, at the discretion of the superintendent, to review and approval.

(b) The training material shall, at minimum, contain instructions on the types of insurance offered, ethical sales practices, and required disclosures to prospective customers.

(B)(1) Any travel retailer offering or selling travel insurance shall make available to prospective purchasers brochures or other written materials that have been approved by the travel insurer. Such materials shall contain all of the following:

(a) The identity and contact information of the insurer and the limited lines travel insurance agent;

(b) An explanation that the purchase of travel insurance is not required in order to purchase any other product or service from the travel retailer;

(c) An explanation that an unlicensed travel retailer is permitted to provide general information about the insurance offered by the travel retailer, including a description of the coverage and price, but is not qualified or authorized to answer technical questions about the terms and conditions of the insurance offered by the travel retailer or to evaluate the adequacy of the customer's existing insurance coverage.

(2) A travel retailer's employee or authorized representative who is not licensed as an insurance agent shall not do any of the following:

(a) Evaluate or interpret the technical terms, benefits, and conditions of the offered travel insurance coverage;

(b) Evaluate or provide advice concerning a prospective purchaser's existing insurance coverage;

(c) Hold itself out as a licensed insurer, licensed agent, or insurance expert.

(3) Notwithstanding any other provision of law, a travel retailer whose insurance-related activities, and those of its employees and authorized representatives, are limited to offering and selling travel insurance on behalf of and under the direction of a limited lines travel insurance agent that meets the requirements of section 3905.065 of the Revised Code, is authorized to offer and sell insurance and receive related compensation for these services, if the travel retailer is registered by the limited lines travel insurance agent as described in section 3905.065 of the Revised Code. Any

compensation paid to a travel retailer's employee or authorized representative for the services described in this section shall be incidental to the employee's or authorized representative's overall compensation and not based primarily on the number of customers who purchase travel insurance coverage.

(C) Nothing in this section shall be construed to prohibit payment of compensation to a travel retailer or its employees or authorized representatives for activities under the limited lines travel insurance agent's license that are incidental to the overall compensation of the travel retailer or the employees or authorized representatives of the facility.

Sec. 3905.067. (A) Except as otherwise provided in this section, all persons offering travel insurance to residents of this state are subject to sections 3901.19 to 3901.26 of the Revised Code.

(B) Any limited lines travel insurance agent, or any travel retailer offering or selling travel insurance under a limited lines travel insurance agent, that fails to comply with the provisions of sections 3905.064 to ~~3905.0611~~ 3905.0610 of the Revised Code is deemed to have engaged in an unfair and deceptive act or practice in the business of insurance as defined in section 3901.21 of the Revised Code and is subject to section 3905.14 of the Revised Code.

(C) Both of the following shall be considered an unfair and deceptive act or practice in the business of insurance, as defined in section 3901.21 of the Revised Code, and are subject to, in addition to the penalties prescribed in section 3901.22 of the Revised Code, disciplinary action under section 3905.14 of the Revised Code:

(1) Offering or selling a travel insurance policy that could never result in payment of any claims;

(2) Marketing blanket travel insurance coverage as free.

(D) Marketing travel insurance directly to a consumer through a travel insurer's web site or by others through an aggregator site is not an unfair and deceptive act or practice or other violation of law if both of the following conditions are met:

(1) An accurate summary or short description of coverage is provided on the web site;

(2) The consumer has access to the full provisions of the policy through electronic means.

(E) Where a consumer's destination jurisdiction requires insurance coverage, it is not an unfair and deceptive act or practice in the business of insurance to require a consumer to choose between the following options as a condition of purchasing a trip or travel package:

(1) Purchasing the coverage required by the destination jurisdiction through the travel retailer or limited lines travel insurance agent supplying the trip or travel package;

(2) Agreeing to obtain and provide proof of coverage that meets the destination jurisdiction's requirements prior to departure.

Sec. 3905.068. (A) A travel insurer shall pay premium tax, as provided in Chapters 5725. and 5729. of the Revised Code, on travel insurance premiums paid by any of the following:

(1) An individual primary policyholder who is a resident of this state;

(2) A primary certificate holder who is a resident of this state who elects coverage under a group travel insurance policy;

(3)(a) A blanket travel insurance policyholder, when the policy covers eligible blanket group members, that is a resident of, or has its principal place of business in, this state, including when the policy covers an affiliate or subsidiary, regardless of the location of the affiliate or subsidiary.

(b) Such payments shall be subject to any apportionment rules that apply to the insurer across multiple taxing jurisdictions or that permit the insurer to allocate premium on an apportioned basis in a reasonable and equitable manner in those jurisdictions.

(B) A travel insurer shall:

(1) Document the state of residence or principal place of business of the policyholder or certificate holder, as necessary to comply with division (A)(1) of this section;

(2) Report as a premium only the amount allocable to travel insurance and not any amounts received for travel assistance services or cancellation fee waivers.

(C) Neither of the following are insurance:

(1) A cancellation fee waiver;

(2) Travel assistance services.

(D) Surplus lines brokers selling travel insurance shall pay taxes on premiums related to travel insurance in accordance with sections 3905.30 to 3905.38 of the Revised Code and not in accordance with the requirements of this section.

(E) With regard to an automobile or truck rental or

leasing company obtaining travel insurance coverage for a group of individuals who may become renters, lessees, or passengers, defined by their travel status on the rented or leased vehicles, the common carrier, operator, owner, or lessor of a means of transportation, or the automobile or truck rental or leasing company, is the policyholder under a policy to which sections 3905.064 to ~~3905.0611~~ 3905.0610 of the Revised Code apply.

Sec. 3905.26. (A) The superintendent of insurance may participate, in whole or in part, with the NAIC or any of its affiliates or subsidiaries, in a centralized agent license registry in which insurance agent licenses and appointments are centrally or simultaneously effected for all states that require an insurance agent license and that participate in the registry.

(B) The superintendent may adopt rules in accordance with Chapter 119. of the Revised Code to ~~adopt any uniform standard or procedure necessary for participation in the centralized agent license registry. Such rules may~~ provide for the central collection of all fees for licenses or appointments processed through the registry.

Sec. 3905.471. (A) No individual or entity shall act as or hold itself out to be an insurance navigator unless that individual or entity is certified as an insurance navigator under this section and is receiving funding under division (i) of section 1311 of the Affordable Care Act.

(B) An insurance navigator who complies with the requirements of this section may do any of the following:

(1) Conduct public education activities to raise awareness of the availability of qualified health plans;

(2) Distribute fair and impartial general information

concerning enrollment in all qualified health plans offered within the exchange and the availability of the premium tax credits under section 36B of the Internal Revenue Code of 1986, 26 U.S.C. 36B, and cost-sharing reductions under section 1402 of the Affordable Care Act;

(3) Facilitate enrollment in qualified health plans, without suggesting that an individual select a particular plan;

(4) Provide referrals to appropriate state agencies for any enrollee with a grievance, complaint, or question regarding their health plan, coverage, or a determination under such plan coverage;

(5) Provide information in a manner that is culturally and linguistically appropriate to the needs of the population being served by the exchange.

(C) An insurance navigator shall not do any of the following:

(1) Sell, solicit, or negotiate health insurance;

(2) Provide advice concerning the substantive benefits, terms, and conditions of a particular health benefit plan or offer advice about which health benefit plan is better or worse or suitable for a particular individual or entity;

(3) Recommend a particular health plan or advise consumers about which health benefit plan to choose;

(4) Provide any information or services related to health benefit plans or other products not offered in the exchange. Division (C)(4) of this section shall not be interpreted as prohibiting an insurance navigator from providing information on eligibility for medicaid;

(5) Engage in any unfair method of competition or any fraudulent, deceptive, or dishonest act or practice.

(D) An individual shall not act in the capacity of an insurance navigator, or perform insurance navigator duties on behalf of an organization serving as an insurance navigator, unless the individual has applied for certification and the superintendent finds that the applicant meets all of the following requirements:

(1) Is at least eighteen years of age;

(2) Has completed and submitted the application and disclosure form required under division (F)(2) of this section and has declared, under penalty of refusal, suspension, or revocation of the insurance navigator's certification, that the statements made in the form are true, correct, and complete to the best of the applicant's knowledge and belief;

(3) Has successfully completed a criminal records check under section 3905.051 of the Revised Code, as required by the superintendent;

(4) Has successfully completed the certification and training requirements adopted by the superintendent in accordance with division (F) of this section;

(5) Has paid all fees required by the superintendent.

(E)(1) A business entity that acts as an insurance navigator, supervises the activities of individual insurance navigators, or receives funding to provide insurance navigator services shall obtain an insurance navigator business entity certification.

(2) Any entity applying for a business entity

certification shall:

(a) Apply in a form specified, and provide any information required by, the superintendent; and

(b) Pay an initial licensure fee of two hundred dollars or renewal fee of one hundred dollars.

(3) A business entity certified as an insurance navigator shall, in a manner prescribed by the superintendent, make available a list of all individual insurance navigators that the business entity employs, supervises, or with which the business entity is affiliated.

(F) The superintendent of insurance shall, prior to any exchange becoming operational in this state, do all of the following:

(1)(a) Adopt rules to establish a certification and training program for a prospective insurance navigator and the insurance navigator's employees that includes screening via a criminal records check performed in accordance with section 3905.051 of the Revised Code, initial and continuing education requirements, and an examination;

(b) The certification and training program shall include training on compliance with the "Health Insurance Portability and Accountability Act of 1996," 110 Stat. 1955, 42 U.S.C. 1320d, et seq., as amended, training on ethics, and training on provisions of the Affordable Care Act relating to insurance navigators and exchanges.

(2) Develop an application and disclosure form by which an insurance navigator may disclose any potential conflicts of interest, as well as any other information the superintendent considers pertinent.

(G)(1) The superintendent may suspend, revoke, or refuse to issue or renew the insurance navigator certification of any person, or levy a civil penalty against any person, that violates the requirements of this section or commits any act that would be a ground for denial, suspension, or revocation of an insurance agent license, as prescribed in section 3905.14 of the Revised Code.

(2) The superintendent shall have the power to examine and investigate the business affairs and records of any insurance navigator.

(3)(a) The superintendent shall not certify as an insurance navigator, and shall revoke any existing insurance navigator certification of, any individual, organization, or business entity that is receiving financial compensation, including monetary and in-kind compensation, gifts, or grants, on or after October 1, 2013, in connection with the enrollment of any employees or other individuals in a qualified health benefit plan, from an insurer offering a qualified health benefit plan through an exchange operating in this state.

(b) Notwithstanding division (G)(3)(a) of this section, the superintendent may certify as a navigator a qualified health center and a federally qualified health center look-alike, as defined in section 3701.047 of the Revised Code.

(4)(a) If the superintendent finds that a violation of this section made by an individual insurance navigator was made with the knowledge of the employing or supervising entity, or that the employing or supervising entity should reasonably have been aware of the individual insurance navigator's violation, and the violation was not reported to the superintendent and no corrective action was undertaken on a timely basis, then the

superintendent may suspend, revoke, or refuse to renew the insurance navigator certification of the supervising or employing entity.

(b) In addition to, or in lieu of, any disciplinary action taken under division (G)(4)(a) of this section, the superintendent may levy a civil penalty against such an entity.

(H) A business entity that terminates the employment, engagement, affiliation, or other relationship with an individual insurance navigator shall notify the superintendent within thirty days following the effective date of the termination, using a format prescribed by the superintendent, if the reason for termination is one of the reasons set forth in section 3905.14 of the Revised Code, or the entity has knowledge that the insurance navigator was found by a court or government body to have engaged in any of the activities in section 3905.14 of the Revised Code.

(I) Insurance navigators are subject to the laws of this chapter, and any rules adopted pursuant to the chapter, in so far as such laws are applicable.

(J) The superintendent may deny, suspend, approve, renew, or revoke the certification of an insurance navigator if the superintendent determines that doing so would be in the interest of Ohio insureds or the general public. Such an action is not subject to Chapter 119. of the Revised Code.

(K) ~~The superintendent may adopt rules in accordance with Chapter 119. of the Revised Code to implement sections 3905.47 to 3905.473 of the Revised Code.~~

~~(L)~~ The superintendent may, by rule, apply the requirements of this chapter to any entity or person designated

by an exchange, the state, or the federal government to assist consumers or participate in exchange activities.

~~(M)~~ (L) Any fees collected under this section shall be paid into the state treasury to the credit of the department of insurance operating fund created under section 3901.021 of the Revised Code.

Sec. 3905.71. As used in sections 3905.71 to ~~3905.79~~ 3905.78 of the Revised Code:

(A) "Actuary" means a person who is a member in good standing of the American academy of actuaries.

(B) "Insurer" means any person licensed to do business in this state under Chapter 1751. or 1761. of the Revised Code or Title XXXIX of the Revised Code.

(C) "Laws of this state relating to insurance" has the same meaning as in section 3901.04 of the Revised Code.

(D)(1) "Managing general agent" means any person that does all of the following:

(a) Manages all or part of the insurance business of an insurer, including the management of a separate division, department, or underwriting office, or negotiates and binds ceding reinsurance contracts on behalf of an insurer;

(b) Acts as an agent for the insurer, whether known as a managing general agent, manager, or other similar term;

(c) With or without the authority of the insurer, separately or together with affiliates, does both of the following:

(i) Produces, directly or indirectly, and underwrites an

amount of gross direct written premium equal to or more than five per cent of the policyholder surplus of the insurer as reported in the last annual statement of the insurer in any one year;

(ii) Adjusts or pays claims, or negotiates reinsurance on behalf of the insurer.

(2) "Managing general agent" does not include any of the following:

(a) An employee of the insurer;

(b) A United States manager of the United States branch of an alien insurer;

(c) An underwriting manager that, pursuant to contract, manages all or a part of the insurance operations of the insurer, is under common control with the insurer, subject to sections 3901.32 to 3901.37 of the Revised Code, and whose compensation is not based on the volume of premiums written;

(d) The attorney authorized by and acting for the subscribers of a reciprocal insurer or inter-insurance exchange under powers of attorney;

(e) An administrator licensed pursuant to Chapter 3959. of the Revised Code whose activities on behalf of an insurer are limited to administrative services involving underwriting or the payment of claims, and do not include the management of all or part of the insurance business of the insurer.

(E) "Underwrite" or "underwriting" means the authority to accept or reject risk on behalf of an insurer.

Sec. 3905.72. (A)(1) No person shall act as a managing general agent representing an insurer licensed in this state

with respect to risks located in this state unless the person is licensed as a managing general agent pursuant to division (C) or (D) of this section.

(2) No person shall act as a managing general agent representing an insurer organized under the laws of this state with respect to risks located outside this state unless the person is licensed as a managing general agent pursuant to division (C) of this section.

(B) Every person that seeks to act as a managing general agent as described in division (A) of this section shall apply to the superintendent of insurance for a license. Except as otherwise provided in division (D) of this section, the application shall be in writing on a form provided by the superintendent. The application shall be kept on file by the superintendent and shall include all of the following:

(1) The name and principal business address of the applicant;

(2) If the applicant is an individual, the applicant's current occupation;

(3) If the applicant is an individual, the applicant's occupation or occupations during the five-year period prior to applying for the license to act as a managing general agent;

(4) A copy of the contract between the applicant and the insurer as required by, and in compliance with, section 3905.73 of the Revised Code;

(5) A copy of a certified resolution of the board of directors of the insurer on whose behalf the applicant will act, appointing the applicant as a managing general agent and agent of the insurer, specifying the duties the applicant is expected

to perform on behalf of the insurer and the lines of insurance the applicant will manage, and authorizing the insurer to enter into a contract with the applicant as required by section 3905.73 of the Revised Code;

(6) A statement that the applicant submits to the jurisdiction of the superintendent and the courts of this state;

(7) Any other information required by the superintendent.

(C) The superintendent shall issue to a resident of this state or a business entity organized under the laws of this state a license to act as a managing general agent representing an insurer licensed to do business in this state with respect to risks located in this state or a license to act as a managing general agent representing an insurer organized under the laws of this state with respect to risks located outside this state, and shall renew such a license, if the superintendent is satisfied that all of the following conditions are met:

(1) The applicant is a suitable person and intends to hold self out in good faith as a managing general agent.

(2) The applicant understands the duties and obligations of a managing general agent.

(3) The applicant has filed a completed application that complies with division (B) of this section.

(4) The applicant has paid a fee in the amount of twenty dollars.

(5) The applicant maintains a bond in the amount of not less than fifty thousand dollars for the protection of the insurer.

(6) The applicant maintains an errors and omissions policy

of insurance.

(7) The applicant is not, and has never been, under an order of suspension or revocation under section 3905.77 of the Revised Code or under any other law of this state, or any other state, relating to insurance, and is otherwise in compliance with sections 3905.71 to ~~3905.79~~ 3905.78 of the Revised Code and all other laws of this state relating to insurance.

(D) If the applicant is a resident of another state or a business entity organized under the laws of another state, the applicant shall submit a request for licensure, along with a fee of twenty dollars, to the superintendent. The superintendent shall issue a license to act as a managing general agent if the request for licensure includes proof that the applicant is licensed and in good standing as a managing general agent in the applicant's home state and either a copy of the application for licensure the applicant submitted to the applicant's home state or the application described in division (B) of this section.

If the applicant's home state does not license managing general agents under provisions similar to those in sections 3905.71 to ~~3905.79~~ 3905.78 of the Revised Code, or if the applicant's home state does not grant licenses to residents of this state on the same reciprocal basis, the applicant shall comply with divisions (B) and (C) of this section.

(E) Unless suspended or revoked by an order of the superintendent pursuant to section 3905.77 of the Revised Code and except as provided in division (F) of this section, any license issued or renewed pursuant to division (C) or (D) of this section shall expire on the last day of February next after its issuance or renewal.

(F) If the appointment of a managing general agent is terminated by the insurer, the license of the managing general agent shall expire on the date of the termination.

(G) A license shall be renewed in accordance with the standard renewal procedure specified in Chapter 4745. of the Revised Code.

(H) All license fees collected pursuant to this section shall be paid into the state treasury to the credit of the department of insurance operating fund.

Sec. 3905.78. Nothing in sections 3905.71 to ~~3905.79~~ 3905.78 of the Revised Code is intended, in any manner, to limit or restrict the rights of policyholders and claimants of any insurer on whose behalf a managing general agent is acting, or of auditors, accountants, examiners, or other persons that conduct examinations of insurers.

Sec. 3905.83. As used in sections 3905.83 to ~~3905.95~~ 3905.941 of the Revised Code:

(A) "Insurer" means any domestic, foreign, or alien insurance company that has been issued a certificate of authority by the superintendent of insurance to transact surety business in this state.

(B) "Managing general agent" means any person that is appointed or employed by an insurer to supervise or otherwise manage the bail bond business written in this state by surety bail bond agents appointed by the insurer.

(C) "Surety" means an insurer that agrees to be responsible for the fulfillment of the obligation of a principal if the principal fails to fulfill that obligation.

Sec. 3905.84. No person shall act in the capacity of a surety bail bond agent, or perform any of the functions, duties, or powers prescribed for surety bail bond agents under sections 3905.83 to ~~3905.95~~ 3905.941 of the Revised Code, unless that person is qualified, licensed, and appointed as provided in those sections.

Sec. 3905.851. A surety bail bond agent qualified, licensed, and appointed in accordance with sections 3905.83 to ~~3905.95~~ 3905.941 of the Revised Code shall not be required to pay any licensing fee imposed by a political subdivision of this state to perform any of the functions, duties, or powers prescribed for surety bail bond agents under those sections.

Sec. 3905.87. (A) A surety bail bond agent shall not file a bond in any court of this state unless the agent is licensed and appointed under sections 3905.83 to ~~3905.95~~ 3905.941 of the Revised Code and has registered with the clerk of that court pursuant to division (B) of this section, if registration is required by the court.

(B) To register with a court, a surety bail bond agent shall file, with the clerk of the court, a copy of the agent's surety bail bond license, a copy of the agent's driver's license or state identification card, and a certified copy of the surety bail bond agent's appointment by power of attorney from each insurer that the surety bail bond agent represents. An agent shall renew the agent's registration biennially by the first day of April of each odd-numbered year.

(C) The clerk of the court shall make available a list of court-registered surety bail bond agents to the appropriate holding facility, jail, correction facility, or other similar entity within the court's jurisdiction annually not later than

the first day of May. If an agent registers with a court after the last day of April, the court shall add that agent to the list and make the updated list available to the appropriate holding facility, jail, correction facility, or other similar entity within the court's jurisdiction within twenty-four hours of the court's approval of that registration.

Sec. 3905.89. Each person licensed under sections 3905.83 to ~~3905.95~~ 3905.941 of the Revised Code shall notify in writing the appropriate insurer or managing general agent, and the clerk of the court of common pleas of the county in which the licensee is registered, within thirty days after a change in the licensee's principal business address or telephone number.

This notification requirement is in addition to the notification requirements set forth in other provisions of this chapter.

Sec. 3905.921. (A) If collateral security or other indemnity is accepted on a bond, the surety bail bond agent, managing general agent, or surety shall make, upon demand, a written request to the court for a discharge of the bond to be delivered to the surety or the surety's agent.

If the obligation of the surety on the bond is released in writing by the court and a discharge is provided to the surety or the surety's agent, the collateral security or other indemnity, except a promissory note or an indemnity agreement, shall be returned, within twenty-one days after the discharge is provided, to the person that gave the collateral security or other indemnity, unless another disposition is provided for by legal assignment of the right to receive the collateral to another person. If, despite diligent inquiry by the surety or the surety's agent to determine that the bond has been

discharged, the court fails to provide a written discharge within thirty days after the written request was made to the court, the bond shall be considered canceled by operation of law, and the collateral security or other indemnity, except a promissory note or an indemnity agreement, shall be returned, within twenty-one days after the written request for discharge was made to the court, to the person that gave the collateral security or other indemnity.

(B) No fee or other charge, other than those authorized by sections 3905.83 to ~~3905.95~~ 3905.941 of the Revised Code or by rule of the superintendent of insurance, shall be deducted from the collateral due. However, allowable expenses incurred in the apprehension of a defendant because of a forfeiture of bond or judgment may be deducted if those expenses are accounted for.

(C)(1) No person shall fail to return collateral security in accordance with this section.

(2) A violation of division (C)(1) of this section shall be punishable as follows:

(a) If the collateral is of a value of less than five hundred dollars, a violation is a misdemeanor of the first degree;

(b) If the collateral is of a value of at least five hundred dollars but less than five thousand dollars, a violation is a felony of the fifth degree;

(c) If the collateral is of a value of at least five thousand dollars but less than ten thousand dollars, a violation is a felony of the fourth degree;

(d) If the collateral is of a value of ten thousand dollars or more, a violation is a felony of the third degree.

Sec. 3905.932. A surety bail bond agent or insurer shall not do any of the following:

(A) Suggest or advise the employment of, or name for employment, any particular attorney to represent its principal;

(B) Solicit business in, or on the property or grounds of, a detention facility, as defined in section 2921.01 of the Revised Code, or in, or on the property or grounds of, any court. For purposes of this division, "solicit" includes, but is not limited to, the distribution of business cards, print advertising, or any other written information directed to prisoners or potential indemnitors, unless a request is initiated by the prisoner or potential indemnitor. Permissible print advertising in a detention facility is strictly limited to a listing in a telephone directory and the posting of the surety bail bond agent's name, address, and telephone number in a designated location within the detention facility.

(C) Wear or otherwise display any identification, other than the wallet identification card required under division (G) of section 3905.85 of the Revised Code, in or on the property or grounds of a detention facility, as defined in section 2921.01 of the Revised Code, or in or on the property or grounds of any court;

(D) Pay a fee or rebate or give or promise anything of value to a jailer, law enforcement officer, committing magistrate, or other person who has power to arrest or to hold in custody, or to any public official or public employee, in order to secure a settlement, compromise, remission, or reduction of the amount of any bail bond or estreatment of bail;

(E) Pay a fee or rebate or give or promise anything of

value to an attorney in a bail bond matter, except in defense of any action on a bond;

(F) Pay a fee or rebate or give or promise anything of value to the principal or to anyone in the principal's behalf;

(G) Post anything without using a bail instrument representing an insurer, to have a defendant released on bail on all types of set court bail, except for the following:

(1) Cash court fees or cash reparation fees;

(2) Ten per cent assignments;

(3) Other nonsurety court bonds, if the agent provides full written disclosure and receipts and retains copies of all documents and receipts for not less than three years.

(H) Participate in the capacity of an attorney at a trial or hearing of a principal;

(I) Accept anything of value from a principal for providing a bail bond, other than the premium filed with and approved by the superintendent of insurance and an expense fee, except that the surety bail bond agent may, in accordance with section 3905.92 of the Revised Code, accept collateral security or other indemnity from a principal or other person together with documentary stamp taxes if applicable. No fees, expenses, or charges of any kind shall be deducted from the collateral held or any return premium due, except as authorized by sections 3905.83 to ~~3905.95~~ 3905.941 of the Revised Code or by rule of the superintendent. A surety bail bond agent, upon written agreement with another party, may receive a fee or other compensation for returning to custody an individual who has fled the jurisdiction of the court or caused the forfeiture of a bond.

(J) Execute a bond in this state on the person's own behalf;

(K) Execute a bond in this state if a judgment has been entered on a bond executed by the surety bail bond agent, which judgment has remained unpaid for at least sixty days after all appeals have been exhausted, unless the full amount of the judgment is deposited with the clerk of the court.

As used in this section, "instrument" means a fiduciary form showing a dollar amount for a surety bail bond.

Sec. 3906.03. (A)(1) Unless otherwise established in accordance with divisions (A)(2) and (3) of this section, the amount of the minimum financial security benchmark for an insurer shall be the greatest of the following:

(a) The authorized control level risk-based capital applicable to the insurer, as defined and set forth by sections 1753.31 to ~~1753.43~~ 1753.42 or 3903.81 to ~~3903.93~~ 3903.92 of the Revised Code, less the asset valuation reserve as defined in the risk-based capital instructions defined in division (M) of section 3903.81 of the Revised Code;

(b) The minimum capital or minimum surplus required by statute or rule for maintenance of an insurer's certificate of authority in this state;

(c) All invested assets of an entity organized under Chapter 3919. or 3939. of the Revised Code;

(d) For title insurers, the quotient of annualized net earned premiums divided by eight;

(e) For multiple employer welfare arrangements, the greater of three hundred per cent of the risk-based capital

amount reported in the annual statement or the quotient of annualized net earned premiums divided by twelve.

(2) The superintendent may, in accordance with division (B) of this section, establish by order a minimum financial security benchmark to apply to a specific insurer that exceeds the amount arrived at under division (A)(1) of this section.

(3) The superintendent may by rule change the minimum financial security benchmark that is a multiple of authorized control level risk-based capital, or equivalent risk-based capital calculation, to apply to any class of insurers provided the amount established by the rule is not less than the amount arrived at under division (A)(1) of this section.

(B) The superintendent shall determine the amount of minimum capital or minimum surplus as specified in division (A)(1)(b) of this section to determine an insurer's minimum financial security benchmark. The amount shall be sufficient to provide reasonable security against contingencies affecting the insurer's financial position that are not fully covered by reserves or by reinsurance.

(1) In determining this amount, the superintendent shall consider all of the following risks:

(a) Increases in the frequency or severity of losses beyond the levels contemplated by the premium rates charged;

(b) Increases in expenses beyond those contemplated by the premium rates charged;

(c) Decreases in the value of assets, or the return on invested assets below those planned on;

(d) Changes in economic conditions that would make

liquidity more important than contemplated and would force untimely sale of assets or prevent timely investments;

(e) Currency devaluation to which the insurer may be subject;

(f) Any other contingencies the superintendent identifies that may affect the insurer's operations.

(2) In determining the minimum financial security benchmark under division (A)(2) of this section, the superintendent shall also take into account the following factors:

(a) The most reliable information available as to the magnitude of the various risks under division (B)(1) of this section;

(b) The extent to which the risks in division (B)(1) of this section are independent of each other or are related, and whether any dependency is direct or inverse;

(c) The insurer's recent history of profits or losses;

(d) The extent to which the insurer has provided protection against adverse contingencies in ways other than the establishment of surplus, including redundancy of premiums, adjustability of contracts under their terms, investment valuation reserves, whether voluntary or mandatory, appropriate reinsurance, the use of conservative actuarial assumptions to provide a margin of security, reserve adjustments in recognition of previous rate inadequacies, contingency or catastrophe reserves, diversification of assets, and underwriting risks;

(e) Independent judgments on the soundness of the insurer's operations, as evidenced by the ratings of reliable

professional financial reporting services;

(f) Any other factor the superintendent considers relevant.

Sec. 3906.15. (A) ~~The superintendent may, in accordance with section 119.03 of the Revised Code, adopt rules interpreting and implementing the provisions of this chapter.~~

~~(B)~~ The superintendent may, in accordance with section 119.03 of the Revised Code, adopt one or more of the following restrictions on investments in rules:

(1) The superintendent may prescribe for defined classes of insurers special procedural requirements, including special reports and prior approval on investments, as well as disapproval of investments subsequent to either.

(2) The superintendent may prescribe substantive restrictions on investments of defined classes of insurers, including all of the following:

(a) Specification of classes of assets that may not be counted toward satisfaction of the minimum asset requirement even though the assets may be counted for unrestricted insurers;

(b) Specification of maximum amounts of assets that an insurer may invest in a single investment, issue, or class or group of classes of investments that shall be expressed as percentages of total assets, capital, surplus, legal reserves, or other variables;

(c) Prescription of qualitative tests for investments and conditions under which investments may be made, including requirements of specified ratings from investment advisory services, listing on specified stock exchanges, collateral,

marketability, currency matching, and the financial and legal status of the issuer and its earnings capacity.

~~(C)~~ (B) If the superintendent is satisfied by evidence of the solidity of an insurer and the competence of management and its investment advisors, the superintendent, after a hearing, may by order grant an exemption to that insurer from any restriction made under division ~~(B)~~ (A) of this section to the extent that the superintendent is satisfied that the interests of the insurer's insureds and creditors, as well as the general public, are protected.

Sec. 3911.011. (A) No policy, annuity, or other contract providing variable or fixed and variable benefits or contractual payments shall be delivered or issued for delivery in this state except by a life insurance company, organized under the laws of this state, or a company, partnership, or association, organized or incorporated, by an act of congress, or under the laws of this or any other state of the United States, or any foreign government, and transacting the business of life insurance in this state. No such company, partnership or association shall deliver or issue for delivery in this state any such policy, annuity, or contract until the superintendent of insurance has determined that its condition and methods of operation in connection with the issuance of the policies, annuities, and contracts will not render its operation hazardous to the public or to the holders of its policies, annuities, and other contracts in this state. In making such determination, the superintendent shall consider the history, reputation, and financial condition of the company, partnership, or association, and the character, responsibility, and general fitness of its officers, directors, partners, or associates. In making such determination with respect to a company, partnership, or

association not organized under the laws of this state, the superintendent shall also consider whether the laws and regulations of its domicile provide a degree of protection to the public and the holders of its policies, annuities, and other contracts substantially equal to that provided by this section~~ and any rules adopted by the superintendent pursuant to division (C) of this section~~. If any such company is a subsidiary of, or affiliated through management or ownership with, a life insurance company authorized to do business in this state, the superintendent may consider the requirements of this division to have been satisfied if either such company or its parent or affiliated company meets such requirements.

(B) No policy, annuity, or other contract described in division (A) of this section and no certificate, application, endorsement, or rider to be used in connection with any such policy, annuity, or other contract shall be delivered, or issued for delivery, in this state until a copy thereof has been filed with the superintendent. The superintendent shall, within thirty days after the filing of any such form, disapprove the same upon finding that such form contains provisions that are unjust, unfair, inequitable, misleading, or deceptive, encourage misrepresentation of the coverage, or are contrary to the insurance laws of this state~~ or any rule adopted by the superintendent pursuant to division (C) of this section~~. When the superintendent notifies a company, partnership, or association that a form has been disapproved, it shall be unlawful thereafter for the company, partnership, or association to issue or use the form. In the notice, the superintendent shall specify the reason for the disapproval and state that a hearing will be granted in twenty days after request in writing. No such policy, contract, certificate, application, endorsement,

or rider shall be issued or used until the expiration of thirty days after it has been so filed, unless the superintendent gives written approval thereto. The superintendent may, at any time after a hearing held not less than twenty days after written notice to the insurer, withdraw the approval of any such form on any ground set forth in this division. The written notice of such hearing shall state the reason for the proposed withdrawal. The company, partnership, or association shall not issue the form or use it after the effective date of the withdrawal. Any order or formal determination of the superintendent under this division shall be subject to judicial review as provided in section 119.12 of the Revised Code.

(C) The superintendent shall have the sole and exclusive power and authority to regulate the sale, delivery, and issuance for delivery in this state of policies, annuities, and other contracts described in division (A) of this section and, subject to Chapter 119. of the Revised Code, to adopt, amend, and rescind rules ~~necessary to discharge the superintendent's duties and exercise the superintendent's power and authority under section 3907.15 of the Revised Code and this section, including, but not limited to,~~for the adoption of a definition of a subsidiary or affiliated corporation under section 3907.15 of the Revised Code.

(D) Except for Chapter 3915. and except as otherwise provided in sections 3907.15 and 3911.011 of the Revised Code, all pertinent provisions of Title XXXIX of the Revised Code apply to all policies, annuities, and other contracts providing variable or fixed and variable benefits or contractual payments and all separate accounts established in connection therewith. The reserve liability for such policies, annuities, and contracts shall be established in accordance with actuarial

procedures that recognize the variable nature of the benefits and guarantees provided.

Chapter 1707. of the Revised Code does not apply to any policy, annuity, or other contract providing fixed, variable, or fixed and variable benefits or contractual payments, that is issued by any company, partnership, or association authorized to transact the business of life insurance in this state.

Sec. 3913.01. Any domestic stock life insurance corporation, incorporated under a general law, may become a mutual life insurance corporation, and to that end may carry out a plan for the acquisition of shares of its capital stock, provided such plan:

(A) Has been adopted by a vote of a majority of the directors of such corporation;

(B) Has been approved by a vote of stockholders representing a majority of the capital stock then outstanding at a meeting of stockholders called for the purpose;

(C) Has been approved by a majority of the policyholders voting at a meeting of policyholders called for the purpose, each of whom is insured in a sum of at least one thousand dollars and whose insurance shall then be in force and shall have been in force for at least one year prior to such meeting.

As used in this section, "policyholder" means the person insured under an individual policy of life insurance, and the person to whom any annuity or pure endowment is presently or prospectively payable by the terms of an individual annuity or pure endowment contract, except where the policy or contract declares some other person to be the owner or holder thereof, in which case such owner or policyholder shall be deemed the

policyholder, and except in cases of assignment. In the case of any individual policy or contract insuring two or more persons jointly or in case the policy or contract declares two or more persons to be the owner, the persons insured or declared to be the owner are considered as one policyholder for the purposes of this section. In case any such policy or contract has been assigned by an assignment absolute on its face to an assignee other than the corporation, and such assignment has been filed at the principal office of the corporation at least thirty days prior to the date of the meeting of policyholders, then such assignee shall be deemed a policyholder. Except as provided in this section, an assignee of a policy or contract shall not be deemed a policyholder. The reference in division (C) of this section to insurance in the amount of one thousand dollars or more is deemed to include any annuity contract, the commuted value of which is one thousand dollars or more on the date of said meeting, and any pure endowment contract for the principal sum of one thousand dollars or more.

Notice of the meeting of policyholders shall be given by mailing such notice from the home office of the corporation at least thirty days prior to such meeting in a sealed envelope, postage prepaid, addressed to such policyholders at their last known post-office addresses, provided that personal delivery of such written notice to any policyholder evidenced by written receipt therefor may be substituted for mailing the same. The meeting shall be otherwise provided for and conducted in such manner as is provided in the mutualization plan, provided that policyholders may vote in person, by proxy, or by mail, and that all votes shall be cast by ballot on a uniform ballot furnished by the corporation. The superintendent of insurance shall supervise and direct the method and procedure of said meeting

and shall appoint an adequate number of inspectors to conduct the voting at said meeting who may determine all questions concerning the verification of the ballots, the ascertainment of the validity of such ballots, the qualifications of the voters, and the canvass of the vote, and who shall certify to the superintendent and to the corporation the result of such proceedings, which shall be supervised by said inspectors ~~in accordance with such rules as are prescribed by the superintendent~~. All necessary expenses incurred by the superintendent shall be paid by the corporation, as certified to by the superintendent.

Before such a plan can be carried out, it must be submitted to the superintendent and must be approved by the superintendent in writing; provided that every payment for the acquisition of any shares of the capital stock of such corporation, the purchase price of which is not fixed by such plan, shall be subject to the approval of the superintendent, and provided that neither such plan, nor any such payment, shall be approved by the superintendent unless at the time of such approvals, respectively, the corporation, after deducting the aggregate sum appropriated by such plan for the acquisition of any part or all of its capital stock, and, in the case of any payment not fixed by such plan and subject to separate approval by the superintendent, after deducting also the amount of such payment, shall be possessed of net assets of not less than two hundred thousand dollars from which it shall maintain its deposit made previously with the superintendent, and such assets shall be not less than the entire liabilities of the corporation, including the net values of its outstanding contracts computed according to the standard adopted by the corporation under sections 3903.72 to 3903.7211 of the Revised

Code and including all funds, contingent reserves, and surplus, except for such surplus as has been appropriated or paid under such plan.

Sec. 3915.073. (A) This section shall be known as the standard nonforfeiture law for individual deferred annuities.

(B) This section does not apply to any reinsurance, group annuity purchased under a retirement plan or plan of deferred compensation established or maintained by an employer, including a partnership or sole proprietorship, or by an employee organization, or by both, other than a plan providing individual retirement accounts or individual retirement annuities under section 408 of the Internal Revenue Code of 1954, 26 U.S.C.A. 408, as amended, premium deposit fund, variable annuity, investment annuity, immediate annuity, any deferred annuity contract after annuity payments have commenced, or reversionary annuity, nor to any contract which is delivered outside this state through an agent or other representative of the company issuing the contract.

(C) No contract of annuity, except as stated in division (B) of this section, shall be delivered or issued for delivery in this state unless the contract contains in substance the following provisions, or corresponding provisions that in the opinion of the superintendent of insurance are at least as favorable to the contract owners, relative to the cessation of payment of consideration under the contract:

(1) That upon cessation of payment of considerations under a contract, or upon the written request of the contract owner, the company shall grant a paid-up annuity benefit on a plan stipulated in the contract of such value as is specified in divisions (E), (F), (G), (H), and (J) of this section;

(2) If a contract provides for a lump sum settlement at maturity, or at any other time, that upon surrender of the contract at or prior to the commencement of any annuity payments, the company shall pay in lieu of any paid-up annuity benefit a cash surrender benefit of such amount as is specified in divisions (E), (F), (H), and (J) of this section. The company may reserve the right to defer the payment of such cash surrender benefit for a period not to exceed six months after demand therefor with surrender of the contract. The deferral is contingent upon the company's conveyance of a written request for the deferral to the superintendent and the company's receipt of written approval from the superintendent for the deferral. The request shall address the necessity and equitability to all contract owners of the deferral.

(3) A statement of the mortality table, if any, and interest rates used in calculating any minimum paid-up annuity, cash surrender, or death benefits that are guaranteed under the contract, together with sufficient information to determine the amounts of such benefits;

(4) A statement that any paid-up annuity, cash surrender, or death benefits that may be available under the contract are not less than the minimum benefits required by any statute of the state in which the contract is delivered and an explanation of the manner in which such benefits are altered by the existence of any additional amounts credited by the company to the contract, any indebtedness to the company on the contract, or any prior withdrawals from or partial surrenders of the contract.

Notwithstanding the requirements of this section, any deferred annuity contract may provide that if no considerations

have been received under a contract for a period of two full years and the portion of the paid-up annuity benefit at maturity on the plan stipulated in the contract arising from considerations paid prior to such period would be less than twenty dollars monthly, the company may at its option terminate such contract by payment in cash of the then present value of such portion of the paid-up annuity benefit, calculated on the basis of the mortality table, if any, and interest rate specified in the contract for determining the paid-up annuity benefit, and by such payment shall be relieved of any further obligation under such contract.

(D) The minimum values as specified in divisions (E), (F), (G), (H), and (J) of this section of any paid-up annuity, cash surrender, or death benefits available under an annuity contract shall be based upon minimum nonforfeiture amounts as defined in this division.

(1)(a) The minimum nonforfeiture amount at any time at or prior to the commencement of any annuity payments shall be equal to an accumulation up to such time at rates of interest determined in accordance with division (D)(2) of this section of the net considerations, determined in accordance with division (D)(1)(b) of this section, paid prior to such time, decreased by the sum of:

(i) Any prior withdrawals from or partial surrenders of the contract, accumulated at rates of interest determined in accordance with division (D)(2) of this section;

(ii) An annual contract charge of fifty dollars, accumulated at rates of interest determined in accordance with division (D)(2) of this section;

(iii) Any premium tax paid by the company for the contract, accumulated at rates of interest determined in accordance with division (D)(2) of this section;

(iv) The amount of any indebtedness to the company on the contract, including interest due and accrued.

(b) The net considerations for a given contract year used to define the minimum nonforfeiture amount shall be an amount equal to eighty-seven and one-half per cent of the gross considerations credited to the contract during that contract year.

(2)(a) The interest rate used in determining minimum nonforfeiture amounts under divisions (D)(1) to (4) of this section shall be an annual rate of interest determined as the lesser of three per cent per annum or the following, which shall be specified in the contract if the interest rate will be reset:

(i) The five-year constant maturity treasury rate reported by the federal reserve as of a date or an average over a period, rounded to the nearest one-twentieth of one per cent, specified in the contract, no longer than fifteen months prior to the contract issue date or the redetermination date specified in division (D)(2)(b) of this section;

(ii) Reduced by one hundred twenty-five basis points;

(iii) Where the resulting interest rate shall not be less than fifteen hundredths of one per cent.

(b) The interest rate determined under division (D)(2)(a) of this section shall apply for an initial period and may be redetermined for additional periods. The redetermination date, basis and period, if any, shall be stated in the contract. The basis is the date or average over a specified period that

produces the value of the five-year constant maturity treasury rate to be used at each redetermination date.

(3) During the period or term that a contract provides substantive participation in an equity-indexed benefit, the contract may provide for an increase in the reduction described in division (D)(2)(a)(ii) of this section by a maximum of one hundred basis points to reflect the value of the equity-indexed benefit. The present value at the contract issue date, and at each redetermination date thereafter, of the additional reduction shall not exceed the market value of the benefit. The superintendent may require a demonstration that the present value of the additional reduction does not exceed the market value of the benefit. If the demonstration is not acceptable to the superintendent, the superintendent may disallow or limit the additional reduction.

(4) The superintendent may adopt rules to implement division (D)(3) of this section and to provide for further adjustments to the calculation of minimum nonforfeiture amounts for contracts that provide substantive participation in an equity-indexed benefit and for other contracts for which the superintendent determines adjustments are justified.

(E) Any paid-up annuity benefit available under a contract shall be such that its present value on the date annuity payments are to commence is at least equal to the minimum nonforfeiture amount on that date. Such present value shall be computed using the mortality table, if any, and the interest rate specified in the contract for determining the minimum paid-up annuity benefits guaranteed in the contract.

(F) For contracts which provide cash surrender benefits, such cash surrender benefits available prior to maturity shall

not be less than the present value as of the date of surrender of that portion of the maturity value of the paid-up annuity benefit that would be provided under the contract at maturity arising from considerations paid prior to the time of cash surrender reduced by the amount appropriate to reflect any prior withdrawals from or partial surrenders of the contract, such present value being calculated on the basis of an interest rate not more than one per cent higher than the interest rate specified in the contract for accumulating the net considerations to determine such maturity value, decreased by the amount of any indebtedness to the company on the contract, including interest due and accrued, and increased by any existing additional amounts credited by the company to the contract. In no event shall any cash surrender benefit be less than the minimum nonforfeiture amount at that time. The death benefit under such contracts shall be at least equal to the cash surrender benefit.

(G) For contracts that do not provide cash surrender benefits, the present value of any paid-up annuity benefit available as a nonforfeiture option at any time prior to maturity shall not be less than the present value of that portion of the maturity value of the paid-up annuity benefit provided under the contract arising from considerations paid prior to the time the contract is surrendered in exchange for, or changed to, a deferred paid-up annuity, such present value being calculated for the period prior to the maturity date on the basis of the interest rate specified in the contract for accumulating the net considerations to determine such maturity value, and increased by any existing additional amounts credited by the company to the contract. For contracts that do not provide any death benefits prior to the commencement of any

annuity payments, such present values shall be calculated on the basis of such interest rate and the mortality table specified in the contract for determining the maturity value of the paid-up annuity benefit. However, in no event shall the present value of a paid-up annuity benefit be less than the minimum nonforfeiture amount at that time.

(H) For the purpose of determining the benefits calculated under divisions (F) and (G) of this section, in the case of annuity contracts under which an election may be made to have annuity payments commence at optional maturity dates, the maturity date shall be deemed to be the latest date for which election shall be permitted by the contract, but shall not be deemed to be later than the anniversary of the contract next following the annuitant's seventieth birthday or the tenth anniversary of the contract, whichever is later.

(I) Any contract that does not provide cash surrender benefits or does not provide death benefits at least equal to the minimum nonforfeiture amount prior to the commencement of any annuity payments shall include a statement in a prominent place in the contract that such benefits are not provided.

(J) Any paid-up annuity, cash surrender, or death benefits available at any time, other than on the contract anniversary under any contract with fixed scheduled considerations, shall be calculated with allowance for the lapse of time and the payment of any scheduled considerations beyond the beginning of the contract year in which cessation of payment of considerations under the contract occurs.

(K) For any contract that provides, within the same contract by rider or supplemental contract provision, both annuity benefits and life insurance benefits that are in excess

of the greater of cash surrender benefits or a return of the gross considerations with interest, the minimum nonforfeiture benefit shall be equal to the sum of the minimum nonforfeiture benefits for the annuity portion and the minimum nonforfeiture benefits, if any, for the life insurance portion computed as if each portion were a separate contract. Notwithstanding the provisions of divisions (E), (F), (G), (H), and (J) of this section, additional benefits payable:

(1) In the event of total and permanent disability;

(2) As reversionary annuity or deferred reversionary annuity benefits; or

(3) As other policy benefits additional to life insurance, endowment and annuity benefits, and considerations for all such additional benefits shall be disregarded in ascertaining the minimum nonforfeiture amounts, paid-up annuity, cash surrender, and death benefits that may be required by this section.

The inclusion of such additional benefits shall not be required in any paid-up benefits, unless such additional benefits separately would require minimum nonforfeiture amounts, paid-up annuity, cash surrender, and death benefits.

~~(L) The superintendent may adopt rules in accordance with Chapter 119. of the Revised Code to implement this section.~~

Sec. 3915.09. No policy of life insurance shall be issued or delivered in this state, or be issued by a life insurance company organized under the laws of this state, if it contains any of the following:

(A) A provision for forfeiture of the policy for failure to repay any loan on the policy or to pay interest on such loan while the total indebtedness on the policy is less than its loan

value; or any provision for forfeiture for failure to repay any such loan or to pay interest thereon, unless such provision contains a stipulation that no such forfeiture shall occur until at least one month after notice has been mailed by the company to the last known address of the insured and of the assignee;

(B) A provision limiting to less than five years the time within which any action at law or in equity may be commenced after the cause of action accrues;

(C) A provision for any mode of settlement at maturity of less value than the amount insured on the face of the policy plus dividend additions, less any indebtedness to the company on the policy, and less any premium that may by the terms of the policy be deducted;

(D) In a policy form filed under section 3915.14 of the Revised Code after September 16, 1970, a provision that the policy will be eligible to participate in any future distributions of earnings, profits, or surplus of the company which are not allocated to all participating policies by reasonable and nondiscriminatory standards;

(E) A provision that the policy will be eligible to receive a preferential benefit or advantage which will not be available to policies purchased from the company at future dates or under other circumstances, the effect of which is to discriminate against those future policies~~;~~

~~(F) Any provision which is prohibited by a rule adopted by the superintendent of insurance to clarify, construe, or implement any of the prohibitions of divisions (A) to (E), inclusive, of this section~~.

Sec. 3916.03. (A) Except as provided in division (H) of

this section, an applicant for a license as a viatical settlement provider or viatical settlement broker shall submit an application for the license in a manner prescribed by the superintendent of insurance. The application shall be accompanied by a fee established by the superintendent by rule adopted in accordance with Chapter 119. of the Revised Code.

(B) A license issued under this chapter to a person other than an individual authorizes all partners, officers, members, or designated employees of the person to act as viatical settlement providers or viatical settlement brokers, as applicable, and all those partners, officers, members, or designated employees shall be named in the application and any supplements to the application.

(C) Except as provided in division (H) of this section, upon the filing of an application under this section and the payment of the license fee, the superintendent shall make an investigation of the applicant and issue to the applicant a license that states in substance that the person is authorized to act as a viatical settlement provider or viatical settlement broker, as applicable, if all of the following apply:

(1) Regarding an application for a license as a viatical settlement provider, the applicant provides all of the following:

(a) A detailed plan of operation;

(b) Proof of financial responsibility pursuant to division (D) of this section;

(c) A general description of the method the applicant will use to determine life expectancies, including a description of the applicant's intended receipt of life expectancies, the

applicant's intended use of life expectancies, the applicant's intended use of life expectancy providers, and a written plan of policies and procedures used to determine life expectancies.

(2) The superintendent finds all of the following:

(a) The applicant is competent and trustworthy and intends to act in good faith in the capacity of a viatical settlement provider or viatical settlement broker, as applicable.

(b) The applicant has a good business reputation and has had experience, training, or education so as to be qualified to act in the capacity of a viatical settlement provider or viatical settlement broker, as applicable.

(3) If the applicant is a person other than an individual, the applicant provides a certificate of good standing from the state of its organization.

(4) The applicant provides an antifraud plan that meets the requirements of division (G) of section 3916.18 of the Revised Code.

(D)(1) An applicant for licensure as a viatical settlement provider may provide proof of financial responsibility through one of the following means:

(a) Submitting audited financial statements that show a minimum equity of not less than two hundred fifty thousand dollars in cash or cash equivalents;

(b) Submitting both audited annual financial statements that show positive equity and either of the following:

(i) A surety bond in the amount of two hundred fifty thousand dollars in favor of this state issued by an insurer authorized to issue surety bonds in this state;

(ii) An unconditional and irrevocable letter of credit, deposit of cash, or securities, in any combination, in the aggregate amount of two hundred fifty thousand dollars.

(2) The superintendent may request proof of financial responsibility at any time the superintendent considers necessary.

(E) An applicant shall provide all information requested by the superintendent. The superintendent may, at any time, require an applicant to fully disclose the identity of all shareholders, partners, officers, members, and employees, and may, in the exercise of the superintendent's discretion, refuse to issue a license to an applicant that is not an individual if the superintendent is not satisfied that each officer, employee, shareholder, partner, or member who may materially influence the applicant's conduct meets the standards set forth in this chapter.

(F) Except as otherwise provided in this division, a license as a viatical settlement provider or viatical settlement broker expires on the last day of March next after its issuance or continuance. A license as a viatical settlement provider or viatical settlement broker may, in the discretion of the superintendent and the payment of an annual renewal fee established by the superintendent by rule adopted in accordance with Chapter 119. of the Revised Code, be continued past the last day of March next after its issue and after the last day of March in each succeeding year. Failure to pay the renewal fee by the required date results in the expiration of the license.

(G) Any individual licensed as a viatical settlement broker shall complete not less than fifteen hours of continuing education biennially. The superintendent shall approve

continuing education courses that shall be related to viatical settlements and viatical settlement transactions. ~~The superintendent shall adopt rules for the enforcement of this division.~~

(H) The superintendent shall issue a license to an applicant who is licensed in another state or has satisfactory work experience, a government certification, or a private certification as described in Chapter 4796. of the Revised Code as a viatical settlement provider or viatical settlement broker in a state that does not issue that license in accordance with that chapter, if either of the following applies:

(1) The applicant files and maintains a written designation of an agent for service of process with the superintendent.

(2) The applicant has filed with the superintendent the applicant's written irrevocable consent that any action against the applicant may be commenced against the applicant by service of process on the superintendent.

(I) A viatical settlement provider or viatical settlement broker shall provide to the superintendent new or revised information regarding any change in its officers, any shareholder owning ten per cent or more of its voting securities, or its partners, directors, members, or designated employees within thirty days of the change.

(J) Any fee collected under this section shall be paid into the state treasury to the credit of the department of insurance operating fund created by section 3901.021 of the Revised Code.

Sec. 3916.05. (A) A person shall not use a viatical

settlement contract form or provide a disclosure statement form to a viator in this state unless the viatical settlement contract form or the disclosure statement form is filed with and approved by the superintendent of insurance. The superintendent shall disapprove a viatical settlement contract form or a disclosure statement form if, in the superintendent's opinion, the viatical settlement contract form, the disclosure statement form, or any provision contained therein fails to meet the requirements of section 3916.06 of the Revised Code, is unreasonable, is contrary to the interests of the public, or is otherwise misleading or unfair to the viator. At the superintendent's discretion, the superintendent may require the submission of advertising material to which section 3916.17 of the Revised Code applies. If not disapproved by the superintendent, a filing made pursuant to this section shall be considered approved forty-five days after the contract form, disclosure form, or advertising material is filed.

(B) Any insurance company that issues life insurance policies in this state shall include questions in its life insurance applications that are reasonably structured to identify and prevent stranger-originated life insurance. ~~The superintendent shall adopt rules under Chapter 119. of the Revised Code for the implementation of this section. Each insurer shall file with the superintendent copies of its amended applications for life insurance within twelve months following the effective date of the superintendent's adoption of rules pursuant to this division.~~

(C) The superintendent may adopt rules in accordance with Chapter 119. of the Revised Code to establish reasonable fees for any service or transaction performed by the department of insurance pursuant to division (A) of this section. Any fee

collected pursuant to those rules shall be paid into the state treasury to the credit of the department of insurance operating fund created by section 3901.021 of the Revised Code.

Sec. 3916.20. The superintendent of insurance may adopt rules in accordance with Chapter 119. of the Revised Code ~~for purposes of implementing this chapter, including, but not limited to, rules~~ that do the following:

(A) Govern the relationship and responsibilities of insurers, viatical settlement providers, and viatical settlement brokers during the viatication of a policy.

(B) Establish standards for evaluating the reasonableness of payments under viatical settlement contracts for persons who are terminally or chronically ill. This authority includes, but is not limited to, the regulation of discount rates used to determine the amount paid in exchange for the assignment, release, transfer, sale, devise, or bequest of a benefit under a policy insuring persons who are terminally or chronically ill.

(C) Establish appropriate licensing requirements, fees, and standards for continued licensure for viatical settlement providers and viatical settlement brokers.

Sec. 3918.12. ~~The superintendent may, in accordance with section 119.03 of the Revised Code, adopt such rules and regulations as he deems appropriate, for the enforcement of sections 3918.01 to 3918.11 of the Revised Code.~~ Whenever the superintendent finds that there has been a violation of sections 3918.01 to 3918.13 of the Revised Code or any rules or regulations adopted pursuant thereto, and after written notice thereof and hearing given to the insurer or other person authorized or licensed by the superintendent, ~~he~~ the

superintendent shall set forth the details of ~~his~~ the superintendent's findings together with an order for compliance by a specified date. Such order shall be binding on the insurer and other person authorized or licensed by the superintendent on the date specified unless sooner withdrawn by the superintendent or a stay thereof has been ordered by a court of competent jurisdiction.

Sec. 3923.041. (A) As used in this section:

(1) "Chronic condition" means a medical condition that has persisted after reasonable efforts have been made to relieve or cure its cause and has continued, either continuously or episodically, for longer than six continuous months.

(2) "Clinical peer" means a health care practitioner in the same or in a similar, specialty that typically manages the medical condition, procedure, or treatment under review.

(3) "Covered person" means a person receiving coverage for health services under a policy of sickness and accident insurance or a public employee benefit plan.

(4) "Emergency service" has the same meaning as in section 1753.28 of the Revised Code.

(5) "Fraudulent or materially incorrect information" means any type of intentional deception or misrepresentation made by a person with the knowledge that the deception could result in some unauthorized benefit to the covered person in question.

(6) "Health care practitioner" has the same meaning as in section 3701.74 of the Revised Code.

(7) "NCPDP SCRIPT standard" means the national council for prescription drug programs SCRIPT standard version 201310 or the

most recent standard adopted by the United States department of health and human services.

(8) "Prior authorization requirement" means any practice implemented by either a sickness and accident insurer or a public employee benefit plan in which coverage of a health care service, device, or drug is dependent upon a covered person or a health care practitioner obtaining approval from the insurer or plan prior to the service, device, or drug being performed, received, or prescribed, as applicable. "Prior authorization" includes prospective or utilization review procedures conducted prior to providing a health care service, device, or drug.

(9) "Urgent care services" means a medical care or other service for a condition where application of the timeframe for making routine or non-life threatening care determinations is either of the following:

(a) Could seriously jeopardize the life, health, or safety of the patient or others due to the patient's psychological state;

(b) In the opinion of a practitioner with knowledge of the patient's medical or behavioral condition, would subject the patient to adverse health consequences without the care or treatment that is the subject of the request.

(10) "Utilization review" and "utilization review organization" have the same meanings as in section 1751.77 of the Revised Code.

(B) If a policy issued by a sickness and accident insurer or a public employee benefit plan contains a prior authorization requirement, then all of the following apply:

(1) For policies issued on or after January 1, 2018, the

insurer or plan shall permit health care practitioners to access the prior authorization form through the applicable electronic software system.

(2)(a) For policies issued on or after January 1, 2018, the insurer or plan, or other payer acting on behalf of the insurer or plan, to accept prior authorization requests through a secure electronic transmission.

(b) For policies issued on or after January 1, 2018, the insurer or plan, a pharmacy benefit manager responsible for handling prior authorization requests, or other payer acting on behalf of the insurer or plan shall accept and respond to prior prescription benefit authorization requests through a secure electronic transmission using NCPDP SCRIPT standard ePA transactions, and for prior medical benefit authorization requests through a secure electronic transmission using standards established by the council for affordable quality health care on operating rules for information exchange or its successor.

(c) For purposes of division (B)(2) of this section, neither of the following shall be considered a secure electronic transmission:

(i) A facsimile;

(ii) A proprietary payer portal for prescription drug requests that does not use NCPDP SCRIPT standard.

(3) For policies issued on or after January 1, 2018, a health care practitioner and an insurer or plan may enter into a contractual arrangement under which the insurer or plan agrees to process prior authorization requests that are not submitted electronically because of the financial hardship that electronic

submission of prior authorization requests would create for the health care practitioner or if internet connectivity is limited or unavailable where the health care practitioner is located.

(4)(a) For policies issued on or after January 1, 2018, if the health care practitioner submits the request for prior authorization electronically as described in divisions (B)(1) and (2) of this section, the insurer or plan shall respond to all prior authorization requests within forty-eight hours for urgent care services, or ten calendar days for any prior authorization request that is not for an urgent care service, of the time the request is received by the insurer or plan. Division (B)(4) of this section does not apply to emergency services.

(b) The response required under division (B)(4)(a) of this section shall indicate whether the request is approved or denied. If the prior authorization is denied, the insurer or plan shall provide the specific reason for the denial.

(c) If the prior authorization request is incomplete, the insurer or plan shall indicate the specific additional information that is required to process the request.

(5)(a) For policies issued on or after January 1, 2018, if a health care practitioner submits a prior authorization request as described in divisions (B)(1) and (2) of this section, the insurer or plan shall provide an electronic receipt to the health care practitioner acknowledging that the prior authorization request was received.

(b) For policies issued on or after January 1, 2018, if an issuer or plan requests additional information that is required to process a prior authorization request as described in

division (B)(4)(c) of this section, the health care practitioner shall provide an electronic receipt to the issuer or plan acknowledging that the request for additional information was received.

(6)(a) For policies issued on or after January 1, 2017, for a prior approval related to a chronic condition, the insurer or plan shall honor a prior authorization approval for an approved drug for the lesser of the following from the date of the approval:

(i) Twelve months;

(ii) The last day of the covered person's eligibility under the policy or plan.

(b) The duration of all other prior authorization approvals shall be dictated by the policy or plan.

(c) An insurer or plan, in relation to prior approval under division (B)(6)(a) of this section, may require a health care practitioner to submit information to the insurer or plan indicating that the patient's chronic condition has not changed.

(i) The request for information by the insurer or plan and the response by the health care practitioner shall be in an electronic format, which may be by electronic mail or other electronic communication.

(ii) The frequency of the submission of requested information shall be consistent with medical or scientific evidence, as defined in section 3922.01 of the Revised Code, but shall not be required more frequently than quarterly.

(iii) If the health care practitioner does not respond within five calendar days from the date the request was

received, the insurer or plan may terminate the twelve-month approval.

(d) A twelve-month approval provided under division (B)(6)(a) of this section is no longer valid and automatically terminates if there are changes to federal or state laws or federal regulatory guidance or compliance information prescribing that the drug in question is no longer approved or safe for the intended purpose.

(e) A twelve-month approval provided under division (B)(6)(a) of this section does not apply to and is not required for any of the following:

(i) Medications that are prescribed for a non-maintenance condition;

(ii) Medications that have a typical treatment of less than one year;

(iii) Medications that require an initial trial period to determine effectiveness and tolerability, beyond which a one-year, or greater, prior authorization period will be given;

(iv) Medications where there is medical or scientific evidence as defined in section 3922.01 of the Revised Code that do not support a twelve-month prior approval;

(v) Medications that are a schedule I or II controlled substance or any opioid analgesic or benzodiazepine, as defined in section 3719.01 of the Revised Code;

(vi) Medications that are not prescribed by an in-network provider as part of the care management program.

(7) For policies issued on or after January 1, 2017, an insurer or plan may, but is not required to, provide the twelve-

month approval prescribed in division (B)(6)(a) of this section for a prescription drug that meets either of the following:

(a) The drug is prescribed or administered to treat a rare medical condition and pursuant to medical or scientific evidence as defined in section 3922.01 of the Revised Code.

(b) Medications that are controlled substances not included in division (B)(6)(e)(v) of this section.

For purposes of division (B)(7) of this section, "rare medical condition" means any disease or condition that affects fewer than two hundred thousand individuals in the United States.

(8) Nothing in division (B)(6) or (7) of this section prohibits the substitution, in accordance with section 4729.38 of the Revised Code, of any drug that has received a twelve-month approval under division (B)(6)(a) of this section when there is a release of either of the following:

(a) A United States food and drug administration approved comparable brand product or a generic counterpart of a brand product that is listed as therapeutically equivalent in the United States food and drug administration's publication titled approved drug products with therapeutic equivalence evaluations;

(b) An interchangeable biological product, as defined in section 3715.01 of the Revised Code.

(9)(a) For policies issued on or after January 1, 2017, upon written request, an insurer or plan shall permit a retrospective review for a claim that is submitted for a service where prior authorization was required but not obtained if the service in question meets all of the following:

(i) The service is directly related to another service for which prior approval has already been obtained and that has already been performed.

(ii) The new service was not known to be needed at the time the original prior authorized service was performed.

(iii) The need for the new service was revealed at the time the original authorized service was performed.

(b) Once the written request and all necessary information is received, the insurer or plan shall review the claim for coverage and medical necessity. The insurer or plan shall not deny a claim for such a new service based solely on the fact that a prior authorization approval was not received for the new service in question.

(10)(a) For policies issued on or after January 1, 2017, the insurer or plan shall disclose to all participating health care practitioners any new prior authorization requirement at least thirty days prior to the effective date of the new requirement.

(b) The notice may be sent via electronic mail or standard mail and shall be conspicuously entitled "Notice of Changes to Prior Authorization Requirements." The notice is not required to contain a complete listing of all changes made to the prior authorization requirements, but shall include specific information on where the health care practitioner may locate the information on the insurer or plan's web site or, if applicable, the insurer's or plan's portal.

(c) All participating health care practitioners shall promptly notify the insurer or plan of any changes to the health care practitioner's electronic mail or standard mail address.

(11)(a) For policies issued on or after January 1, 2017, the insurer or plan shall make available to all participating health care practitioners on its web site or provider portal a listing of its prior authorization requirements, including specific information or documentation that a practitioner must submit in order for the prior authorization request to be considered complete.

(b) The insurer or plan shall make available on its web site information about the policies, contracts, or agreements offered by the insurer or plan that clearly identifies specific services, drugs, or devices to which a prior authorization requirement exists.

(12) For policies issued on or after January 1, 2018, the insurer or plan shall establish a streamlined appeal process relating to adverse prior authorization determinations that shall include all of the following:

(a) For urgent care services, the appeal shall be considered within forty-eight hours after the insurer or plan receives the appeal.

(b) For all other matters, the appeal shall be considered within ten calendar days after the insurer or plan receives the appeal.

(c) The appeal shall be between the health care practitioner requesting the service in question and a clinical peer.

(d) If the appeal does not resolve the disagreement, either the covered person or an authorized representative as defined in section 3922.01 of the Revised Code may request an external review under Chapter 3922. of the Revised Code to the

extent Chapter 3922. of the Revised Code is applicable.

(C) For policies issued on or after January 1, 2017, except in cases of fraudulent or materially incorrect information, an insurer or plan shall not retroactively deny a prior authorization for a health care service, drug, or device when all of the following are met:

(1) The health care practitioner submits a prior authorization request to the insurer or plan for a health care service, drug, or device;

(2) The insurer or plan approves the prior authorization request after determining that all of the following are true:

(a) The patient is eligible under the health benefit plan.

(b) The health care service, drug, or device is covered under the patient's health benefit plan.

(c) The health care service, drug, or device meets the insurer's or plan's standards for medical necessity and prior authorization.

(3) The health care practitioner renders the health care service, drug, or device pursuant to the approved prior authorization request and all of the terms and conditions of the health care practitioner's contract with the insurer or plan;

(4) On the date the health care practitioner renders the prior approved health care service, drug, or device, all of the following are true:

(a) The patient is eligible under the health benefit plan.

(b) The patient's condition or circumstances related to the patient's care has not changed.

(c) The health care practitioner submits an accurate claim that matches the information submitted by the health care practitioner in the approved prior authorization request.

(5) If the health care practitioner submits a claim that includes an unintentional error and the error results in a claim that does not match the information originally submitted by the health care practitioner in the approved prior authorization request, upon receiving a denial of services from the insurer or plan, the health care practitioner may resubmit the claim pursuant to division (C) of this section with the information that matches the information included in the approved prior authorization.

(D) Any provision of a contractual arrangement entered into between an insurer or plan and a health care practitioner or beneficiary that is contrary to divisions (A) to (C) of this section is unenforceable.

(E) For policies issued on or after January 1, 2017, committing a series of violations of this section that, taken together, constitute a practice or pattern shall be considered an unfair and deceptive practice under sections 3901.19 to 3901.26 of the Revised Code.

(F) ~~The superintendent of insurance may adopt rules in accordance with Chapter 119. of the Revised Code as necessary to implement the provisions of this section.~~

~~(G)~~ This section does not apply to any of the following types of coverage: a policy, contract, certificate, or agreement that covers only a specified accident, accident only, credit, dental, disability income, long-term care, hospital indemnity, supplemental coverage as described in section 3923.37 of the

Revised Code, specified disease, or vision care; a dental benefit that is offered as a part of a policy of sickness and accident insurance or a public employee benefit plan; coverage issued as a supplement to liability insurance; insurance arising out of workers' compensation or similar law; automobile medical payment insurance; insurance under which benefits are payable with or without regard to fault and which is statutorily required to be contained in any liability insurance policy or equivalent self-insurance; a medicare supplement policy of insurance as defined by the superintendent of insurance by rule; coverage under a plan through medicare or the federal employees benefit program; or any coverage issued under Chapter 55 of Title 10 of the United States Code and any coverage issued as a supplement to that coverage.

Sec. 3923.332. (A) No medicare supplement policy or certificate in force in this state shall contain benefits that duplicate benefits provided by medicare.

(B) Notwithstanding section 3923.04 of the Revised Code or any other provision of law of this state, a medicare supplement policy or certificate shall not exclude or limit benefits for losses incurred more than six months from the effective date of coverage because it involved a preexisting condition. The policy or certificate shall not define a preexisting condition more restrictively than a condition for which medical advice was given or treatment was recommended by or received from a physician within six months before the effective date of coverage.

(C) The superintendent of insurance shall adopt reasonable rules described in divisions (C)(1) to (9) of this section to establish specific standards for policy provisions of medicare

supplement policies and certificates. The standards shall be in addition to and in accordance with applicable laws of this state, including sections 3923.03 to 3923.09 of the Revised Code. No requirement in Title XVII or XXXIX of the Revised Code relating to minimum required policy benefits, other than the minimum standards contained in section 3923.33 and sections 3923.331 to 3923.339 of the Revised Code, shall apply to medicare supplement policies and certificates. The standards may cover~~, but are not limited to~~ the following:

(1) Terms of renewability;

(2) Initial and subsequent conditions of eligibility;

(3) Nonduplication of coverage;

(4) Probationary periods;

(5) Benefit limitations, exceptions, and reductions;

(6) Elimination periods;

(7) Requirements for replacement;

(8) Recurrent conditions; and

(9) Definitions of terms.

(D) ~~The superintendent shall adopt reasonable rules to establish minimum standards for benefits, claims payment, advertising and marketing practices and compensation arrangements, and reporting practices, for medicare supplement policies and certificates.~~

~~(E)~~ The superintendent may adopt from time to time ~~such reasonable~~ the following rules as are necessary to conform medicare supplement policies and certificates to the requirements of federal law and regulations promulgated

thereunder~~, including but not limited to~~:

(1) Requiring refunds or credits if the policies or certificates do not meet loss ratio requirements;

(2) Establishing a uniform methodology for calculating and reporting loss ratios;

(3) Assuring public access to policies, premiums, and loss ratio information of issuers of medicare supplement insurance;

(4) Establishing a process for approving or disapproving policy forms and certificate forms and proposed premium increases;

(5) Establishing a policy for holding public hearings prior to approval of premium increases; and

(6) Establishing standards for medicare select policies and certificates.

~~(F) The superintendent may adopt reasonable rules that specify prohibited policy provisions not otherwise specifically authorized by any provision in the Revised Code that, in the opinion of the superintendent, are unjust, unfair, or unfairly discriminatory to any person insured or proposed to be insured under a medicare supplement policy or certificate.~~

Sec. 3924.49. (A) If a parent of a child is required by a court or administrative order to provide health insurance coverage for the child, which coverage is available through an employer doing business in this state, the employer shall do all of the following:

(1) If the child is otherwise eligible for the family coverage, permit the parent to enroll the child under the coverage without regard to any enrollment period restrictions;

(2) If the parent is enrolled under the coverage but fails to make application to obtain coverage for the child, enroll the child under the family coverage upon application of the child's other parent or pursuant to a child support order containing provisions in compliance with sections 3119.29 to 3119.56 of the Revised Code;

(3) Withhold from the employee's compensation the employee's share of premiums for the health care coverage, if any, and pay that amount to the health insurer providing the coverage;

(4) Comply with the requirements of sections 3119.36 to 3119.364 and 3119.42 of the Revised Code~~ and any rules adopted by the department of job and family services under section 3119.51 of the Revised Code~~.

(B) The employer shall not terminate the child's coverage unless the employer has eliminated family coverage for all of its employees or unless the employer is provided satisfactory written evidence of either of the following:

(1) The court or administrative order is no longer in effect.

(2) The child is or will be enrolled under comparable health care coverage that will take effect not later than the effective date of the termination of the current coverage.

(C) As used in this section, "child support order" has the same meaning as in section 3119.01 of the Revised Code.

Sec. 3924.72. The superintendent of insurance shall prepare and periodically revise a brochure that clearly and concisely explains the operation of medical savings accounts authorized under sections 3924.61 to 3924.74 of the Revised

Code, and that describes how an employer's or individual's use of a medical savings account may affect the employer's or individual's purchase of policies, plans, and contracts of health coverage. The superintendent shall make the brochure available, upon request, to consumers, insurers, and other third-party payers. ~~The superintendent may adopt rules in accordance with Chapter 119. of the Revised Code to implement this section.~~

Sec. 3929.44. (A) Any person having an insurable interest in real property or tangible personal property, or both, at a fixed location, who has been unable to obtain basic property insurance or homeowners insurance may apply to the Ohio fair plan underwriting association.

(B) The association may engage an inspection bureau or other organization to assist in collection of information necessary to underwrite risk for basic property insurance or homeowners insurance.

(C) The association, if it finds the property to be insurable by meeting the reasonable underwriting standards contained in the plan of operation approved by the superintendent of insurance, shall cause a policy or binder of basic property insurance or homeowners insurance to be issued to the applicant upon payment of the premium.

(D) As part of an application for a policy of basic property insurance or homeowners insurance, an applicant shall~~,~~ ~~in accordance with procedures and requirements set forth in rules promulgated by the superintendent,~~ certify at least two insurance companies had been contacted and from whom coverage was not available.

(E) As a condition of the issuance of a binder or policy of basic property insurance or homeowners insurance, an applicant shall~~, in accordance with procedures and requirements set forth in rules promulgated by the superintendent,~~ certify to the association that there are no outstanding taxes, assessments, penalties, or charges with respect to the property to be insured.

(F) An applicant shall~~, in accordance with rules promulgated by the superintendent,~~ certify to the association whether or not the applicant has received written notice from an authorized public entity stating that the applicant's property is in violation of any building, housing, air pollution, sanitation, health, fire, or safety code, ordinance, or rule. If the applicant has received such written notice of any such violation, the applicant shall also submit to the association a detailed plan that indicates the manner and estimated period of time in which such violations will be corrected. If the association is satisfied that the violations are subject to correction within a reasonable period of time and that the applicant otherwise meets the requirements of this section, it may cause a policy or binder of basic property insurance or homeowners insurance to be issued to the applicant on the condition that the plan be implemented on schedule. The form of the plan submitted by the applicant ~~and the manner in which this division is implemented~~ shall be in accordance with rules promulgated by the superintendent. Nothing in this division shall be construed to make the association responsible for the detection of any violation of a code, ordinance, or rule of the type described in this division.

Sec. 3935.10. The superintendent of insurance shall promulgate ~~rules and~~ statistical plans, reasonably adopted to

each of the rating systems on file with ~~him~~ the superintendent, which may be modified from time to time and which shall be used thereafter by each insurer in the recording and reporting of its loss and country-wide expense experience, in order that the experience of all insurers may be made available at least annually in such form and detail as is necessary to aid the superintendent in determining whether rating systems comply with the standards set forth in section 3935.03 of the Revised Code.~~—~~ ~~Such~~ The superintendent of insurance may promulgate rules and statistical plans ~~may also~~ that provide for the recording and reporting of expense experience items which are specially applicable to this state and which are not susceptible of determination by a prorating of country-wide expense experience. In promulgating such rules and plans, the superintendent shall give due consideration to the rating systems on file with ~~him~~ the superintendent and, in order that such rules and plans may be as uniform as is practicable among the several states, to the rules and to the form of the plans used for such rating systems in other states. No insurer need record or report its loss experience on a classification basis that is inconsistent with the rating system filed by it. The superintendent may designate one or more rating bureaus or other agencies to assist ~~him~~ the superintendent in gathering such experience and making compilations thereof, and such compilations shall be made available~~, subject to reasonable rules promulgated by the superintendent,~~ to insurers and rating bureaus.

Reasonable rules and plans may be promulgated by the superintendent for the interchange of data necessary for the application of rating plans.

In order to further uniform administration of rate regulatory laws, the superintendent and every insurer and rating

bureau may exchange information and experience data with insurance supervisory officials, insurers, and rating bureaus in other states and may consult with them with respect to rate making and the application of rating systems.

~~The superintendent may make reasonable rules and regulations necessary to effectuate sections 3935.01 to 3935.17, inclusive, of the Revised Code.~~

Sections 119.01 to 119.13~~, inclusive,~~ of the Revised Code are applicable to the rule-making functions of the superintendent under sections 3935.01 to 3935.17~~, inclusive,~~ of the Revised Code, including appeals from the order of the superintendent in adopting, amending, or rescinding rules.

Sec. 3937.43. (A) As used in this section:

(1) "Automobile insurance policies" has the same meaning as in section 3937.30 of the Revised Code.

(2) "Moving violation" means any violation of any statute or ordinance that regulates the operation of vehicles, streetcars, or trackless trolleys on highways or streets or that regulates size or load limitations or fitness requirements of vehicles. "Moving violation" does not include the violation of any statute or ordinance that regulates pedestrians or the parking of vehicles.

(3) "Community control sanction" has the same meaning as in section 2929.01 of the Revised Code.

(B) Every rating plan or schedule of rates for automobile insurance policies that is filed with the superintendent of insurance shall provide for an appropriate reduction in premium charges for any insured or applicant for insurance under the following conditions:

(1) The applicant or insured is sixty years of age or older;

(2) The applicant or insured successfully completes a motor vehicle accident prevention course, which includes classroom instruction and the passing of an examination in accordance with both of the following:

(a) The department of public safety shall approve the course and the examination. However, the department shall not approve any correspondence course or any other course that does not provide classroom instruction.

(b) The examination shall include an actual demonstration of the applicant's or insured's ability to exercise ordinary and reasonable control in the operation of a motor vehicle.

(3) The applicant or insured submits to the insurer a certificate that is issued by the sponsor of the motor vehicle accident prevention course and attests to the successful completion of the course by the applicant or insured;

(4) The insurer may consider the driving record of the applicant or insured in accordance with divisions (C) and (D) of this section.

(C) In determining whether to grant a reduction in premium charges in accordance with this section, the insurer may consider the driving record of the insured or applicant for a three-year period prior to the successful completion of a motor vehicle accident prevention course.

(D)(1) Subject to division (D)(2) of this section, every reduction in premium charges granted in accordance with this section shall be effective for an insured for a three-year period after each successful completion of a motor vehicle

accident prevention course.

(2) As a condition of maintaining a reduction in premium charges granted in accordance with this section, an insurer may require that the insured, during the three-year period for which the reduction has been granted, neither be involved in an accident for which the insured is primarily at fault, nor be convicted of more than one moving violation.

(E) A reduction in premium charges granted in accordance with this section shall not become effective until the first full term of coverage following the successful completion of a motor vehicle accident prevention course in accordance with division (B) of this section.

(F) ~~The director of the department of public safety shall adopt rules in accordance with Chapter 119. of the Revised Code that are necessary to carry out the duties of the department under this section.~~

~~(G)~~ This section does not apply to any automobile insurance policy issued under an assigned risk plan pursuant to section 4509.70 of the Revised Code.

~~(H)~~ (G) This section does not apply to circumstances in which the motor vehicle accident prevention course is required by a court as a condition of a community control sanction imposed for a moving violation.

Sec. 3953.32. (A) At the time an order is placed with a title insurance company for issuance of a title insurance policy, the title insurance company or the title insurance agent shall offer closing or settlement protection to the lender, borrower, and seller of the property, and to any applicant for title insurance.

(B) The closing or settlement protection offered pursuant to this section shall indemnify any lender, borrower, seller, and applicant that has requested the protection, both individually and collectively, against the loss of settlement funds resulting from any of the following acts of the title insurance company's named title insurance agent or anyone acting on the agent's behalf:

(1) Theft, misappropriation, fraud, or any other failure to properly disburse settlement, closing, or escrow funds;

(2) Failure to comply with any applicable written closing instructions, when agreed to by the title insurance agent.

(C) The issuance of closing or settlement protection by a title insurance company pursuant to division (A) of this section is part of the business of title insurance for purposes of Chapter 3953. of the Revised Code.

(D) Except as provided in division (A) of this section, a title insurance company shall not offer or issue any coverage purporting to indemnify against a person's improper acts or omissions in connection with escrow, settlement, or closing services.

(E) The superintendent of insurance may adopt rules in accordance with Chapter 119. of the Revised Code ~~as the superintendent considers necessary to carry out the purposes of this section, including, but not limited to, rules that detail~~ detailing the specific language that must be included in the written document offering closing or settlement protection as provided for in division (A) of this section.

Sec. 3956.10. ~~(A)(1)~~ (A) The Ohio life and health insurance guaranty association shall submit to the superintendent of

insurance a plan of operation and any amendments to the plan necessary or suitable to ensure the fair, reasonable, and equitable administration of the association. The plan of operation and any amendments shall become effective upon the written approval of the superintendent, or unless the superintendent has not disapproved it within thirty days.

~~(2) If the association fails to submit a suitable plan of operation within six months following November 20, 1989, or if at any time after that date the association fails to submit suitable amendments to the plan, the superintendent, after notice and hearing, shall adopt reasonable rules that are necessary or advisable to effectuate the provisions of this chapter. The rules shall continue in force until modified by the superintendent or superseded by a plan submitted by the association and approved by the superintendent.~~

(B) All member insurers shall comply with the plan of operation.

(C) In addition to requirements enumerated elsewhere in this chapter, the plan of operation shall do the following:

(1) Establish procedures for handling the assets of the association;

(2) Establish the amount and method of reimbursing members of the board of directors under section 3956.07 of the Revised Code;

(3) Establish regular places and times for meetings, including but not limited to telephone conference calls, of the board of directors;

(4) Establish procedures for records to be kept of all financial transactions of the association, its agents, and the

board of directors;

(5) Establish the procedures whereby selections for the board of directors will be made and submitted to the superintendent;

(6) Establish any additional procedures for assessments under section 3956.09 of the Revised Code, including, but not limited to, allocating sums raised by assessments when two or more insolvencies occur in the same calendar year that are subject to the two per cent calendar year assessment limitation;

(7) Contain additional provisions necessary or proper for the execution of the powers and duties of the association.

(D) The plan of operation may provide that any or all powers and duties of the association, except those under division (N)(3) of section 3956.08 and section 3956.09 of the Revised Code, are delegated to a corporation, association, or other organization that performs or will perform functions similar to those of the association, or its equivalent, in two or more states. The corporation, association, or organization shall be reimbursed for any payments made on behalf of the association, and shall be paid for its performance of any function of the association. A delegation under this division shall take effect only with the approval of both the board of directors and the superintendent, and may be made only to a corporation, association, or organization that extends protection not substantially less favorable and effective than that provided by this chapter.

Sec. 3959.04. (A) Administrators may be tested and shall be licensed by the superintendent of insurance ~~in accordance with rules adopted by the superintendent~~.

(B) An administrator who has been licensed or certified by the state of the administrator's domicile under a statute or rule similar to sections 3959.01 to 3959.16 of the Revised Code shall, upon application, be licensed without testing, provided the state of domicile recognizes and grants licenses to administrators of this state who have obtained licenses under such sections.

Sec. 3959.111. (A)(1)(a) In each contract between a pharmacy benefit manager and a pharmacy, the pharmacy shall be given the right to obtain from the pharmacy benefit manager, within ten days after any request, a current list of the sources used to determine maximum allowable cost pricing. In each contract between a pharmacy benefit manager and a pharmacy, the pharmacy benefit manager shall be obligated to update and implement the pricing information at least every seven days and provide a means by which contracted pharmacies may promptly review maximum allowable cost pricing updates in an electronic format that is readily available, accessible, and secure and that can be easily searched.

Subject to division (A)(1) of this section, a pharmacy benefit manager shall utilize the most up-to-date pricing data when calculating drug product reimbursements for all contracting pharmacies within one business day of any price update or modification.

(b) A pharmacy benefit manager shall maintain a written procedure to eliminate products from the list of drugs subject to maximum allowable cost pricing in a timely manner. The written procedure, and any updates, shall promptly be made available to a pharmacy upon request.

(2) In each contract between a pharmacy benefit manager

and a pharmacy, a pharmacy benefit manager shall be obligated to ensure that all of the following conditions are met prior to placing a prescription drug on a maximum allowable cost list:

(a) The drug is listed as "A" or "B" rated in the most recent version of the United States food and drug administration's approved drug products with therapeutic equivalence evaluations, or has an "NR" or "NA" rating or similar rating by nationally recognized reference.

(b) The drug is generally available for purchase by pharmacies in this state from a national or regional wholesaler and is not obsolete.

(3) Each contract between a pharmacy benefit manager and a pharmacy shall include an electronic process to appeal, investigate, and resolve disputes regarding maximum allowable cost pricing that includes all of the following:

(a) A twenty-one-day limit on the right to appeal following the initial claim;

(b) A requirement that the appeal be investigated and resolved within twenty-one days after the appeal;

(c) A telephone number at which the pharmacy may contact the pharmacy benefit manager to speak to a person responsible for processing appeals;

(d) A requirement that a pharmacy benefit manager provide a reason for any appeal denial, including the national drug code and the identity of the national or regional wholesalers from whom the drug was generally available for purchase at or below the benchmark price determined by the pharmacy benefit manager;

(e) A requirement that if the appeal is upheld or granted,

then the pharmacy benefit manager shall adjust the drug product reimbursement to the pharmacy's upheld appeal price;

(f) A requirement that a pharmacy benefit manager make an adjustment not later than one day after the date of determination of the appeal. The adjustment shall be retroactive to the date the appeal was made and shall apply to all situated pharmacies as determined by the pharmacy benefit manager. This requirement does not prohibit a pharmacy benefit manager from retroactively adjusting a claim for the appealing pharmacy or for any other similarly situated pharmacies.

(B)(1)(a) A pharmacy benefit manager shall disclose to the plan sponsor whether or not the pharmacy benefit manager uses the same maximum allowable cost list when billing a plan sponsor as it does when reimbursing a pharmacy.

(b) If a pharmacy benefit manager uses multiple maximum allowable cost lists, the pharmacy benefit manager shall disclose in the aggregate to a plan sponsor any differences between the amount paid to a pharmacy and the amount charged to a plan sponsor.

(2) The disclosures required under division (B)(1) of this section shall be made within ten days of a pharmacy benefit manager and a plan sponsor signing a contract or on a quarterly basis.

(3)(a) Division (B) of this section does not apply to plans governed by the "Employee Retirement Income Security Act of 1974," 29 U.S.C. 1001, et seq. or medicare part D.

(b) As used in this division, "medicare part D" means the voluntary prescription drug benefit program established under Part D of Title XVIII of the "Social Security Act," 42 U.S.C.

1395w-101, et seq.

(C) Notwithstanding division (B)(5) of section 3959.01 of the Revised Code, a health insuring corporation or a sickness and accident insurer shall comply with the requirements of this section and is subject to the penalties under section 3959.12 of the Revised Code if the corporation or insurer is a pharmacy benefit manager, as defined in section 3959.01 of the Revised Code.

~~(D) The superintendent of insurance shall adopt rules as necessary to implement the requirements of this section.~~

Sec. 3959.12. (A) Any license issued under sections 3959.01 to 3959.16 of the Revised Code may be suspended for a period not to exceed two years, revoked, or not renewed by the superintendent of insurance after notice to the licensee and hearing in accordance with Chapter 119. of the Revised Code. The superintendent may suspend, revoke, or refuse to renew a license if upon investigation and proof the superintendent finds that the licensee has done any of the following:

(1) Knowingly violated any provision of sections 3959.01 to 3959.16 or 3959.20 of the Revised Code~~ or any rule promulgated by the superintendent~~;

(2) Knowingly made a material misstatement in the application for the license;

(3) Obtained or attempted to obtain a license through misrepresentation or fraud;

(4) Misappropriated or converted to the licensee's own use or improperly withheld insurance company premiums or contributions held in a fiduciary capacity, excluding, however, any interest earnings received by the administrator as disclosed

in writing by the administrator to the plan sponsor;

(5) In the transaction of business under the license, used fraudulent, coercive, or dishonest practices;

(6) Failed to appear without reasonable cause or excuse in response to a subpoena, examination, warrant, or other order lawfully issued by the superintendent;

(7) Is affiliated with or under the same general management or interlocking directorate or ownership of another administrator that transacts business in this state and is not licensed under sections 3959.01 to 3959.16 of the Revised Code;

(8) Had a license suspended, revoked, or not renewed in any other state, district, territory, or province on grounds identical to those stated in sections 3959.01 to 3959.16 of the Revised Code;

(9) Been convicted of a financially related felony;

(10) Failed to report a felony conviction as required under section 3959.13 of the Revised Code.

(B) Upon receipt of notice of the order of suspension in accordance with sections 119.05 and 119.07 of the Revised Code, the licensee shall promptly deliver the license to the superintendent, unless the order of suspension is appealed under section 119.12 of the Revised Code.

(C) Any person whose license is revoked or whose application is denied pursuant to sections 3959.01 to 3959.16 of the Revised Code is ineligible to apply for an administrators license for two years.

(D) The superintendent may impose a monetary fine against a licensee if, upon investigation and after notice and

opportunity for hearing in accordance with Chapter 119. of the Revised Code, the superintendent finds that the licensee has done either of the following:

(1) Committed fraud or engaged in any illegal or dishonest activity in connection with the administration of pharmacy benefit management services;

(2) Violated any provision of section 3959.111 of the Revised Code~~ or any rule adopted by the superintendent pursuant to or to implement that section~~.

Sec. 3961.01. As used in sections 3961.01 to ~~3961.09~~ 3961.08 of the Revised Code:

(A)(1) "Discount medical plan" means a business arrangement or contract in which a person, in exchange for fees, dues, charges, or other consideration, offers access to members to providers of medical services and the right to receive discounted medical services from those providers.

(2) "Discount medical plan" does not include any of the following:

(a) A plan that does not require a membership or charge a fee to use the plan's medical card;

(b) A plan that offers discounts for only pharmaceutical supplies or prescription drugs, or both, and no other medical services;

(c) A plan offered by a sickness and accident insurer that is regulated under Title XXXIX of the Revised Code, a health insuring corporation that is regulated under Title XVII of the Revised Code, or an affiliate of such insurer or corporation if the insurer, corporation, or affiliate discloses in writing in

not less than twelve-point type on any applications, advertisements, marketing materials, and brochures describing the plan that the plan is not insurance.

(B)(1) "Discount medical plan organization" or "organization" means a person who does business in this state; offers to members access to providers of medical services and the right to receive discounted medical services from those providers; contracts with providers, provider networks, or other discount medical plan organizations to offer discounted medical services to members; and determines the fee members pay to participate in the plan.

(2) "Discount medical plan organization" does not include a sickness and accident insurer that is regulated under Title XXXIX of the Revised Code or a health insuring corporation that is regulated under Title XVII of the Revised Code.

(C) "Facility" means an institution where medical services are performed, including, but not limited to, a hospital or other licensed inpatient center; ambulatory surgical or treatment center; skilled nursing center; residential treatment center; rehabilitation center; diagnostic, laboratory, and imaging center; and any other health care setting.

(D) "Health care professional" means a physician or other health care provider who is licensed, accredited, certified, or otherwise authorized to perform specified medical services within the scope of the person's license, accreditation, certification, or other authorization and performs medical services consistent with the laws of this state.

(E)(1) "Marketer" means a person or entity who markets, promotes, sells, or distributes a discount medical plan,

including, but not limited to, a private label entity that places its name on and markets or distributes a discount medical plan pursuant to a written agreement with a discount medical plan organization described under section 3961.03 of the Revised Code.

(2) "Marketer" does not mean a sickness and accident insurer that is regulated under Title XXXIX of the Revised Code, a health insuring corporation that is regulated under Title XVII of the Revised Code, or an affiliate of such insurer or corporation if the insurer, corporation, or affiliate discloses in writing in not less than twelve-point type on any applications, advertisements, marketing materials, and brochures describing the plan that the plan is not insurance.

(F) "Medical services" means any maintenance care of the human body; preventative care for the human body; or care, service, or treatment of an illness or dysfunction of, or injury to, the human body. "Medical services" includes, but is not limited to, physician care, inpatient care, hospital surgical services, emergency services, ambulance services, dental care services, vision care services, pharmaceutical supplies, prescription drugs, mental health services, substance abuse services, chiropractic services, podiatric services, laboratory services, and medical equipment and supplies.

(G) "Member" means any individual who pays fees, dues, charges, or other consideration to a discount medical plan organization for access to providers of medical services and the right to receive the benefits of a discount medical plan.

(H) "Person" means an individual, corporation, partnership, association, joint venture, joint stock company, trust, unincorporated organization, any similar entity, or any

combination of these entities.

(I) "Provider" means any health care professional or facility that has contracted, directly or indirectly, with a discount medical plan organization to offer discounted medical services to members.

(J) "Provider agreement" means any agreement entered into between a discount medical plan organization and a provider or provider network to offer discounted medical services to members as described in section 3961.02 of the Revised Code.

(K) "Provider network" means a person that negotiates, directly or indirectly, with a discount medical plan organization on behalf of more than one provider to offer discounted medical services to members.

Sec. 3961.05. A discount medical plan organization shall not do any of the following:

(A) Except when otherwise permitted in sections 3961.01 to ~~3961.09~~ 3961.08 of the Revised Code, as a disclaimer of any relationship between discount medical plan benefits and insurance, or in a description of an insurance product connected with a discount medical plan, use the term "insurance" in the organization's advertisements, marketing material, brochures, or discount medical plan cards.

(B) Use in the organization's advertisements, marketing material, brochures, or discount medical plan cards the terms "health plan," "coverage," "benefits," "copay," "copayments," "deductible," "pre-existing conditions," "guaranteed issue," "premium," "PPO," "preferred provider organization," or any other terms in a manner that could mislead a person into believing that the discount medical plan is health insurance.

(C) Make misleading, deceptive, or fraudulent statements or representations regarding the terms or benefits of the discount medical plan, including, but not limited to, statements or representations regarding discounts, range of discounts, or access to those discounts offered under the discount medical plan.

(D) Except for hospital services, have restrictions on access to discount medical plan providers, including, but not limited to, waiting and notification periods.

(E) Pay providers fees for medical services or collect or accept money from a member to pay a provider for medical services received under the discount medical plan.

Sec. 3961.08. (A) No person shall fail to comply with sections 3961.01 to ~~3961.09~~ 3961.08 of the Revised Code. If the superintendent of insurance determines that any person has violated sections 3961.01 to 3961.07 of the Revised Code, the superintendent may take one or more of the following actions:

(1) Assess a civil penalty in an amount not to exceed twenty-five thousand dollars per violation if the person knew or should have known of the violation;

(2) Assess administrative costs to cover the expenses incurred in the administrative action, including, but not limited to, expenses incurred in the investigation and hearing process. Costs collected under this division shall be paid into the state treasury to the credit of the department of insurance operating fund created in section 3901.021 of the Revised Code.

(3) Order corrective actions in lieu of or in addition to the other penalties described in this section, including, but not limited to, suspending civil penalties if a discount medical

plan organization complies with the terms of the corrective action order;

(4) Order restitution to members.

(B)(1) Before imposing a penalty under division (A) of this section, the superintendent shall give a discount medical plan organization notice and opportunity for hearing as described in Chapter 119. of the Revised Code.

(2) Notices regarding the scheduling of hearings and all other notices for which Chapter 119. of the Revised Code does not require a particular type of service shall be sent by ordinary mail to the party and the party's attorney.

(3) A subpoena or subpoena duces tecum from the superintendent or the superintendent's designee or attorney to a witness for appearance at a hearing, for the production of documents or other evidence, or for taking testimony for use at a hearing shall be served by certified mail, return receipt requested. The subpoenas described in this division shall be enforced in the manner described in section 119.09 of the Revised Code. Nothing in this division shall be construed to limit the superintendent's other statutory powers to issue subpoenas.

(C)(1) If a violation of sections 3961.01 to 3961.07 of the Revised Code has caused, is causing, or is about to cause substantial and material harm, the superintendent may issue a cease-and-desist order requiring a person to cease and desist from engaging in a violation.

(2) The superintendent shall, immediately after issuing an order pursuant to division (C)(1) of this section, serve notice of the order by certified mail, return receipt requested, or by

any other manner described in division (B) of this section to the person subject to the order and all other persons involved in the violation. The notice shall specify the particular act, omission, practice, or transaction that is the subject of the order and set a date, not more than fifteen days after the date the order was issued, for a hearing on the continuation or revocation of the order. The person subject to the order shall comply with the order immediately upon receiving the order. After an order is issued pursuant to division (C)(1) of this section, the superintendent may publicize and notify all interested parties that a cease-and-desist order was issued.

(3) Upon application by the person subject to the order and for good cause, the superintendent may continue the hearing date described in division (C)(2) of this section. Chapter 119. of the Revised Code applies to the hearing on the order to the extent that the chapter does not conflict with the procedures described in this section. The superintendent shall, within fifteen days after objections are submitted concerning the hearing officer's report and recommendations, issue a final order either confirming or revoking the cease-and-desist order described in division (C)(1) of this section. The final order may be appealed as described in section 119.12 of the Revised Code.

(4) The remedy described in division (C) of this section is cumulative and concurrent with other remedies available under this section.

(D) If the superintendent has reasonable cause to believe that an order issued pursuant to this section has been violated in whole or in part, the superintendent may request the attorney general to commence any appropriate action against the violator.

In an action described in this division, a court may impose any of the following penalties:

(1) A civil penalty of not more than twenty-five thousand dollars per violation;

(2) Injunctive relief;

(3) Restitution;

(4) Any other appropriate relief.

(E) The superintendent shall deposit any penalties assessed under division (A)(1) or (D) of this section into the state treasury to the credit of the department of insurance operating fund created in section 3901.021 of the Revised Code.

Sec. 3963.02. (A)(1) No contracting entity shall sell, rent, or give a third party the contracting entity's rights to a participating provider's services pursuant to the contracting entity's health care contract with the participating provider unless one of the following applies:

(a) The third party accessing the participating provider's services under the health care contract is an employer or other entity providing coverage for health care services to its employees or members, and that employer or entity has a contract with the contracting entity or its affiliate for the administration or processing of claims for payment for services provided pursuant to the health care contract with the participating provider.

(b) The third party accessing the participating provider's services under the health care contract either is an affiliate or subsidiary of the contracting entity or is providing administrative services to, or receiving administrative services

from, the contracting entity or an affiliate or subsidiary of the contracting entity.

(c) The health care contract specifically provides that it applies to network rental arrangements and states that one purpose of the contract is selling, renting, or giving the contracting entity's rights to the services of the participating provider, including other preferred provider organizations, and the third party accessing the participating provider's services is any of the following:

(i) A payer or a third-party administrator or other entity responsible for administering claims on behalf of the payer;

(ii) A preferred provider organization or preferred provider network that receives access to the participating provider's services pursuant to an arrangement with the preferred provider organization or preferred provider network in a contract with the participating provider that is in compliance with division (A)(1)(c) of this section, and is required to comply with all of the terms, conditions, and affirmative obligations to which the originally contracted primary participating provider network is bound under its contract with the participating provider, including, but not limited to, obligations concerning patient steerage and the timeliness and manner of reimbursement.

(iii) An entity that is engaged in the business of providing electronic claims transport between the contracting entity and the payer or third-party administrator and complies with all of the applicable terms, conditions, and affirmative obligations of the contracting entity's contract with the participating provider including, but not limited to, obligations concerning patient steerage and the timeliness and

manner of reimbursement.

(2) The contracting entity that sells, rents, or gives the contracting entity's rights to the participating provider's services pursuant to the contracting entity's health care contract with the participating provider as provided in division (A)(1) of this section shall do both of the following:

(a) Maintain a web page that contains a listing of third parties described in divisions (A)(1)(b) and (c) of this section with whom a contracting entity contracts for the purpose of selling, renting, or giving the contracting entity's rights to the services of participating providers that is updated at least every six months and is accessible to all participating providers, or maintain a toll-free telephone number accessible to all participating providers by means of which participating providers may access the same listing of third parties;

(b) Require that the third party accessing the participating provider's services through the participating provider's health care contract is obligated to comply with all of the applicable terms and conditions of the contract, including, but not limited to, the products for which the participating provider has agreed to provide services, except that a payer receiving administrative services from the contracting entity or its affiliate shall be solely responsible for payment to the participating provider.

(3) Any information disclosed to a participating provider under this section shall be considered proprietary and shall not be distributed by the participating provider.

(4) Except as provided in division (A)(1) of this section, no entity shall sell, rent, or give a contracting entity's

rights to the participating provider's services pursuant to a health care contract.

(B)(1) No contracting entity shall require, as a condition of contracting with the contracting entity, that a participating provider provide services for all of the products offered by the contracting entity.

(2) Division (B)(1) of this section shall not be construed to do any of the following:

(a) Prohibit any participating provider from voluntarily accepting an offer by a contracting entity to provide health care services under all of the contracting entity's products;

(b) Prohibit any contracting entity from offering any financial incentive or other form of consideration specified in the health care contract for a participating provider to provide health care services under all of the contracting entity's products;

(c) Require any contracting entity to contract with a participating provider to provide health care services for less than all of the contracting entity's products if the contracting entity does not wish to do so.

(3)(a) Notwithstanding division (B)(2) of this section, no contracting entity shall require, as a condition of contracting with the contracting entity, that the participating provider accept any future product offering that the contracting entity makes.

(b) If a participating provider refuses to accept any future product offering that the contracting entity makes, the contracting entity may terminate the health care contract based on the participating provider's refusal upon written notice to

the participating provider no sooner than one hundred eighty days after the refusal.

(4) Once the contracting entity and the participating provider have signed the health care contract, it is presumed that the financial incentive or other form of consideration that is specified in the health care contract pursuant to division (B)(2)(b) of this section is the financial incentive or other form of consideration that was offered by the contracting entity to induce the participating provider to enter into the contract.

(C) No contracting entity shall require, as a condition of contracting with the contracting entity, that a participating provider waive or forgo any right or benefit expressly conferred upon a participating provider by state or federal law. However, this division does not prohibit a contracting entity from restricting a participating provider's scope of practice for the services to be provided under the contract.

(D) No health care contract shall do any of the following:

(1) Prohibit any participating provider from entering into a health care contract with any other contracting entity;

(2) Prohibit any contracting entity from entering into a health care contract with any other provider;

(3) Preclude its use or disclosure for the purpose of enforcing this chapter or other state or federal law, except that a health care contract may require that appropriate measures be taken to preserve the confidentiality of any proprietary or trade-secret information.

(E)(1) No contract or agreement between a contracting entity and a vision care provider shall do any of the following:

(a) Require that a vision care provider accept as payment an amount set by the contracting entity for vision care services or vision care materials provided to an enrollee unless the services or materials are covered vision services.

(i) Notwithstanding division (E)(1)(a) of this section, a vision care provider may, in a contract with a contracting entity, choose to accept as payment an amount set by the contracting entity for vision care services or vision care materials provided to an enrollee that are not covered vision services.

(ii) No contract between a vision care provider and a contracting entity to provide covered vision services or vision care materials shall be contingent on whether the vision care provider has entered into an agreement addressing noncovered vision services pursuant to division (E)(1)(a)(i) of this section.

(iii) A contracting entity may communicate to its enrollees which vision care providers choose to accept as payment an amount set by the contracting entity for vision care services or vision care materials provided to an enrollee that are not covered vision services pursuant to division (E)(1)(a)(i) of this section. Any communication to this effect shall treat all vision care providers equally in provider directories, provider locators, and other marketing materials as participating, in-network providers, annotated only as to their decision to accept payment pursuant to division (E)(1)(a)(i) of this section.

(b) Require that a vision care provider contract with a plan offering supplemental or specialty health care services as a condition of contracting with a plan offering basic health

care services;

(c) Directly limit a vision care provider's choice of sources and suppliers of vision care materials;

(d) Include a provision that prohibits a vision care provider from describing out-of-network options to an enrollee in accordance with division (E)(2) of this section.

The provisions of divisions (E)(1)(a) to (d) of this section shall be effective for contracts entered into, amended, or renewed on or after January 1, 2019.

(2) A vision care provider recommending an out-of-network source or supplier of vision care materials to an enrollee shall notify the enrollee in writing that the source or supplier is out-of-network and shall inform the enrollee of the cost of those materials. The vision care provider shall also disclose in writing to an enrollee any business interest the provider has in a recommended out-of-network source or supplier utilized by the enrollee.

(3) A vision care provider who chooses not to accept as payment an amount set by a contracting entity for vision care services or vision care materials that are not covered vision services shall do both of the following:

(a) Upon the request of an enrollee seeking vision care services or vision care materials that are not covered vision services, provide to the enrollee pricing and reimbursement information, including all of the following:

(i) The estimated fee or discounted price suggested by the contracting entity for the noncovered service or material;

(ii) The estimated fee charged by the vision care provider

for the noncovered service or material;

(iii) The amount the vision care provider expects to be reimbursed by the contracting entity for the noncovered service or material;

(iv) The estimated pricing and reimbursement information for any covered services or materials that are also expected to be provided during the enrollee's visit.

(b) Post, in a conspicuous place, a notice stating the following:

"IMPORTANT: This vision care provider does not accept the fee schedule set by your insurer for vision care services and vision care materials that are not covered benefits under your plan and instead charges his or her normal fee for those services and materials. This vision care provider will provide you with an estimated cost for each non-covered service or material upon your request."

(4) Nothing in division (E) of this section shall do any of the following:

(a) Restrict or limit a contracting entity's determination of specific amounts of coverage or reimbursement for the use of network or out-of-network sources or suppliers of vision care materials as set forth in an enrollee's benefit plan;

(b) Restrict or limit a contracting entity's ability to enter into an agreement with another contracting entity or an affiliate of another contracting entity;

(c) Restrict or limit a health care plan's ability to enter into an agreement with a vision care plan to deliver routine vision care services that are covered under an

enrollee's plan;

(d) Restrict or limit a vision care plan network from acting as a network for a health care plan;

(e) Prohibit a contracting entity from requiring participating vision care providers to offer network sources or suppliers of vision care materials to enrollees;

(f) Prohibit an enrollee from utilizing a network source or supplier of vision care materials as set forth in an enrollee's plan;

(g) Prohibit a participating vision care provider from accepting as payment an amount that is the same as the amount set by the contracting entity for vision care services or vision care materials that are not covered vision services.

(F)(1) No contract or agreement between a contracting entity and a dental care provider shall do any of the following:

(a) Require that a dental care provider accept as payment an amount set by the contracting entity for dental care services provided to an enrollee unless the services are covered dental services.

(i) Notwithstanding division (F)(1)(a) of this section, a dental care provider may, in a contract with a contracting entity, choose to accept as payment an amount set by the contracting entity for dental care services provided to an enrollee that are not covered dental services.

(ii) No contract between a dental care provider and a contracting entity to provide covered dental services shall be contingent on whether the dental care provider has entered into an agreement addressing noncovered dental services pursuant to

division (F)(1)(a)(i) of this section.

(iii) A contracting entity may communicate to its enrollees which dental care providers choose to accept as payment an amount set by the contracting entity for dental care services provided to an enrollee that are not covered dental services pursuant to division (F)(1)(a)(i) of this section. Any communication to this effect shall treat all dental care providers equally in provider directories, provider locators, and other marketing materials as participating, in-network providers, annotated only as to their decision to accept payment pursuant to division (F)(1)(a)(i) of this section.

(b) Require that a dental care provider contract with a plan offering supplemental or specialty health care services as a condition of contracting with a plan offering basic health care services.

The provisions of divisions (F)(1)(a) and (b) of this section apply to contracts entered into, amended, or renewed on or after January 1, 2025.

(2) A dental care provider who chooses not to accept as payment an amount set by a contracting entity for dental care services that are not covered dental services shall do both of the following:

(a) Provide to an enrollee seeking dental care services that are not covered dental services pricing and reimbursement information, including all of the following:

(i) The estimated fee or discounted price suggested by the contracting entity for the noncovered service;

(ii) The estimated fee charged by the dental care provider for the noncovered service;

(iii) The amount the dental care provider expects to be reimbursed by the contracting entity for the noncovered service;

(iv) The estimated pricing and reimbursement information for any covered services that are also expected to be provided during the enrollee's visit.

(b) Post, in a conspicuous place, a notice stating the following:

"IMPORTANT: This dental care provider does not accept the fee schedule set by your insurer for dental care services that are not covered benefits under your plan and instead charges his or her normal fee for those services. This dental care provider will provide you with an estimated cost for each noncovered service."

(3) Nothing in division (F) of this section shall do any of the following:

(a) Restrict or limit a contracting entity's ability to enter into an agreement with another contracting entity or an affiliate of another contracting entity;

(b) Restrict or limit a health care plan's ability to enter into an agreement with a dental care plan to deliver routine dental care services that are covered under an enrollee's plan;

(c) Restrict or limit a dental care plan network from acting as a network for a health care plan;

(d) Prohibit a participating dental care provider from accepting as payment an amount that is the same as the amount set by the contracting entity for dental care services that are not covered dental services.

(G)(1) In addition to any other lawful reasons for terminating a health care contract, a health care contract may only be terminated under the circumstances described in division (A)(3) of section 3963.04 of the Revised Code.

(2) If the health care contract provides for termination for cause by either party, the health care contract shall state the reasons that may be used for termination for cause, which terms shall be reasonable. Once the contracting entity and the participating provider have signed the health care contract, it is presumed that the reasons stated in the health care contract for termination for cause by either party are reasonable. Subject to division (G)(3) of this section, the health care contract shall state the time by which the parties must provide notice of termination for cause and to whom the parties shall give the notice.

(3) Nothing in divisions (G)(1) and (2) of this section shall be construed as prohibiting any health insuring corporation from terminating a participating provider's contract for any of the causes described in divisions (A), (D), and (F)(1) and (2) of section 1753.09 of the Revised Code. Notwithstanding any provision in a health care contract pursuant to division (G)(2) of this section, section 1753.09 of the Revised Code applies to the termination of a participating provider's contract for any of the causes described in divisions (A), (D), and (F)(1) and (2) of section 1753.09 of the Revised Code.

(4) Subject to sections 3963.01 to 3963.11 of the Revised Code, nothing in this section prohibits the termination of a health care contract without cause if the health care contract otherwise provides for termination without cause.

(5) Nothing in division (G) of this section shall be construed to expand the regulatory authority of the superintendent to vision care providers or dental care providers.

(H)(1) Disputes among parties to a health care contract that only concern the enforcement of the contract rights conferred by section 3963.02, divisions (A) and (D) of section 3963.03, and section 3963.04 of the Revised Code are subject to a mutually agreed upon arbitration mechanism that is binding on all parties. The arbitrator may award reasonable attorney's fees and costs for arbitration relating to the enforcement of this section to the prevailing party.

(2) The arbitrator shall make the arbitrator's decision in an arbitration proceeding having due regard for any applicable ~~rules,~~ bulletins, rulings, or decisions issued by the department of insurance or any court concerning the enforcement of the contract rights conferred by section 3963.02, divisions (A) and (D) of section 3963.03, and section 3963.04 of the Revised Code.

(3) A party shall not simultaneously maintain an arbitration proceeding as described in division (H)(1) of this section and pursue a complaint with the superintendent of insurance to investigate the subject matter of the arbitration proceeding. However, if a complaint is filed with the department of insurance, the superintendent may choose to investigate the complaint or, after reviewing the complaint, advise the complainant to proceed with arbitration to resolve the complaint. The superintendent may request to receive a copy of the results of the arbitration. If the superintendent of insurance notifies an insurer or a health insuring corporation in writing that the superintendent has initiated a market

conduct examination into the specific subject matter of the arbitration proceeding pending against that insurer or health insuring corporation, the arbitration proceeding shall be stayed at the request of the insurer or health insuring corporation pending the outcome of the market conduct investigation by the superintendent.

Sec. 3964.07. (A) A captive insurance company shall not be required to make any annual report except as required by this section.

(B)(1) The chief financial officer and at least one additional executive officer of a captive insurance company, or a majority of the directors of a captive insurance company annually, on the first day of January, or within sixty days thereafter prepare under oath and deposit in the office of the superintendent, a statement showing the financial condition of the captive insurance company on the thirty-first day of the December next preceding. An actuarial opinion from a qualified actuary regarding the adequacy of the company's required reserves to make full provision for the company's liabilities, insured or reinsured, shall be included in this statement. The qualified actuary shall submit a memorandum to the superintendent detailing the support for that opinion.

(2) All captive insurance companies shall have an annual audit by an independent certified public accountant and shall file an audited financial report with the superintendent on or before the first day of June as a supplement to the annual statement required under division (B)(1) of this section.

(C) Each captive insurance company shall report using generally accepted accounting principles, unless the superintendent requires, approves, or accepts the use of

statutory accounting principles or other comprehensive basis accounting, any appropriate, necessary modifications or adaptations required or approved or accepted by the superintendent for each type of insurance or kind of insurance company that makes such a report, and as supplemented by additional information required by the superintendent.

(D) Captive insurance companies shall prepare, at a minimum, internal quarterly financial statements. These statements shall be made available upon request to the superintendent.

(E) The superintendent shall adopt by rule the prescribed forms, instructions, and manuals by which captive insurance companies shall make the reports required under this section, as the superintendent considers necessary.

(F) Division (H) of section 3964.03 of the Revised Code shall apply to each report filed under this section.

(G)(1) Special purpose financial captive insurance companies are subject to sections 3903.81 to ~~3903.93~~ 3903.92 of the Revised Code.

(2)(a) Notwithstanding division (G)(1) of this section, the superintendent shall establish an acceptable total capital and surplus requirement for a special purpose financial captive insurance company that is permitted by the superintendent to use an alternative reserve basis pursuant to division (E)(2) of section 3964.03 of the Revised Code if there is an inherent inconsistency between the approved alternative reserve basis and sections 3903.81 to ~~3903.93~~ 3903.92 of the Revised Code.

(b) The total capital and surplus requirement as established by the superintendent shall be determined in

accordance with a minimum required total capital and surplus methodology that meets both of the following:

(i) Is consistent with current risk-based capital principles;

(ii) Takes into account all material risks and obligations, as well as the assets, of the special purpose financial captive insurance company.

Sec. 3964.19. (A) As used in sections 3964.19 to 3964.194 of the Revised Code:

(1) "Counterparty" means a special purpose financial captive insurance company's parent or an affiliated entity that is an insurer domiciled in this state that cedes life insurance risks to the special purpose financial captive insurance company pursuant to a special purpose financial captive insurance company contract.

(2) "Insolvency" or "insolvent" means that the special purpose financial captive insurance company is unable to pay its obligations when they are due, unless those obligations are the subject of a bona fide dispute.

(3) "Insurance securitization" means a package of related risk transfer instruments, capital market offerings, and facilitating administrative agreements, for which a special purpose financial captive insurance company obtains proceeds, either directly or indirectly, through the issuance of securities, where the investment risk to the holders of the securities is contingent upon the obligations of the special purpose financial captive insurance company to the counterparty under the special purpose financial captive insurance company contract, in accordance with the transaction terms, and pursuant

to this section. This includes situations where the securitization proceeds are held in trust to secure the obligations of the special purpose financial captive insurance company under one or more special purpose financial captive insurance company contracts.

(4) "Organizational document" means the special purpose financial captive insurance company's articles of incorporation, bylaws, code of regulations, operating agreement, or other foundational documents that establish the special purpose financial captive insurance company as a legal entity.

(5) "Securities" means debt obligations, equity investments, surplus certificates, surplus notes, funding agreements, derivatives, and other legal forms of financial instruments.

(6) "Special purpose financial captive insurance company contract" means a contract between a special purpose financial captive insurance company and a counterparty pursuant to which the special purpose financial captive insurance company agrees to provide insurance or reinsurance protection to the counterparty for risks associated with the counterparty's insurance or reinsurance business, and includes a contract entered into under division (F) of this section.

(7) "Special purpose financial captive insurance company securities" means the securities issued by a special purpose financial captive insurance company.

(B) The requirements of this section shall not apply to a specific special purpose financial captive insurance company if the superintendent finds a specific requirement is inappropriate due to the nature of the risks to be insured by the special

purpose financial captive insurance company and if the special purpose financial captive insurance company meets the criteria established by ~~rules and regulations adopted and promulgated by~~ the superintendent.

(C)(1) A special purpose financial captive insurance company may not issue a contract for assumption of risk or indemnification of loss other than a special purpose financial captive insurance company contract. However, the special purpose financial captive insurance company may cede a risk assumed through a special purpose financial captive insurance company contract to a third-party reinsurer through the purchase of reinsurance or retrocession protection if approved by the superintendent.

(2) A special purpose financial captive insurance company may enter into contracts and conduct other commercial activities related or incidental to and necessary to fulfill the purposes of special purpose financial captive insurance company contracts, insurance securitization, and this section. Those activities may include:

(a) Entering into special purpose financial captive insurance company contracts;

(b) Issuing securities of the special purpose financial captive insurance company in accordance with applicable securities law;

(c) Complying with the terms of special purpose financial captive insurance company contracts or securities;

(d) Entering into trust, swap, tax, administration, reimbursement, or fiscal agent transactions;

(e) Complying with trust indenture, reinsurance,

retrocession, and other agreements necessary or incidental to effectuate an insurance securitization in compliance with this section and in the plan of operation considered by the superintendent under division (F)(5) of section 3964.03 of the Revised Code.

(D)(1) A special purpose financial captive insurance company may issue securities, subject to and in accordance with applicable law, its plan of operation considered by the superintendent under division (E) of section 3964.03 of the Revised Code, and its organizational documents.

(2) A special purpose financial captive insurance company, in connection with the issuance of securities, may enter into and perform all of its obligations under any required contracts to facilitate the issuance of these securities.

(3) The obligation to repay principal or interest, or both, on the securities issued by the special purpose financial captive insurance company shall reflect the risk associated with the obligations of the special purpose financial captive insurance company to the counterparty under the special purpose financial captive insurance company contract.

(E)(1)(a) A special purpose financial captive insurance company may enter into the following types of transactions for the purposes described in division (E)(1)(b) of this section:

(i) Asset management agreements, including swap agreements;

(ii) Guaranteed investment contracts;

(iii) Other transactions with the objective of reducing timing differences in the funding of upfront, or ongoing, transaction expenses, or managing asset, credit, prepayment, or

interest rate risk of the investments of the special purpose financial captive insurance company.

(b) The purpose of the transactions described in division (E)(1)(a) of this section shall be any of the following:

(i) To ensure that the investments are sufficient to assure payment or repayment of the securities, and related interest or principal payments, issued pursuant to a special purpose financial captive insurance company insurance securitization transaction;

(ii) To ensure that the investments are sufficient to assure payment or repayment of the obligations required under a special purpose financial captive insurance company contract;

(iii) Any other purpose approved by the superintendent.

(2) An asset management agreement shall not be entered into under this section by a special purpose financial captive insurance company unless it has been approved by the superintendent.

(F)(1) If a special purpose financial captive insurance company has entered into a special purpose financial captive insurance company contract with a counterparty and the special purpose financial captive insurance company has conducted an insurance securitization that is made up, in part or in whole, of the risks of that contract, then the special purpose financial captive insurance company may enter into a second contract with the counterparty under which the counterparty is held liable for those losses or other obligations that were securitized.

(2) Such obligations may be funded and secured with assets held in trust for the benefit of the counterparty pursuant to

agreements contemplated by this section and invested in a manner that meet the criteria in sections 3907.14 and 3907.141 of the Revised Code.

(G)(1) A special purpose financial captive insurance company may enter into agreements with affiliated companies and third parties and conduct business necessary to fulfill its obligations and administrative duties incidental to an insurance securitization and a special purpose financial captive insurance company contract entered into under division (F) of this section.

(2) The agreements may include management and administrative services agreements and other allocation and cost sharing agreements, or swap and asset management agreements, or both, or agreements for other contemplated types of transactions provided in this section.

(H) A special purpose financial captive insurance company contract entered into under division (F) of this section shall contain all of the following:

(1) A requirement that the special purpose financial captive insurance company do either of the following:

(a) Enter into a trust agreement specifying what recoverables or reserves, or both, the agreement is to cover and to establish a trust account for the benefit of the counterparty and the security holders;

(b) Establish such other methods of security acceptable to the superintendent.

(2) A stipulation that assets deposited in the trust account shall be valued in accordance with their current fair-market value and shall consist only of investments permitted by

sections 3907.14 and 3907.141 of the Revised Code;

(3) A requirement that, if a trust arrangement is used, the special purpose financial captive insurance company, before depositing assets with the trustee, execute assignments, execute endorsements in blank, or take such actions as are necessary to transfer legal title to the trustee of all assets requiring assignment, in order that the counterparty, or the trustee upon the direction of the counterparty, may negotiate whenever necessary the assets without consent or signature from the special purpose financial captive insurance company or another entity;

(4) A stipulation that, if a trust arrangement is used, the special purpose financial captive insurance company and the counterparty agree that the assets in the trust account established pursuant to the contract:

(a) May be withdrawn by the counterparty, or the trustee on its behalf, at any time, but only in accordance with the terms of the contract;

(b) Shall be utilized and applied by the counterparty, without diminution because of insolvency on the part of the counterparty or the special purpose financial captive insurance company, only for the purposes set forth in the credit for reinsurance laws ~~and rules~~ of this state. As used in this division, "counterparty" includes any successor of the counterparty by operation of law, including, subject to the provisions of this section, but without further limitation, any liquidator, rehabilitator, or receiver of the counterparty.

(I) A special purpose financial captive insurance company contract entered into under division (F) of this section may

contain provisions that give the special purpose financial captive insurance company the right to seek approval from the counterparty to withdraw from the trust all or part of the assets, or income from them, contained in the trust and to transfer the assets to the special purpose financial captive insurance company if such provisions comply with the credit for reinsurance laws ~~and rules~~ of this state.

(J)(1) A special purpose financial captive insurance company contract entered into under division (F) of this section, meeting the requirements of this section, shall be granted credit for reinsurance treatment or otherwise qualify as an asset or a reduction from liability for reinsurance ceded by a domestic insurer to a special purpose financial captive insurance company as an assuming insurer for the benefit of the counterparty if both of the following apply:

(a) The assets are held or invested in one or more of the forms allowed in sections 3907.14 and 3907.141 of the Revised Code.

(b) The agreement is in compliance with section 3901.64 of the Revised Code.

(2) The contract shall be granted credit or otherwise qualify as an asset or reduction from liability only to the extent of the value of the assets held in trust for, or letters of credit, that meet the requirements set forth in division (C) of section 3964.05 of the Revised Code, or as approved by the superintendent, for the benefit of the counterparty under the special purpose financial captive insurance company contract.

(K) A special purpose financial captive insurance company may make investments that meet the qualifications set forth in

sections 3907.14 and 3907.141 of the Revised Code, however these investments shall not be subject to any limitations contained in such sections as to invested amounts. The superintendent may prohibit or limit any investment that threatens the solvency or liquidity of a special purpose financial captive insurance company or that is not made in accordance with the approved plan of operation.

Sec. 3965.09. Notwithstanding any other provision of law, the provisions of this chapter ~~and any rules adopted pursuant to this chapter~~ constitute the exclusive state standards and requirements applicable to licensees regarding cybersecurity events, the security of nonpublic information, data security, investigation of cybersecurity events, and notification to the superintendent of cybersecurity events.

Sec. 3965.11. The superintendent of insurance shall consider the nature, scale, and complexity of licensees in administering this chapter~~ and adopting rules pursuant to this chapter~~.

Sec. 4111.05. The director of commerce shall adopt rules in accordance with Chapter 119. of the Revised Code ~~as the director considers appropriate to carry out the purposes of sections 4111.01 to 4111.17 of the Revised Code. The rules may be amended from time to time and may include, but are not limited to, rules~~ defining and governing apprentices, their number, proportion, and length of service; bonuses and special pay for special or extra work; permitted deductions or charges to employees for board, lodging, apparel, or other facilities or services customarily furnished by employers to employees; inclusion of ascertainable gratuities in wages paid; allowances for unascertainable gratuities or for other special conditions

or circumstances which may be usual in particular employer-employee relationships; and the method of computation or the period of time over which wages may be averaged to determine whether the minimum wage or overtime rate has been paid.

Sec. 4111.06. In order to prevent curtailment of opportunities for employment, to avoid undue hardship, and to safeguard the minimum wage rates under sections 4111.01 to 4111.17 of the Revised Code, the director of commerce shall adopt rules ~~under section 4111.05 of the Revised Code,~~ in accordance with Chapter 119. of the Revised Code permitting employment in any occupation at wages lower than the wage rates applicable under sections 4111.01 to 4111.17 of the Revised Code, of individuals whose earning capacity is impaired by physical or mental disabilities or injuries. The rules shall provide for licenses to be issued authorizing employment at the wages of specific individuals or groups of employees, or by specific employers or groups of employers, pursuant to the rules. The rules shall not conflict with the "Americans with Disabilities Act of 1990," 104 Stat. 328, 42 U.S.C.A. 12111, et seq.

Sec. 4111.08. Every employer subject to section 4111.03 of the Revised Code~~, or to any rule adopted thereunder,~~ shall make and keep for a period of not less than three years a record of the name, address, and occupation of each of the employer's employees, the rate of pay and the amount paid each pay period to each employee, and the hours worked each day and each work week by the employee~~, and other information as the director of commerce prescribes by rule as necessary or appropriate for the enforcement of section 4111.03 of the Revised Code, or of the rules thereunder~~. Records may be opened for inspection or copying by the director at any reasonable time.

Sec. 4117.02. (A) There is hereby created the state employment relations board, consisting of three members to be appointed by the governor with the advice and consent of the senate. Members shall be knowledgeable about labor relations or personnel practices. No more than two of the three members shall belong to the same political party. A member of the state employment relations board during the member's period of service shall hold no other public office or public or private employment and shall allow no other responsibilities to interfere or conflict with the member's duties as a full-time state employment relations board member. Of the initial appointments made to the state employment relations board, one shall be for a term ending October 6, 1984, one shall be for a term ending October 6, 1985, and one shall be for a term ending October 6, 1986. Thereafter, terms of office shall be for six years, each term ending on the same day of the same month of the year as did the term that it succeeds. Each member shall hold office from the date of the member's appointment until the end of the term for which the member is appointed. Any member appointed to fill a vacancy occurring prior to the expiration of the term for which the member's predecessor was appointed shall hold office for the remainder of the term. Any member shall continue in office subsequent to the expiration of the member's term until the member's successor takes office or until a period of sixty days has elapsed, whichever occurs first. The governor may remove any member of the state employment relations board, upon notice and public hearing, for neglect of duty or malfeasance in office, but for no other cause.

(B)(1) The governor shall designate one member of the state employment relations board to serve as chairperson of the state employment relations board. The chairperson is the head of

the state employment relations board and its chief executive officer.

(2) The chairperson shall exercise all administrative powers and duties conferred upon the state employment relations board under this chapter and shall do all of the following:

(a) Employ, promote, supervise, and remove all employees of the state employment relations board, and establish, change, or abolish positions and assign or reassign the duties of those employees as the chairperson determines necessary to achieve the most efficient performance of the duties of the state employment relations board under this chapter;

(b) Determine the utilization by the state personnel board of review of employees of the state employment relations board as necessary for the state personnel board of review to exercise the powers and perform the duties of the state personnel board of review~~.~~ ;

(c) Maintain the office of the state employment relations board in Columbus and manage the office's daily operations, including securing offices, facilities, equipment, and supplies necessary to house the state employment relations board, employees of the state employment relations board, the state personnel board of review, and files and records under the control of the state employment relations board and under the control of the state personnel board of review;

(d) Prepare and submit to the office of budget and management a budget for each biennium according to section 107.03 of the Revised Code, and include in the budget the costs of the state employment relations board and its staff and the costs of the state employment relations board in discharging any

duty imposed by law upon the state employment relations board, the chairperson, or any of the employees or agents of the state employment relations board, and the costs of the state personnel board of review in discharging any duty imposed by law on the state personnel board of review or an agent of the state personnel board of review.

(C) The vacancy on the state employment relations board does not impair the right of the remaining members to exercise all the powers of the state employment relations board, and two members of the state employment relations board, at all times, constitute a quorum. The state employment relations board shall have an official seal of which courts shall take judicial notice.

(D) The state employment relations board shall make an annual report in writing to the governor and to the general assembly, stating in detail the work it has done.

(E) Compensation of the chairperson and members shall be in accordance with division (J) of section 124.15 of the Revised Code. The chairperson and the members are eligible for reappointment. In addition to such compensation, all members shall be reimbursed for their necessary expenses incurred in the performance of their work as members.

(F)(1) The chairperson, after consulting with the other state employment relations board members and receiving the consent of at least one other board member, shall appoint an executive director. The chairperson also shall appoint attorneys and shall appoint an assistant executive director who shall be an attorney admitted to practice law in this state and who shall serve as a liaison to the attorney general on legal matters before the state employment relations board.

(2) The state employment relations board shall appoint members of fact-finding panels and shall prescribe their job duties.

(G)(1) The executive director shall serve at the pleasure of the chairperson. The executive director, under the direction of the chairperson, shall do all of the following:

(a) Act as chief administrative officer for the state employment relations board;

(b) Ensure that all employees of the state employment relations board comply with the rules of the state employment relations board;

(c) Do all things necessary for the efficient and effective implementation of the duties of the state employment relations board.

(2) The duties of the executive director described in division (G)(1) of this section do not relieve the chairperson from final responsibility for the proper performance of the duties described in that division.

(H) The attorney general shall be the legal adviser of the state employment relations board and shall appear for and represent the state employment relations board and its agents in all legal proceedings. The state employment relations board may utilize regional, local, or other agencies, and utilize voluntary and uncompensated services as needed. The state employment relations board may contract with the federal mediation and conciliation service for the assistance of mediators, arbitrators, and other personnel the service makes available. The chairperson shall appoint all employees on the basis of training, practical experience, education, and

character, notwithstanding the requirements established by section 119.09 of the Revised Code. The chairperson shall give special regard to the practical training and experience that employees have for the particular position involved. The executive director, assistant executive director, administrative law judges, employees holding a fiduciary or administrative relation to the state employment relations board as described in division (A)(9) of section 124.11 of the Revised Code, and the personal secretaries and assistants of the state employment relations board members are in the unclassified service. All other full-time employees of the state employment relations board are in the classified service. All employees of the state employment relations board shall be paid in accordance with Chapter 124. of the Revised Code.

(I) The chairperson shall select and assign administrative law judges and other agents whose functions are to conduct hearings with due regard to their impartiality, judicial temperament, and knowledge. If in any proceeding under this chapter, any party prior to five days before the hearing thereto files with the state employment relations board a sworn statement charging that the administrative law judge or other agent designated to conduct the hearing is biased or partial in the proceeding, the state employment relations board may disqualify the person and designate another administrative law judge or agent to conduct the proceeding. At least ten days before any hearing, the state employment relations board shall notify all parties to a proceeding of the name of the administrative law judge or agent designated to conduct the hearing.

(J) The principal office of the state employment relations board is in Columbus, but it may meet and exercise any or all of

its powers at any other place within the state. The state employment relations board may, by one or more of its employees, or any agents or agencies it designates, conduct in any part of this state any proceeding, hearing, investigation, inquiry, or election necessary to the performance of its functions; provided, that no person so designated may later sit in determination of an appeal of the decision of that cause or matter.

(K) In addition to the powers and functions provided in other sections of this chapter, the state employment relations board shall do all of the following:

(1) Create a bureau of mediation within the state employment relations board, to perform the functions provided in section 4117.14 of the Revised Code. This bureau shall also establish, after consulting representatives of employee organizations and public employers, panels of qualified persons to be available to serve as members of fact-finding panels and arbitrators.

(2) Conduct studies of problems involved in representation and negotiation and make recommendations for legislation;

(3) Hold hearings pursuant to this chapter and, for the purpose of the hearings and inquiries, administer oaths and affirmations, examine witnesses and documents, take testimony and receive evidence, compel the attendance of witnesses and the production of documents by the issuance of subpoenas, and delegate these powers to any members of the state employment relations board or any administrative law judge employed by the state employment relations board for the performance of its functions;

(4) Train representatives of employee organizations and public employers in the rules and techniques of collective bargaining procedures;

(5) Make studies and analyses of, and act as a clearinghouse of information relating to, conditions of employment of public employees throughout the state and request assistance, services, and data from any public employee organization, public employer, or governmental unit. Public employee organizations, public employers, and governmental units shall provide such assistance, services, and data as will enable the state employment relations board to carry out its functions and powers.

(6) Make available to employee organizations, public employers, mediators, fact-finding panels, arbitrators, and joint study committees statistical data relating to wages, benefits, and employment practices in public and private employment applicable to various localities and occupations to assist them to resolve issues in negotiations;

(7) Notwithstanding section 119.13 of the Revised Code, establish standards of persons who practice before it;

(8) Adopt, amend, and rescind ~~rules and~~ procedures ~~and exercise other powers~~ appropriate to carry out this chapter. Before the adoption, amendment, or rescission of ~~rules and~~ procedures under this section, the state employment relations board shall do all of the following:

(a) Maintain a list of interested public employers and employee organizations and mail notice to such groups of any proposed ~~rule or~~ procedure, amendment thereto, or rescission thereof at least thirty days before any public hearing thereon;

(b) Mail a copy of each proposed ~~rule~~ or procedure, amendment thereto, or rescission thereof to any person who requests a copy within five days after receipt of the request therefor;

(c) Consult with appropriate statewide organizations representing public employers or employees who would be affected by the proposed ~~rule or~~ procedure.

Although the state employment relations board is expected to discharge these duties diligently, failure to mail any notice or copy, or to so consult with any person, is not jurisdictional and shall not be construed to invalidate any proceeding or action of the state employment relations board.

(L) In case of neglect or refusal to obey a subpoena issued to any person, the court of common pleas of the county in which the investigation or the public hearing occurs, upon application by the state employment relations board, may issue an order requiring the person to appear before the state employment relations board and give testimony about the matter under investigation. The court may punish a failure to obey the order as contempt.

(M) Any subpoena, notice of hearing, or other process or notice of the state employment relations board issued under this section may be served personally, by certified mail, or by leaving a copy at the principal office or personal residence of the respondent required to be served. A return, made and verified by the individual making the service and setting forth the manner of service, is proof of service, and a return post office receipt, when certified mail is used, is proof of service. All process in any court to which application is made under this chapter may be served in the county wherein the

persons required to be served reside or are found.

(N) All expenses of the state employment relations board, including all necessary traveling and subsistence expenses incurred by the members or employees of the state employment relations board under its orders, shall be paid pursuant to itemized vouchers approved by the chairperson of the state employment relations board, the executive director, or both, or such other person as the chairperson designates for that purpose.

(O) Whenever the state employment relations board determines that a substantial controversy exists with respect to the application or interpretation of this chapter and the matter is of public or great general interest, the state employment relations board shall certify its final order directly to the court of appeals having jurisdiction over the area in which the principal office of the public employer directly affected by the application or interpretation is located. The chairperson shall file with the clerk of the court a certified copy of the transcript of the proceedings before the state employment relations board pertaining to the final order. If upon hearing and consideration the court decides that the final order of the state employment relations board is unlawful or is not supported by substantial evidence on the record as a whole, the court shall reverse and vacate the final order or modify it and enter final judgment in accordance with the modification; otherwise, the court shall affirm the final order. The notice of the final order of the state employment relations board to the interested parties shall contain a certification by the chairperson of the state employment relations board that the final order is of public or great general interest and that a certified transcript of the record of the proceedings before the state employment

relations board had been filed with the clerk of the court as an appeal to the court. For the purposes of this division, the state employment relations board has standing to bring its final order properly before the court of appeals.

(P) Except as otherwise specifically provided in this section, the state employment relations board is subject to Chapter 119. of the Revised Code, including the procedure for submission of proposed rules to the general assembly for legislative review under division (C) of section 119.03 of the Revised Code.

Sec. 4121.61. (A) As used in sections ~~4121.61~~ 4121.62 to 4121.69 of the Revised Code, "self-insuring employer" has the same meaning as in section 4123.01 of the Revised Code.

(B) The administrator of workers' compensation, with the advice and consent of the bureau of workers' compensation board of directors, shall ~~adopt rules,~~ take measures, other than adopting rules, and make expenditures as it deems necessary to aid claimants who have sustained compensable injuries or incurred compensable occupational diseases pursuant to Chapter 4123., 4127., or 4131. of the Revised Code to return to work or to assist in lessening or removing any resulting impairment.

Sec. 4123.32. The administrator of workers' compensation, with the advice and consent of the bureau of workers' compensation board of directors, shall adopt the following rules with respect to the collection, maintenance, and disbursements of the state insurance fund ~~including all of the following~~:

(A) A rule providing for ascertaining the correctness of any employer's report of estimated or actual expenditure of wages and the determination and adjustment of proper premiums

and the payment of those premiums by the employer;

(B) ~~Such special rules as the administrator considers necessary to safeguard the fund and that are just in the circumstances,~~A rule covering the rates to be applied where one employer takes over the occupation or industry of another or where an employer first makes application for state insurance, and the administrator may require that if any employer transfers a business in whole or in part or otherwise reorganizes the business, the successor in interest shall assume, in proportion to the extent of the transfer, as determined by the administrator, the employer's account and shall continue the payment of all contributions due under this chapter;

(C) A rule providing that an employer who employs an employee covered under the federal "Longshore and Harbor Workers' Compensation Act," 98 Stat. 1639, 33 U.S.C. 901 et seq., and this chapter and Chapter 4121. of the Revised Code shall be assessed a premium in accordance with the expenditure of wages, payroll, or both attributable to only labor performed and services provided by such an employee when the employee performs labor and provides services for which the employee is not eligible to receive compensation and benefits under that federal act.

(D) A rule providing for all of the following:

(1) If an employer fails to file a report of the employer's actual payroll expenditures pursuant to section 4123.26 of the Revised Code for private employers or pursuant to section 4123.41 of the Revised Code for public employers, the premium and assessments due from the employer for the period shall be calculated based on the estimated payroll of the employer used in calculating the estimated premium due,

increased by ten per cent;

(2)(a) If an employer fails to pay the premium or assessments when due for a policy year commencing prior to July 1, 2015, the administrator may add a late fee penalty of not more than thirty dollars to the premium plus an additional penalty amount as follows:

(i) For a premium from sixty-one to ninety days past due, the prime interest rate, multiplied by the premium due;

(ii) For a premium from ninety-one to one hundred twenty days past due, the prime interest rate plus two per cent, multiplied by the premium due;

(iii) For a premium from one hundred twenty-one to one hundred fifty days past due, the prime interest rate plus four per cent, multiplied by the premium due;

(iv) For a premium from one hundred fifty-one to one hundred eighty days past due, the prime interest rate plus six per cent, multiplied by the premium due;

(v) For a premium from one hundred eighty-one to two hundred ten days past due, the prime interest rate plus eight per cent, multiplied by the premium due;

(vi) For each additional thirty-day period or portion thereof that a premium remains past due after it has remained past due for more than two hundred ten days, the prime interest rate plus eight per cent, multiplied by the premium due.

(b) For purposes of division (D)(2)(a) of this section, "prime interest rate" means the average bank prime rate, and the administrator shall determine the prime interest rate in the same manner as a county auditor determines the average bank

prime rate under section 929.02 of the Revised Code.

(c) If an employer fails to pay the premium or assessments when due for a policy year commencing on or after July 1, 2015, the administrator may assess a penalty at the interest rate established by the state tax commissioner pursuant to section 5703.47 of the Revised Code.

(3) Notwithstanding the interest rates specified in division (D)(2)(a) or (c) of this section, at no time shall the additional penalty amount assessed under division (D)(2)(a) or (c) of this section exceed fifteen per cent of the premium due.

(4) If an employer recognized by the administrator as a professional employer organization or alternate employer organization fails to make a timely payment of premiums or assessments as required by section 4123.35 of the Revised Code, the administrator shall revoke the organization's registration pursuant to section 4125.06 or 4133.09 of the Revised Code, as applicable.

(5) An employer may appeal a late fee penalty or additional penalty to an adjudicating committee pursuant to section 4123.291 of the Revised Code.

(6) If the employer files an appropriate payroll report within the time provided by law, the employer shall not be in default and division (D)(2) of this section shall not apply if the employer pays the premiums within fifteen days after being first notified by the administrator of the amount due.

(7) Any deficiencies in the amounts of the premium security deposit paid by an employer prior to July 1, 2015, shall be subject to an interest charge of six per cent per annum from the date the premium obligation is incurred. In determining

the interest due on deficiencies in premium security deposit payments, a charge in each case shall be made against the employer in an amount equal to interest at the rate of six per cent per annum on the premium security deposit due but remaining unpaid sixty days after notice by the administrator.

(8) Any interest charges or penalties provided for in divisions (D)(2) and (7) of this section shall be credited to the employer's account for rating purposes in the same manner as premiums.

(E) A rule providing that each employer, on the occasion of instituting coverage under this chapter for an effective date prior to July 1, 2015, shall submit a premium security deposit. The deposit shall be calculated equivalent to thirty per cent of the semiannual premium obligation of the employer based upon the employer's estimated expenditure for wages for the ensuing six-month period plus thirty per cent of an additional adjustment period of two months but only up to a maximum of one thousand dollars and not less than ten dollars. The administrator shall review the security deposit of every employer who has submitted a deposit which is less than the one-thousand-dollar maximum. The administrator may require any such employer to submit additional money up to the maximum of one thousand dollars that, in the administrator's opinion, reflects the employer's current payroll expenditure for an eight-month period.

(F) A rule providing that each employer, on the occasion of instituting coverage under this chapter, shall submit an application fee and an application for coverage that completely provides all of the information required for the administrator to establish coverage for that employer, and that the employer's failure to pay the application fee or to provide all of the

information requested on the application may be grounds for the administrator to deny coverage for that employer.

(G) A rule providing that, in addition to any other remedies permitted in this chapter, the administrator may discontinue an employer's coverage if the employer fails to pay the premium due on or before the premium's due date.

(H) A rule providing that if after a final adjudication it is determined that an employer has failed to pay an obligation, billing, account, or assessment that is greater than one thousand dollars on or before its due date, the administrator may discontinue the employer's coverage in addition to any other remedies permitted in this chapter, and that the administrator shall not discontinue an employer's coverage pursuant to this division prior to a final adjudication regarding the employer's failure to pay such obligation, billing, account, or assessment on or before its due date.

(I) As used in divisions (G) and (H) of this section:

(1) "Employer" has the same meaning as in section 4123.01 of the Revised Code except that "employer" does not include the state, a state hospital, or a state university or college.

(2) "State university or college" has the same meaning as in section 3345.12 of the Revised Code and also includes the Ohio agricultural research and development center and OSU extension.

(3) "State hospital" means the Ohio state university hospital and its ancillary facilities and the medical university of Ohio at Toledo hospital.

Sec. 4123.35. (A) Except as provided in this section, and until the policy year commencing July 1, 2015, every private

employer and every publicly owned utility shall pay semiannually in the months of January and July into the state insurance fund the amount of annual premium the administrator of workers' compensation fixes for the employment or occupation of the employer, the amount of which premium to be paid by each employer to be determined by the classifications, rules, and rates made and published by the administrator. The employer shall pay semiannually a further sum of money into the state insurance fund as may be ascertained to be due from the employer by applying the rules of the administrator.

Except as otherwise provided in this section, for a policy year commencing on or after July 1, 2015, every private employer and every publicly owned utility shall pay annually in the month of June immediately preceding the policy year into the state insurance fund the amount of estimated annual premium the administrator fixes for the employment or occupation of the employer, the amount of which estimated premium to be paid by each employer to be determined by the classifications, rules, and rates made and published by the administrator. The employer shall pay a further sum of money into the state insurance fund as may be ascertained to be due from the employer by applying the rules of the administrator. Upon receipt of the payroll report required by division (B) of section 4123.26 of the Revised Code, the administrator shall adjust the premium and assessments charged to each employer for the difference between estimated gross payrolls and actual gross payrolls, and any balance due to the administrator shall be immediately paid by the employer. Any balance due the employer shall be credited to the employer's account.

For a policy year commencing on or after July 1, 2015, each employer that is recognized by the administrator as a

professional employer organization or alternate employer organization shall pay monthly into the state insurance fund the amount of premium the administrator fixes for the employer for the prior month based on the actual payroll of the employer reported pursuant to division (C) of section 4123.26 of the Revised Code.

A receipt certifying that payment has been made shall be issued to the employer by the bureau of workers' compensation. The receipt is prima-facie evidence of the payment of the premium. The administrator shall provide each employer written proof of workers' compensation coverage as is required in section 4123.83 of the Revised Code. Proper posting of the notice constitutes the employer's compliance with the notice requirement mandated in section 4123.83 of the Revised Code.

The bureau shall verify with the secretary of state the existence of all corporations and organizations making application for workers' compensation coverage and shall require every such application to include the employer's federal identification number.

A private employer who has contracted with a subcontractor is liable for the unpaid premium due from any subcontractor with respect to that part of the payroll of the subcontractor that is for work performed pursuant to the contract with the employer.

Division (A) of this section providing for the payment of premiums semiannually does not apply to any employer who was a subscriber to the state insurance fund prior to January 1, 1914, or, until July 1, 2015, who may first become a subscriber to the fund in any month other than January or July. Instead, the semiannual premiums shall be paid by those employers from time to time upon the expiration of the respective periods for which

payments into the fund have been made by them. After July 1, 2015, an employer who first becomes a subscriber to the fund on any day other than the first day of July shall pay premiums according to rules adopted by the administrator, with the advice and consent of the bureau of workers' compensation board of directors, for the remainder of the policy year for which the coverage is effective.

The administrator, with the advice and consent of the board, shall adopt rules to permit employers to make periodic payments of the premium and assessment due under this division. The rules shall include provisions for the assessment of interest charges, where appropriate, and for the assessment of penalties when an employer fails to make timely premium payments. The administrator, in the rules the administrator adopts, may set an administrative fee for these periodic payments. An employer who timely pays the amounts due under this division is entitled to all of the benefits and protections of this chapter. Upon receipt of payment, the bureau shall issue a receipt to the employer certifying that payment has been made, which receipt is prima-facie evidence of payment. Workers' compensation coverage under this chapter continues uninterrupted upon timely receipt of payment under this division.

Every public employer, except public employers that are self-insuring employers under this section, shall comply with sections 4123.38 to 4123.41, and 4123.48 of the Revised Code in regard to the contribution of moneys to the public insurance fund.

(B) Employers who will abide by the rules of the administrator and who may be of sufficient financial ability to render certain the payment of compensation to injured employees

or the dependents of killed employees, and the furnishing of medical, surgical, nursing, and hospital attention and services and medicines, and funeral expenses, equal to or greater than is provided for in sections 4123.52, 4123.55 to 4123.62, and 4123.64 to 4123.67 of the Revised Code, and who do not desire to insure the payment thereof or indemnify themselves against loss sustained by the direct payment thereof, upon a finding of such facts by the administrator, may be granted the privilege to pay individually compensation, and furnish medical, surgical, nursing, and hospital services and attention and funeral expenses directly to injured employees or the dependents of killed employees, thereby being granted status as a self-insuring employer. The administrator may charge employers who apply for the status as a self-insuring employer a reasonable application fee to cover the bureau's costs in connection with processing and making a determination with respect to an application.

All employers granted status as self-insuring employers shall demonstrate sufficient financial and administrative ability to assure that all obligations under this section are promptly met. The administrator shall deny the privilege where the employer is unable to demonstrate the employer's ability to promptly meet all the obligations imposed on the employer by this section.

(1) The administrator shall consider, but is not limited to, the following factors, where applicable, in determining the employer's ability to meet all of the obligations imposed on the employer by this section:

(a) The employer has operated in this state for a minimum of two years, provided that an employer who has purchased,

acquired, or otherwise succeeded to the operation of a business, or any part thereof, situated in this state that has operated for at least two years in this state, also shall qualify;

(b) Where the employer previously contributed to the state insurance fund or is a successor employer as defined by bureau rules, the amount of the buyout, as defined by bureau rules;

(c) The sufficiency of the employer's assets located in this state to insure the employer's solvency in paying compensation directly;

(d) The financial records, documents, and data, certified by a certified public accountant, necessary to provide the employer's full financial disclosure. The records, documents, and data include, but are not limited to, balance sheets and profit and loss history for the current year and previous four years.

(e) The employer's organizational plan for the administration of the workers' compensation law;

(f) The employer's proposed plan to inform employees of the change from a state fund insurer to a self-insuring employer, the procedures the employer will follow as a self-insuring employer, and the employees' rights to compensation and benefits; and

(g) The employer has either an account in a financial institution in this state, or if the employer maintains an account with a financial institution outside this state, ensures that workers' compensation checks are drawn from the same account as payroll checks or the employer clearly indicates that payment will be honored by a financial institution in this state.

The administrator may waive the requirements of division (B)(1)(a) of this section and the requirement of division (B)(1)(d) of this section that the financial records, documents, and data be certified by a certified public accountant. The administrator shall adopt rules establishing the criteria that an employer shall meet in order for the administrator to waive the requirements of divisions (B)(1)(a) and (d) of this section. Such rules may require additional security of that employer pursuant to division (E) of section 4123.351 of the Revised Code.

The administrator shall not grant the status of self-insuring employer to the state, except that the administrator may grant the status of self-insuring employer to a state institution of higher education, including its hospitals, that meets the requirements of division (B)(2) of this section.

(2) When considering the application of a public employer, except for a board of county commissioners described in division (G) of section 4123.01 of the Revised Code, a board of a county hospital, or a publicly owned utility, the administrator shall verify that the public employer satisfies all of the following requirements as the requirements apply to that public employer:

(a) For the two-year period preceding application under this section, the public employer has maintained an unvoted debt capacity equal to at least two times the amount of the current annual premium established by the administrator under this chapter for that public employer for the year immediately preceding the year in which the public employer makes application under this section.

(b) For each of the two fiscal years preceding application under this section, the unreserved and undesignated year-end

fund balance in the public employer's general fund is equal to at least five per cent of the public employer's general fund revenues for the fiscal year computed in accordance with generally accepted accounting principles.

(c) For the five-year period preceding application under this section, the public employer, to the extent applicable, has complied fully with the continuing disclosure requirements established in rules adopted by the United States securities and exchange commission under 17 C.F.R. 240.15c 2-12.

(d) For the five-year period preceding application under this section, the public employer has not had its local government fund distribution withheld on account of the public employer being indebted or otherwise obligated to the state.

(e) For the five-year period preceding application under this section, the public employer has not been under a fiscal watch or fiscal emergency pursuant to section 118.023, 118.04, or 3316.03 of the Revised Code.

(f) For the public employer's fiscal year preceding application under this section, the public employer has obtained an annual financial audit as required under section 117.10 of the Revised Code, which has been released by the auditor of state within seven months after the end of the public employer's fiscal year.

(g) On the date of application, the public employer holds a debt rating of Aa3 or higher according to Moody's investors service, inc., or a comparable rating by an independent rating agency similar to Moody's investors service, inc.

(h) The public employer agrees to generate an annual accumulating book reserve in its financial statements reflecting

an actuarially generated reserve adequate to pay projected claims under this chapter for the applicable period of time, as determined by the administrator.

(i) For a public employer that is a hospital, the public employer shall submit audited financial statements showing the hospital's overall liquidity characteristics, and the administrator shall determine, on an individual basis, whether the public employer satisfies liquidity standards equivalent to the liquidity standards of other public employers.

~~(j) Any additional criteria that the administrator adopts by rule pursuant to division (E) of this section.~~

The administrator may adopt rules establishing the criteria that a public employer shall satisfy in order for the administrator to waive any of the requirements listed in divisions (B)(2)(a) to ~~(j)~~(i) of this section. The rules may require additional security from that employer pursuant to division (E) of section 4123.351 of the Revised Code. The administrator shall not waive any of the requirements listed in divisions (B)(2)(a) to ~~(j)~~(i) of this section for a public employer who does not satisfy the criteria established in the rules the administrator adopts.

(C) A board of county commissioners described in division (G) of section 4123.01 of the Revised Code, as an employer, that will abide by the rules of the administrator and that may be of sufficient financial ability to render certain the payment of compensation to injured employees or the dependents of killed employees, and the furnishing of medical, surgical, nursing, and hospital attention and services and medicines, and funeral expenses, equal to or greater than is provided for in sections 4123.52, 4123.55 to 4123.62, and 4123.64 to 4123.67 of the

Revised Code, and that does not desire to insure the payment thereof or indemnify itself against loss sustained by the direct payment thereof, upon a finding of such facts by the administrator, may be granted the privilege to pay individually compensation, and furnish medical, surgical, nursing, and hospital services and attention and funeral expenses directly to injured employees or the dependents of killed employees, thereby being granted status as a self-insuring employer. The administrator may charge a board of county commissioners described in division (G) of section 4123.01 of the Revised Code that applies for the status as a self-insuring employer a reasonable application fee to cover the bureau's costs in connection with processing and making a determination with respect to an application. All employers granted such status shall demonstrate sufficient financial and administrative ability to assure that all obligations under this section are promptly met. The administrator shall deny the privilege where the employer is unable to demonstrate the employer's ability to promptly meet all the obligations imposed on the employer by this section. The administrator shall consider, but is not limited to, the following factors, where applicable, in determining the employer's ability to meet all of the obligations imposed on the board as an employer by this section:

(1) The board has operated in this state for a minimum of two years;

(2) Where the board previously contributed to the state insurance fund or is a successor employer as defined by bureau rules, the amount of the buyout, as defined by bureau rules;

(3) The sufficiency of the board's assets located in this state to insure the board's solvency in paying compensation

directly;

(4) The financial records, documents, and data, certified by a certified public accountant, necessary to provide the board's full financial disclosure. The records, documents, and data include, but are not limited to, balance sheets and profit and loss history for the current year and previous four years.

(5) The board's organizational plan for the administration of the workers' compensation law;

(6) The board's proposed plan to inform employees of the proposed self-insurance, the procedures the board will follow as a self-insuring employer, and the employees' rights to compensation and benefits;

(7) The board has either an account in a financial institution in this state, or if the board maintains an account with a financial institution outside this state, ensures that workers' compensation checks are drawn from the same account as payroll checks or the board clearly indicates that payment will be honored by a financial institution in this state;

(8) The board shall provide the administrator a surety bond in an amount equal to one hundred twenty-five per cent of the projected losses as determined by the administrator.

(D) The administrator shall require a surety bond from all self-insuring employers, issued pursuant to section 4123.351 of the Revised Code, that is sufficient to compel, or secure to injured employees, or to the dependents of employees killed, the payment of compensation and expenses, which shall in no event be less than that paid or furnished out of the state insurance fund in similar cases to injured employees or to dependents of killed employees whose employers contribute to the fund, except when an

employee of the employer, who has suffered the loss of a hand, arm, foot, leg, or eye prior to the injury for which compensation is to be paid, and thereafter suffers the loss of any other of the members as the result of any injury sustained in the course of and arising out of the employee's employment, the compensation to be paid by the self-insuring employer is limited to the disability suffered in the subsequent injury, additional compensation, if any, to be paid by the bureau out of the surplus created by section 4123.34 of the Revised Code.

(E) In addition to the requirements of this section, the administrator shall make and publish rules governing the manner of making application and the nature and extent of the proof required to justify a finding of fact by the administrator as to granting the status of a self-insuring employer, which rules shall be general in their application, one of which rules shall provide that all self-insuring employers shall pay into the state insurance fund such amounts as are required to be credited to the surplus fund in division (B) of section 4123.34 of the Revised Code. ~~The administrator may adopt rules establishing requirements in addition to the requirements described in division (B)(2) of this section that a public employer shall meet in order to qualify for self-insuring status.~~

Employers shall secure directly from the bureau central offices application forms upon which the bureau shall stamp a designating number. Prior to submission of an application, an employer shall make available to the bureau, and the bureau shall review, the information described in division (B)(1) of this section, and public employers shall make available, and the bureau shall review, the information necessary to verify whether the public employer meets the requirements listed in division (B)(2) of this section. An employer shall file the completed

application forms with an application fee, which shall cover the costs of processing the application, as established by the administrator, by rule, with the bureau at least ninety days prior to the effective date of the employer's new status as a self-insuring employer. The application form is not deemed complete until all the required information is attached thereto. The bureau shall only accept applications that contain the required information.

(F) The bureau shall review completed applications within a reasonable time. If the bureau determines to grant an employer the status as a self-insuring employer, the bureau shall issue a statement, containing its findings of fact, that is prepared by the bureau and signed by the administrator. If the bureau determines not to grant the status as a self-insuring employer, the bureau shall notify the employer of the determination and require the employer to continue to pay its full premium into the state insurance fund. The administrator also shall adopt rules establishing a minimum level of performance as a criterion for granting and maintaining the status as a self-insuring employer and fixing time limits beyond which failure of the self-insuring employer to provide for the necessary medical examinations and evaluations may not delay a decision on a claim.

(G) The administrator shall adopt rules setting forth procedures for auditing the program of self-insuring employers. The bureau shall conduct the audit upon a random basis or whenever the bureau has grounds for believing that a self-insuring employer is not in full compliance with bureau rules or this chapter.

The administrator shall monitor the programs conducted by

self-insuring employers, to ensure compliance with bureau requirements and for that purpose, shall develop and issue to self-insuring employers standardized forms for use by the self-insuring employer in all aspects of the self-insuring employers' direct compensation program and for reporting of information to the bureau.

The bureau shall receive and transmit to the self-insuring employer all complaints concerning any self-insuring employer. In the case of a complaint against a self-insuring employer, the administrator shall handle the complaint through the self-insurance division of the bureau. The bureau shall maintain a file by employer of all complaints received that relate to the employer. The bureau shall evaluate each complaint and take appropriate action.

The administrator shall adopt as a rule a prohibition against any self-insuring employer from harassing, dismissing, or otherwise disciplining any employee making a complaint, which rule shall provide for a financial penalty to be levied by the administrator payable by the offending self-insuring employer.

(H) For the purpose of making determinations as to whether to grant status as a self-insuring employer, the administrator may subscribe to and pay for a credit reporting service that offers financial and other business information about individual employers. The costs in connection with the bureau's subscription or individual reports from the service about an applicant may be included in the application fee charged employers under this section.

(I) A self-insuring employer that returns to the state insurance fund as a state fund employer shall provide the administrator with medical costs and indemnity costs by claim,

and payroll by manual classification and year, and such other information the administrator may require. The self-insuring employer shall submit this information by dates and in a format determined by the administrator. The administrator shall develop a state fund experience modification factor for a self-insuring employer that returns to the state insurance fund based in whole or in part on the employer's self-insured experience and the information submitted.

(J) On the first day of July of each year, the administrator shall calculate separately each self-insuring employer's assessments for the safety and hygiene fund, administrative costs pursuant to section 4123.342 of the Revised Code, and for the surplus fund under division (B) of section 4123.34 of the Revised Code, on the basis of the paid compensation attributable to the individual self-insuring employer according to the following calculation:

(1) The total assessment against all self-insuring employers as a class for each fund and for the administrative costs for the year that the assessment is being made, as determined by the administrator, divided by the total amount of paid compensation for the previous calendar year attributable to all amenable self-insuring employers;

(2) Multiply the quotient in division (J)(1) of this section by the total amount of paid compensation for the previous calendar year that is attributable to the individual self-insuring employer for whom the assessment is being determined. Each self-insuring employer shall pay the assessment that results from this calculation, unless the assessment resulting from this calculation falls below a minimum assessment, which minimum assessment the administrator shall

determine on the first day of July of each year with the advice and consent of the bureau of workers' compensation board of directors, in which event, the self-insuring employer shall pay the minimum assessment.

In determining the total amount due for the total assessment against all self-insuring employers as a class for each fund and the administrative assessment, the administrator shall reduce proportionately the total for each fund and assessment by the amount of money in the self-insurance assessment fund as of the date of the computation of the assessment.

The administrator shall calculate the assessment for the portion of the surplus fund under division (B) of section 4123.34 of the Revised Code that is used for reimbursement to a self-insuring employer under division (H) of section 4123.512 of the Revised Code in the same manner as set forth in divisions (J)(1) and (2) of this section except that the administrator shall calculate the total assessment for this portion of the surplus fund only on the basis of those self-insuring employers that retain participation in reimbursement to the self-insuring employer under division (H) of section 4123.512 of the Revised Code and the individual self-insuring employer's proportion of paid compensation shall be calculated only for those self-insuring employers who retain participation in reimbursement to the self-insuring employer under division (H) of section 4123.512 of the Revised Code.

An employer who no longer is a self-insuring employer in this state or who no longer is operating in this state, shall continue to pay assessments for administrative costs and for the surplus fund under division (B) of section 4123.34 of the

Revised Code based upon paid compensation attributable to claims that occurred while the employer was a self-insuring employer within this state.

(K) There is hereby created in the state treasury the self-insurance assessment fund. All investment earnings of the fund shall be deposited in the fund. The administrator shall use the money in the self-insurance assessment fund only for administrative costs as specified in section 4123.341 of the Revised Code.

(L) Every self-insuring employer shall certify, in affidavit form subject to the penalty for perjury, to the bureau the amount of the self-insuring employer's paid compensation for the previous calendar year. In reporting paid compensation paid for the previous year, a self-insuring employer shall exclude from the total amount of paid compensation any reimbursement the self-insuring employer receives in the previous calendar year from the surplus fund pursuant to section 4123.512 of the Revised Code for any paid compensation. The self-insuring employer also shall exclude from the paid compensation reported any amount recovered under section 4123.931 of the Revised Code and any amount that is determined not to have been payable to or on behalf of a claimant in any final administrative or judicial proceeding. The self-insuring employer shall exclude such amounts from the paid compensation reported in the reporting period subsequent to the date the determination is made. The administrator shall adopt rules, in accordance with Chapter 119. of the Revised Code, that provide for all of the following:

(1) Establishing the date by which self-insuring employers must submit such information and the amount of the assessments provided for in division (J) of this section for employers who

have been granted self-insuring status within the last calendar year;

(2) If an employer fails to pay the assessment when due, the administrator may add a late fee penalty of not more than five hundred dollars to the assessment plus an additional penalty amount as follows:

(a) For an assessment from sixty-one to ninety days past due, the prime interest rate, multiplied by the assessment due;

(b) For an assessment from ninety-one to one hundred twenty days past due, the prime interest rate plus two per cent, multiplied by the assessment due;

(c) For an assessment from one hundred twenty-one to one hundred fifty days past due, the prime interest rate plus four per cent, multiplied by the assessment due;

(d) For an assessment from one hundred fifty-one to one hundred eighty days past due, the prime interest rate plus six per cent, multiplied by the assessment due;

(e) For an assessment from one hundred eighty-one to two hundred ten days past due, the prime interest rate plus eight per cent, multiplied by the assessment due;

(f) For each additional thirty-day period or portion thereof that an assessment remains past due after it has remained past due for more than two hundred ten days, the prime interest rate plus eight per cent, multiplied by the assessment due.

(3) An employer may appeal a late fee penalty and penalty assessment to the administrator.

For purposes of division (L)(2) of this section, "prime

interest rate" means the average bank prime rate, and the administrator shall determine the prime interest rate in the same manner as a county auditor determines the average bank prime rate under section 929.02 of the Revised Code.

The administrator shall include any assessment and penalties that remain unpaid for previous assessment periods in the calculation and collection of any assessments due under this division or division (J) of this section.

(M) As used in this section, "paid compensation" means all amounts paid by a self-insuring employer for living maintenance benefits, all amounts for compensation paid pursuant to sections 4121.63, 4121.67, 4123.56, 4123.57, 4123.58, 4123.59, 4123.60, and 4123.64 of the Revised Code, all amounts paid as wages in lieu of such compensation, all amounts paid in lieu of such compensation under a nonoccupational accident and sickness program fully funded by the self-insuring employer, and all amounts paid by a self-insuring employer for a violation of a specific safety standard pursuant to Section 35 of Article II, Ohio Constitution and section 4121.47 of the Revised Code.

(N) Should any section of this chapter or Chapter 4121. of the Revised Code providing for self-insuring employers' assessments based upon compensation paid be declared unconstitutional by a final decision of any court, then that section of the Revised Code declared unconstitutional shall revert back to the section in existence prior to November 3, 1989, providing for assessments based upon payroll.

(O) The administrator may grant a self-insuring employer the privilege to self-insure a construction project entered into by the self-insuring employer that is scheduled for completion within six years after the date the project begins, and the

total cost of which is estimated to exceed one hundred million dollars or, for employers described in division (R) of this section, if the construction project is estimated to exceed twenty-five million dollars. The administrator may waive such cost and time criteria and grant a self-insuring employer the privilege to self-insure a construction project regardless of the time needed to complete the construction project and provided that the cost of the construction project is estimated to exceed fifty million dollars. A self-insuring employer who desires to self-insure a construction project shall submit to the administrator an application listing the dates the construction project is scheduled to begin and end, the estimated cost of the construction project, the contractors and subcontractors whose employees are to be self-insured by the self-insuring employer, the provisions of a safety program that is specifically designed for the construction project, and a statement as to whether a collective bargaining agreement governing the rights, duties, and obligations of each of the parties to the agreement with respect to the construction project exists between the self-insuring employer and a labor organization.

A self-insuring employer may apply to self-insure the employees of either of the following:

(1) All contractors and subcontractors who perform labor or work or provide materials for the construction project;

(2) All contractors and, at the administrator's discretion, a substantial number of all the subcontractors who perform labor or work or provide materials for the construction project.

Upon approval of the application, the administrator shall

mail a certificate granting the privilege to self-insure the construction project to the self-insuring employer. The certificate shall contain the name of the self-insuring employer and the name, address, and telephone number of the self-insuring employer's representatives who are responsible for administering workers' compensation claims for the construction project. The self-insuring employer shall post the certificate in a conspicuous place at the site of the construction project.

The administrator shall maintain a record of the contractors and subcontractors whose employees are covered under the certificate issued to the self-insured employer. A self-insuring employer immediately shall notify the administrator when any contractor or subcontractor is added or eliminated from inclusion under the certificate.

Upon approval of the application, the self-insuring employer is responsible for the administration and payment of all claims under this chapter and Chapter 4121. of the Revised Code for the employees of the contractor and subcontractors covered under the certificate who receive injuries or are killed in the course of and arising out of employment on the construction project, or who contract an occupational disease in the course of employment on the construction project. For purposes of this chapter and Chapter 4121. of the Revised Code, a claim that is administered and paid in accordance with this division is considered a claim against the self-insuring employer listed in the certificate. A contractor or subcontractor included under the certificate shall report to the self-insuring employer listed in the certificate, all claims that arise under this chapter and Chapter 4121. of the Revised Code in connection with the construction project for which the certificate is issued.

A self-insuring employer who complies with this division is entitled to the protections provided under this chapter and Chapter 4121. of the Revised Code with respect to the employees of the contractors and subcontractors covered under a certificate issued under this division for death or injuries that arise out of, or death, injuries, or occupational diseases that arise in the course of, those employees' employment on that construction project, as if the employees were employees of the self-insuring employer, provided that the self-insuring employer also complies with this section. No employee of the contractors and subcontractors covered under a certificate issued under this division shall be considered the employee of the self-insuring employer listed in that certificate for any purposes other than this chapter and Chapter 4121. of the Revised Code. Nothing in this division gives a self-insuring employer authority to control the means, manner, or method of employment of the employees of the contractors and subcontractors covered under a certificate issued under this division.

The contractors and subcontractors included under a certificate issued under this division are entitled to the protections provided under this chapter and Chapter 4121. of the Revised Code with respect to the contractor's or subcontractor's employees who are employed on the construction project which is the subject of the certificate, for death or injuries that arise out of, or death, injuries, or occupational diseases that arise in the course of, those employees' employment on that construction project.

The contractors and subcontractors included under a certificate issued under this division shall identify in their payroll records the employees who are considered the employees of the self-insuring employer listed in that certificate for

purposes of this chapter and Chapter 4121. of the Revised Code, and the amount that those employees earned for employment on the construction project that is the subject of that certificate. Notwithstanding any provision to the contrary under this chapter and Chapter 4121. of the Revised Code, the administrator shall exclude the payroll that is reported for employees who are considered the employees of the self-insuring employer listed in that certificate, and that the employees earned for employment on the construction project that is the subject of that certificate, when determining those contractors' or subcontractors' premiums or assessments required under this chapter and Chapter 4121. of the Revised Code. A self-insuring employer issued a certificate under this division shall include in the amount of paid compensation it reports pursuant to division (L) of this section, the amount of paid compensation the self-insuring employer paid pursuant to this division for the previous calendar year.

Nothing in this division shall be construed as altering the rights of employees under this chapter and Chapter 4121. of the Revised Code as those rights existed prior to September 17, 1996. Nothing in this division shall be construed as altering the rights devolved under sections 2305.31 and 4123.82 of the Revised Code as those rights existed prior to September 17, 1996.

As used in this division, "privilege to self-insure a construction project" means privilege to pay individually compensation, and to furnish medical, surgical, nursing, and hospital services and attention and funeral expenses directly to injured employees or the dependents of killed employees.

(P) A self-insuring employer whose application is granted

under division (O) of this section shall designate a safety professional to be responsible for the administration and enforcement of the safety program that is specifically designed for the construction project that is the subject of the application.

A self-insuring employer whose application is granted under division (O) of this section shall employ an ombudsperson for the construction project that is the subject of the application. The ombudsperson shall have experience in workers' compensation or the construction industry, or both. The ombudsperson shall perform all of the following duties:

(1) Communicate with and provide information to employees who are injured in the course of, or whose injury arises out of employment on the construction project, or who contract an occupational disease in the course of employment on the construction project;

(2) Investigate the status of a claim upon the request of an employee to do so;

(3) Provide information to claimants, third party administrators, employers, and other persons to assist those persons in protecting their rights under this chapter and Chapter 4121. of the Revised Code.

A self-insuring employer whose application is granted under division (O) of this section shall post the name of the safety professional and the ombudsperson and instructions for contacting the safety professional and the ombudsperson in a conspicuous place at the site of the construction project.

(Q) The administrator may consider all of the following when deciding whether to grant a self-insuring employer the

privilege to self-insure a construction project as provided under division (O) of this section:

(1) Whether the self-insuring employer has an organizational plan for the administration of the workers' compensation law;

(2) Whether the safety program that is specifically designed for the construction project provides for the safety of employees employed on the construction project, is applicable to all contractors and subcontractors who perform labor or work or provide materials for the construction project, and has as a component, a safety training program that complies with standards adopted pursuant to the "Occupational Safety and Health Act of 1970," 84 Stat. 1590, 29 U.S.C.A. 651, and provides for continuing management and employee involvement;

(3) Whether granting the privilege to self-insure the construction project will reduce the costs of the construction project;

(4) Whether the self-insuring employer has employed an ombudsperson as required under division (P) of this section;

(5) Whether the self-insuring employer has sufficient surety to secure the payment of claims for which the self-insuring employer would be responsible pursuant to the granting of the privilege to self-insure a construction project under division (O) of this section.

(R) As used in divisions (O), (P), and (Q), "self-insuring employer" includes the following employers, whether or not they have been granted the status of being a self-insuring employer under division (B) of this section:

(1) A state institution of higher education;

(2) A school district;

(3) A county school financing district;

(4) An educational service center;

(5) A community school established under Chapter 3314. of the Revised Code;

(6) A municipal power agency as defined in section 3734.058 of the Revised Code.

(S) As used in this section:

(1) "Unvoted debt capacity" means the amount of money that a public employer may borrow without voter approval of a tax levy;

(2) "State institution of higher education" means the state universities listed in section 3345.011 of the Revised Code, community colleges created pursuant to Chapter 3354. of the Revised Code, university branches created pursuant to Chapter 3355. of the Revised Code, technical colleges created pursuant to Chapter 3357. of the Revised Code, and state community colleges created pursuant to Chapter 3358. of the Revised Code.

Sec. 4123.351. (A) The administrator of workers' compensation shall require every self-insuring employer, including any self-insuring employer that is indemnified by a captive insurance company granted a certificate of authority under Chapter 3964. of the Revised Code, to pay a contribution, calculated under this section, to the self-insuring employers' guaranty fund established pursuant to this section. The fund shall provide for payment of compensation and benefits to employees of the self-insuring employer in order to cover any

default in payment by that employer.

(B) The bureau of workers' compensation shall operate the self-insuring employers' guaranty fund for self-insuring employers. The administrator annually shall establish the contributions due from self-insuring employers for the fund at rates as low as possible but such as will assure sufficient moneys to guarantee the payment of any claims against the fund. The bureau's operation of the fund is not subject to sections 3929.10 to 3929.18 of the Revised Code or to regulation by the superintendent of insurance.

(C) If a self-insuring employer defaults, the bureau shall recover the amounts paid as a result of the default from the self-insuring employers' guaranty fund. If a self-insuring employer defaults and is in compliance with this section for the payment of contributions to the fund, such self-insuring employer is entitled to the immunity conferred by section 4123.74 of the Revised Code for any claim arising during any period the employer is in compliance with this section.

(D)(1) There is hereby established a self-insuring employers' guaranty fund, which shall be in the custody of the treasurer of state and which shall be separate from the other funds established and administered pursuant to this chapter. The fund shall consist of contributions and other payments made by self-insuring employers under this section. All investment earnings of the fund shall be credited to the fund. The bureau shall make disbursements from the fund pursuant to this section.

(2) The administrator has the same powers to invest any of the surplus or reserve belonging to the fund as are delegated to the administrator under section 4123.44 of the Revised Code with respect to the state insurance fund. The administrator shall

apply interest earned solely to the reduction of assessments for contributions from self-insuring employers and to the payments required due to defaults.

(3) If the bureau of workers' compensation board of directors determines that reinsurance of the risks of the fund is necessary to assure solvency of the fund, the board may:

(a) Enter into contracts for the purchase of reinsurance coverage of the risks of the fund with any company or agency authorized by law to issue contracts of reinsurance;

(b) Require the administrator to pay the cost of reinsurance from the fund;

(c) Include the costs of reinsurance as a liability and estimated liability of the fund.

(E) The administrator, with the advice and consent of the board, may adopt ~~rules~~ a rule pursuant to Chapter 119. of the Revised Code ~~for the implementation of this section, including a rule~~, notwithstanding division (C) of this section, requiring self-insuring employers to provide security in addition to the contribution to the self-insuring employers' guaranty fund required by this section. The additional security required by the rule, as the administrator determines appropriate, shall be sufficient and adequate to provide for financial assurance to meet the obligations of self-insuring employers under this chapter and Chapter 4121. of the Revised Code.

(F) The purchase of coverage under this section by self-insuring employers is valid notwithstanding the prohibitions contained in division (A) of section 4123.82 of the Revised Code and is in addition to the indemnity contracts that self-insuring employers may purchase pursuant to division (B) of section

4123.82 of the Revised Code.

(G) The administrator, on behalf of the self-insuring employers' guaranty fund, has the rights of reimbursement and subrogation and shall collect from a defaulting self-insuring employer or other liable person all amounts the administrator has paid or reasonably expects to pay from the fund on account of the defaulting self-insuring employer.

(H) The assessments for contributions, the administration of the self-insuring employers' guaranty fund, the investment of the money in the fund, and the payment of liabilities incurred by the fund do not create any liability upon the state.

Except for a gross abuse of discretion, neither the board, nor the individual members thereof, nor the administrator shall incur any obligation or liability respecting the assessments for contributions, the administration of the self-insuring employers' guaranty fund, the investment of the fund, or the payment of liabilities therefrom.

Sec. 4125.02. The administrator of workers' compensation shall adopt rules in accordance with Chapter 119. of the Revised Code ~~to administer and enforce this chapter, including rules~~ to administer and enforce division (B) of section 4125.03 of the Revised Code.

The administrator may adopt rules for the acceptance of electronic filings in accordance with Chapter 1306. of the Revised Code for applications, documents, reports, and other filings required by this chapter.

The administrator may allow an independent assurance organization to act on behalf of a professional employer organization or professional employer organization reporting

entity in complying with this chapter and any rules adopted under it. The assurance organization shall be approved by the administrator before acting on behalf of the professional employer organization or the professional employer organization reporting entity and shall abide by all standards and procedures established by the administrator for that approval. The administrator may permit a professional employer organization or professional employer organization reporting entity to authorize an assurance organization approved by the administrator to act on behalf of the professional employer organization or professional employer organization reporting entity, and the administrator shall specify certain provisions of this chapter that may be satisfied by an assurance organization acting with that authority. The rules shall also stipulate that the use of an assurance organization by a professional employer organization to comply with this chapter is not required and is strictly voluntary.

Sec. 4133.02. The administrator of workers' compensation shall adopt rules in accordance with Chapter 119. of the Revised Code ~~to administer and enforce this chapter, including rules~~ to administer and enforce division (E) of section 4133.03 of the Revised Code.

The administrator may adopt rules for the acceptance of electronic filings in accordance with Chapter 1306. of the Revised Code for applications, documents, reports, and other filings required by this chapter.

Sec. 4141.06. There is hereby created an unemployment compensation review commission consisting of three full-time members appointed by the governor, with the advice and consent of the senate. Terms of office shall be staggered and shall be

for six years, commencing on the twenty-eighth day of February and ending on the twenty-seventh day of February. Each member shall hold office from the date of appointment until the end of the term for which the member was appointed. Any member appointed to fill a vacancy occurring prior to the expiration of the term for which the member's predecessor was appointed shall hold office for the remainder of such term. Any member shall continue in office subsequent to the expiration date of the member's term until the member's successor takes office, or until a period of sixty days has elapsed, whichever occurs first. The chairperson of the commission and each member shall be paid a salary fixed pursuant to section 124.14 of the Revised Code. The governor, at any time, may remove any member for inefficiency, neglect of duty, malfeasance, misfeasance, or nonfeasance in office.

Not more than one of the appointees to the commission shall be a person who, on account of the appointee's previous vocation, employment, or affiliations, can be classed as a representative of employers, and not more than one of the appointees shall be a person who, on account of the appointee's previous vocation, employment, or affiliations, can be classed as a representative of employees. Not more than two of the members of the commission shall belong to the same political party. No member of the commission shall hold any office of trust or profit or engage in any occupation or business interfering or inconsistent with the member's duties as a member and no member shall serve on any committee of any political party. The commission shall elect a chairperson and a vice-chairperson. The vice-chairperson shall exercise the powers of the chairperson in the chairperson's absence.

No commission member shall participate in the disposition

of any appeal in which the member has an interest in the controversy. Challenges to the interest of any commission member may be made by any interested party defined in division (I) of section 4141.01 of the Revised Code and shall be in writing. All challenges shall be decided by the chairperson of the advisory council, who, if the challenge is found to be well taken, shall advise the governor, who shall appoint a member of the advisory council representing the same affiliations to act and receive the same compensation for serving in place of such member.

The commission may appoint a secretary to hold office at its pleasure. The secretary shall have such powers and shall perform such duties as the commission prescribes and shall keep a record of the proceedings of the commission and of its determinations. The secretary shall receive a salary fixed pursuant to section 124.14 of the Revised Code. Notwithstanding division (A)(8) of section 124.11 of the Revised Code, each member of the commission may appoint a private secretary who shall be in the classified service of the state and hold office at the pleasure of such member.

Two members of the commission constitute a quorum and no action of the commission is valid unless it has the concurrence of at least two members. A vacancy on the commission does not impair the right of a quorum to exercise all the rights and perform all the duties of the commission.

The commission and its hearing officers shall hear appeals arising from determinations of the director of job and family services involving claims for compensation and other unemployment compensation issues. The commission shall ~~adopt, amend, or rescind rules of procedure, and~~ undertake such investigations~~,~~ and take such action required for the hearing

and disposition of appeals as it deems necessary and consistent with this chapter. ~~The rules adopted by the commission shall be effective to the extent that the rules are consistent with this chapter.~~

The commission, subject to Chapter 124. of the Revised Code, and with the approval of the governor, shall appoint such hearing officers as are necessary. The hearing officers shall be classified by the department of administrative services. Any promotions or increases in compensation of the hearing officers may be recommended by the commission subject to classifications which are made by the department of administrative services. The members of the commission and hearing officers may conduct hearings for unemployment compensation appeals coming before the commission. The members and hearing officers may exercise all powers provided by section 4141.17 of the Revised Code.

The commission, subject to Chapter 124. of the Revised Code, may employ such support personnel as are needed to carry out the duties of the commission. The salaries of such employees are fixed pursuant to section 124.14 of the Revised Code. The commission shall further provide itself and its employees with such offices, equipment, and supplies as are necessary, using those already provided for the department of job and family services wherever possible.

The commission shall have access to only the records of the department of job and family services that are necessary for the administration of this chapter and needed in the performance of its official duties. The commission shall have the right to request of the director necessary information from any work unit of the department having that information.

The commission shall prepare and submit to the director an

annual budget financing the costs necessary to administer its duties under this chapter. The fund request shall relate to, but not be limited to, the United States department of labor's allocations for the commission's functions. The director shall approve the commission's request unless funds are insufficient to finance the request. The director shall notify the commission of the amount of funds available for its operation, as soon as possible, but not later than thirty days after receiving the allocation from the United States department of labor.

In the event that the director determines that sufficient funds are not available to approve the request as submitted and a revised budget is not agreed to within thirty days of the director's notification to the commission, the director of budget and management shall review and determine the funding levels for the commission and notify the commission and the director of the determination by the director of budget and management.

As used in this section only, "office of trust or profit" means:

(A) A federal or state elective office or an elected office of a political subdivision of the state;

(B) A position on a board or commission of the state that is appointed by the governor;

(C) An office set forth in section 121.03, 121.04, or 121.05 of the Revised Code;

(D) An office of the government of the United States that is appointed by the president of the United States.

Sec. 4141.13. (A) In addition to all other duties imposed on the director of job and family services and powers granted by

this chapter, the director may:

(1) Adopt and enforce ~~reasonable rules relative to the exercise of the director's powers and authority, and~~ proper rules to govern the director's proceedings and to regulate the mode and manner of all investigations and hearings;

(2) Prescribe the time, place, and manner of making claims for benefits under such sections, the kind and character of notices required thereunder, the procedure for investigating, hearing, and deciding claims, the nature and extent of the proofs and evidence and the method of furnishing and taking such proofs and evidence to establish the right to benefits, and the method and time within which adjudication and awards shall be made;

(3) Adopt rules with respect to the collection, maintenance, and disbursement of the unemployment and administrative funds;

(4) ~~Amend and modify any of the director's rules from time to time in such respects as the director finds necessary or desirable;~~

~~(5)~~ Authorize a designee to hold or undertake an investigation, inquiry, or hearing that the director is authorized to hold or undertake. An order of a designee authorized pursuant to this section is the order of the director.

~~(6)~~ (5) Appoint advisors or advisory employment committees, by local districts or by industries, who shall, without compensation but with reimbursements for necessary expenses, assist the director in the execution of the director's duties;

~~(7)~~ (6) Require all employers, including employers not

otherwise subject to this chapter, to furnish to the director information concerning the amount of wages paid, the number of employees employed and the regularity of their employment, the number of employees hired, laid off, and discharged from time to time and the reasons therefor and the numbers that quit voluntarily, and other and further information respecting any other facts required for the proper administration of this chapter;

~~(8)~~ (7) Classify generally industries, businesses, occupations, and employments, and employers individually, as to the hazard of unemployment in each business, industry, occupation, or employment, and as to the particular hazard of each employer, having special reference to the conditions of regularity and irregularity of the employment provided by such employer and of the fluctuations in payrolls of such employer;

~~(9)~~ (8) Determine the contribution rates upon employers subject to this chapter, and provide for the levy and collection of the contributions from such employers;

~~(10)~~ (9) Receive, hear, and decide claims for unemployment benefits, and provide for the payment of such claims as are allowed;

~~(11)~~ (10) Promote the regularization of employment and the prevention of unemployment;

~~(12)~~ (11) Encourage and assist in the adoption of practical methods of vocational training, retraining, and vocational guidance;

~~(13)~~ (12) Investigate, recommend, and advise and assist in the establishment and operation by municipal corporations, counties, school districts, and the state of prosperity reserves

of public work to be prosecuted in times of business depression and unemployment;

~~(14)~~ (13) Promote the re-employment of unemployed workers throughout the state in any other way that may be feasible, and take all appropriate steps within the director's means to reduce and prevent unemployment;

~~(15)~~ (14) Carry on and publish the results of any investigations and research that the director deems relevant;

~~(16)~~ (15) Make such reports to the proper agency of the United States created by the "Social Security Act" as that agency requires, and comply with such provisions as the agency finds necessary to assure the correctness and verification of such reports;

~~(17)~~ (16) Make available upon request to any agency of the United States charged with the administration of public works or assistance through public employment the name, address, ordinary occupation, and employment status of each recipient of unemployment benefits under this chapter, and a statement of such recipient's rights to further benefits under this chapter;

~~(18)~~ (17) Make such investigations, secure and transmit such information, make available such services and facilities, and exercise such of the other powers provided by this section with respect to the administration of this chapter, as the director deems necessary or appropriate to facilitate the administration of the unemployment compensation law or public employment service laws of this state and of other states and the United States, and in like manner accept and utilize information, services, and facilities made available to this state by the agency charged with the administration of any such

other unemployment compensation or public employment service laws;

~~(19)~~ (18) Enter into or cooperate in arrangements whereby facilities and services provided under the unemployment compensation law of Canada may be utilized for the taking of claims and the payment of benefits under the unemployment compensation law of this state or under a similar law of Canada;

~~(20)~~ (19) Transfer surplus computers and computer equipment directly to a chartered public school within the state, notwithstanding sections 125.12 to 125.14 of the Revised Code. The computers and computer equipment may be repaired or refurbished prior to the transfer, and the public school may be charged a service fee not to exceed the direct cost of repair or refurbishing.

(B)(1) The director shall do all of the following:

(a) Develop a written strategic staffing plan to be implemented whenever there is a substantial increase or a substantial decrease in the number of inquiries or claims for benefits and review the plan in accordance with division (B)(3) of this section;

(b) Create, in a single place on the web site maintained by the director, a list of all of the points of contact through which an applicant for or a recipient of benefits under this chapter or an employer may submit inquiries related to this chapter;

(c) Adopt rules creating a uniform process through which an applicant for or a recipient of benefits under this chapter or an employer may submit a complaint related to the service the applicant, recipient, or employer received.

(2) The director shall include all of the following in the plan required under division (B)(1)(a) of this section:

(a) An explanation of how, if at all, the director will utilize employees employed by the director who do not ordinarily perform services related to unemployment compensation;

(b) An explanation of how, if at all, the director will utilize employees employed by other state agencies;

(c) An explanation of how, if at all, the director will utilize employees provided by private entities.

(3) For purposes of division (B)(1)(a) of this section, the director shall develop the initial plan required under that division and, not later than the date that is six months after the first meeting of the unemployment compensation modernization and improvement council, provide it to the council, the president of the senate, the speaker of the house of representatives, and the governor. The director shall review the plan at least once a year. If, after reviewing the plan, the director determines that the plan should be revised, the director shall revise the plan. After each review of the plan required under this division, the director shall provide the most recent version of the plan to the council, the president of the senate, the speaker of the house of representatives, and the governor. The director shall post the most recent version of the plan on a publicly viewable web site maintained by the director.

Sec. 4141.29. Each eligible individual shall receive benefits as compensation for loss of remuneration due to involuntary total or partial unemployment in the amounts and subject to the conditions stipulated in this chapter.

(A) No individual is entitled to a waiting period or

benefits for any week unless the individual:

(1) Has filed a valid application for determination of benefit rights in accordance with section 4141.28 of the Revised Code;

(2) Has made a claim for benefits in accordance with section 4141.28 of the Revised Code;

(3)(a) Has registered for work and thereafter continues to report to an employment office or other registration place maintained or designated by the director of job and family services. Registration shall be made in accordance with the time limits, frequency, and manner prescribed by the director.

(b) For purposes of division (A)(3) of this section, an individual has "registered" upon doing any of the following:

(i) Filing an application for benefit rights;

(ii) Making a weekly claim for benefits;

(iii) Reopening an existing claim following a period of employment or nonreporting.

(c) After an applicant is registered, that registration continues for a period of three calendar weeks, including the week during which the applicant registered. However, an individual is not registered for purposes of division (A)(3) of this section during any period in which the individual fails to report, as instructed by the director, or fails to reopen an existing claim following a period of employment.

(d) The director may, for good cause, extend the period of registration.

(e) For purposes of this section, "report" means contact

by phone, access electronically, or be present for an in-person appointment, as designated by the director.

(4)(a)(i) Is able to work and available for suitable work and, except as provided in division (A)(4)(a)(ii) or (iii) of this section, is actively seeking suitable work either in a locality in which the individual has earned wages subject to this chapter during the individual's base period, or if the individual leaves that locality, then in a locality where suitable work normally is performed.

(ii) The director may waive the requirement that a claimant be actively seeking work when the director finds that the individual has been laid off and the employer who laid the individual off has notified the director within ten days after the layoff, that work is expected to be available for the individual within a specified number of days not to exceed forty-five calendar days following the last day the individual worked. In the event the individual is not recalled within the specified period, this waiver shall cease to be operative with respect to that layoff.

(iii) The director may waive the requirement that a claimant be actively seeking work if the director determines that the individual has been laid off and the employer who laid the individual off has notified the director in accordance with division (C) of section 4141.28 of the Revised Code that the employer has closed the employer's entire plant or part of the employer's plant for a purpose other than inventory or vacation that will cause unemployment for a definite period not exceeding twenty-six weeks beginning on the date the employer notifies the director, for the period of the specific shutdown, if all of the following apply:

(I) The employer and the individuals affected by the layoff who are claiming benefits under this chapter jointly request the exemption.

(II) The employer provides that the affected individuals shall return to work for the employer within twenty-six weeks after the date the employer notifies the director.

(III) The director determines that the waiver of the active search for work requirement will promote productivity and economic stability within the state.

(iv) Division (A)(4)(a)(iii) of this section does not exempt an individual from meeting the other requirements specified in division (A)(4)(a)(i) of this section to be able to work and otherwise fully be available for work. An exemption granted under division (A)(4)(a)(iii) of this section may be granted only with respect to a specific plant closing.

(b)(i) The individual shall be instructed as to the efforts that the individual must make in the search for suitable work, including that, within six months after October 11, 2013, the individual shall register with the OhioMeansJobs web site, except in any of the following circumstances:

(I) The individual is an individual described in division (A)(4)(b)(iii) of this section;

(II) Where the active search for work requirement has been waived under division (A)(4)(a) of this section;

(III) Where the active search for work requirement is considered to be met under division (A)(4)(c), (d), or (e) of this section.

(ii) An individual who is registered with the

OhioMeansJobs web site shall receive a weekly listing of available jobs based on information provided by the individual at the time of registration. For each week that the individual claims benefits, the individual shall keep a record of the individual's work search efforts and shall produce that record in the manner and means prescribed by the director.

(iii) No individual shall be required to register with the OhioMeansJobs web site if the individual is legally prohibited from using a computer, has a physical or visual impairment that makes the individual unable to use a computer, or has a limited ability to read, write, speak, or understand a language in which the OhioMeansJobs web site is available.

(iv) As used in division (A)(4)(b) of this section:

(I) "OhioMeansJobs web site" has the same meaning as in section 6301.01 of the Revised Code.

(II) "Registration" includes the creation, electronic posting, and maintenance of an active, searchable resume.

(c) An individual who is attending a training course approved by the director meets the requirement of this division, if attendance was recommended by the director and the individual is regularly attending the course and is making satisfactory progress. An individual also meets the requirements of this division if the individual is participating and advancing in a training program, as defined in division (P) of section 5709.61 of the Revised Code, and if an enterprise, defined in division (B) of section 5709.61 of the Revised Code, is paying all or part of the cost of the individual's participation in the training program with the intention of hiring the individual for employment as a new employee, as defined in division (L) of

section 5709.61 of the Revised Code, for at least ninety days after the individual's completion of the training program.

(d) An individual who becomes unemployed while attending a regularly established school and whose base period qualifying weeks were earned in whole or in part while attending that school, meets the availability and active search for work requirements of division (A)(4)(a) of this section if the individual regularly attends the school during weeks with respect to which the individual claims unemployment benefits and makes self available on any shift of hours for suitable employment with the individual's most recent employer or any other employer in the individual's base period, or for any other suitable employment to which the individual is directed, under this chapter.

(e) An individual who is a member in good standing with a labor organization that refers individuals to jobs meets the active search for work requirement specified in division (A)(4)(a) of this section if the individual provides documentation that the individual is eligible for a referral or placement upon request and in a manner prescribed by the director.

(f) Notwithstanding any other provisions of this section, no otherwise eligible individual shall be denied benefits for any week because the individual is in training approved under section 236(a)(1) of the "Trade Act of 1974," 88 Stat. 1978, 19 U.S.C.A. 2296, nor shall that individual be denied benefits by reason of leaving work to enter such training, provided the work left is not suitable employment, or because of the application to any week in training of provisions in this chapter, or any applicable federal unemployment compensation law, relating to availability for work, active search for work, or refusal to

accept work.

For the purposes of division (A)(4)(f) of this section, "suitable employment" means with respect to an individual, work of a substantially equal or higher skill level than the individual's past adversely affected employment, as defined for the purposes of the "Trade Act of 1974," 88 Stat. 1978, 19 U.S.C.A. 2101, and wages for such work at not less than eighty per cent of the individual's average weekly wage as determined for the purposes of that federal act.

(5) Is unable to obtain suitable work.

(6) Participates in reemployment services, such as job search assistance services, if the individual has been determined to be likely to exhaust benefits under this chapter, including compensation payable pursuant to 5 U.S.C.A. Chapter 85, other than extended compensation, and needs reemployment services pursuant to the profiling system established by the director under division (K) of this section, unless the director determines that:

(a) The individual has completed such services; or

(b) There is justifiable cause for the claimant's failure to participate in such services.

Ineligibility for failure to participate in reemployment services as described in division (A)(6) of this section shall be for the week or weeks in which the claimant was scheduled and failed to participate without justifiable cause.

(7) Participates in the reemployment and eligibility assessment program, or other reemployment services, as required by the director. As used in division (A)(7) of this section, "reemployment services" includes job search assistance

activities, skills assessments, and the provision of labor market statistics or analysis.

(a) For purposes of division (A)(7) of this section, participation is required unless the director determines that either of the following circumstances applies to the individual:

(i) The individual has completed similar services.

(ii) Justifiable cause exists for the failure of the individual to participate in those services.

(b) Within six months after October 11, 2013, notwithstanding any earlier contact an individual may have had with a local OhioMeansJobs center, as defined in section 6301.01 of the Revised Code, beginning with the eighth week after the week during which an individual first files a valid application for determination of benefit rights in the individual's benefit year, the individual shall report to a local OhioMeansJobs center for reemployment services in the manner prescribed by the director.

(c) An individual whose active search for work requirement has been waived under division (A)(4)(a) of this section or is considered to be satisfied under division (A)(4)(c), (d), or (e) of this section is exempt from the requirements of division (A)(7) of this section.

(B) An individual suffering total or partial unemployment is eligible for benefits for unemployment occurring subsequent to a waiting period of one week and no benefits shall be payable during this required waiting period. Not more than one week of waiting period shall be required of any individual in any benefit year in order to establish the individual's eligibility for total or partial unemployment benefits.

(C) The waiting period for total or partial unemployment shall commence on the first day of the first week with respect to which the individual first files a claim for benefits at an employment office or other place of registration maintained or designated by the director or on the first day of the first week with respect to which the individual has otherwise filed a claim for benefits in accordance with the rules of the department of job and family services, provided such claim is allowed by the director.

(D) Notwithstanding division (A) of this section, no individual may serve a waiting period or be paid benefits under the following conditions:

(1) For any week with respect to which the director finds that:

(a) The individual's unemployment was due to a labor dispute other than a lockout at any factory, establishment, or other premises located in this or any other state and owned or operated by the employer by which the individual is or was last employed; and for so long as the individual's unemployment is due to such labor dispute. No individual shall be disqualified under this provision if either of the following applies:

(i) The individual's employment was with such employer at any factory, establishment, or premises located in this state, owned or operated by such employer, other than the factory, establishment, or premises at which the labor dispute exists, if it is shown that the individual is not financing, participating in, or directly interested in such labor dispute;

(ii) The individual's employment was with an employer not involved in the labor dispute but whose place of business was

located within the same premises as the employer engaged in the dispute, unless the individual's employer is a wholly owned subsidiary of the employer engaged in the dispute, or unless the individual actively participates in or voluntarily stops work because of such dispute. If it is established that the claimant was laid off for an indefinite period and not recalled to work prior to the dispute, or was separated by the employer prior to the dispute for reasons other than the labor dispute, or that the individual obtained a bona fide job with another employer while the dispute was still in progress, such labor dispute shall not render the employee ineligible for benefits.

(b) The individual has been given a disciplinary layoff for misconduct in connection with the individual's work.

(2) For the duration of the individual's unemployment if the director finds that:

(a) The individual quit work without just cause or has been discharged for just cause in connection with the individual's work, provided division (D)(2) of this section does not apply to the separation of a person under any of the following circumstances:

(i) Separation from employment for the purpose of entering the armed forces of the United States if the individual is inducted into the armed forces within one of the following periods:

(I) Thirty days after separation;

(II) One hundred eighty days after separation if the individual's date of induction is delayed solely at the discretion of the armed forces.

(ii) Separation from employment pursuant to a labor-

management contract or agreement, or pursuant to an established employer plan, program, or policy, which permits the employee, because of lack of work, to accept a separation from employment;

(iii) The individual has left employment to accept a recall from a prior employer or, except as provided in division (D)(2)(a)(iv) of this section, to accept other employment as provided under section 4141.291 of the Revised Code, or left or was separated from employment that was concurrent employment at the time of the most recent separation or within six weeks prior to the most recent separation where the remuneration, hours, or other conditions of such concurrent employment were substantially less favorable than the individual's most recent employment and where such employment, if offered as new work, would be considered not suitable under the provisions of divisions (E) and (F) of this section. Any benefits that would otherwise be chargeable to the account of the employer from whom an individual has left employment or was separated from employment that was concurrent employment under conditions described in division (D)(2)(a)(iii) of this section, shall instead be charged to the mutualized account created by division (B) of section 4141.25 of the Revised Code, except that any benefits chargeable to the account of a reimbursing employer under division (D)(2)(a)(iii) of this section shall be charged to the account of the reimbursing employer and not to the mutualized account, except as provided in division (D)(2) of section 4141.24 of the Revised Code.

(iv) When an individual has been issued a definite layoff date by the individual's employer and before the layoff date, the individual quits to accept other employment, the provisions of division (D)(2)(a)(iii) of this section apply and no disqualification shall be imposed under division (D) of this

section. However, if the individual fails to meet the employment and earnings requirements of division (A)(2) of section 4141.291 of the Revised Code, then the individual, pursuant to division (A)(5) of this section, shall be ineligible for benefits for any week of unemployment that occurs prior to the layoff date.

(v) The individual's spouse is a member of the armed forces of the United States who is on active duty or a member of the commissioned corps of the national oceanic and atmospheric administration or public health service, the spouse is the subject of a transfer, the individual left employment to accompany the individual's spouse to a location from which it is impractical to commute to the individual's place of employment, and upon arrival at the new place of residence, the individual is in all respects able and available for suitable work. For purposes of division (D)(2)(a)(v) of this section, "active duty" and "armed forces" have the same meanings as in 10 U.S.C. 101.

(b) The individual has refused without good cause to accept an offer of suitable work when made by an employer either in person or to the individual's last known address, or has refused or failed to investigate a referral to suitable work when directed to do so by a local employment office of this state or another state, provided that this division shall not cause a disqualification for a waiting week or benefits under the following circumstances:

(i) When work is offered by the individual's employer and the individual is not required to accept the offer pursuant to the terms of the labor-management contract or agreement; or

(ii) When the individual is attending a training course pursuant to division (A)(4) of this section except, in the event of a refusal to accept an offer of suitable work or a refusal or

failure to investigate a referral, benefits thereafter paid to such individual shall not be charged to the account of any employer and, except as provided in division (B)(1)(b) of section 4141.241 of the Revised Code, shall be charged to the mutualized account as provided in division (B) of section 4141.25 of the Revised Code.

(c) Such individual quit work to marry or because of marital, parental, filial, or other domestic obligations.

(d) The individual became unemployed by reason of commitment to any correctional institution.

(e) The individual became unemployed because of dishonesty in connection with the individual's most recent or any base period work. Remuneration earned in such work shall be excluded from the individual's total base period remuneration and qualifying weeks that otherwise would be credited to the individual for such work in the individual's base period shall not be credited for the purpose of determining the total benefits to which the individual is eligible and the weekly benefit amount to be paid under section 4141.30 of the Revised Code. Such excluded remuneration and noncredited qualifying weeks shall be excluded from the calculation of the maximum amount to be charged, under division (D) of section 4141.24 and section 4141.33 of the Revised Code, against the accounts of the individual's base period employers. In addition, no benefits shall thereafter be paid to the individual based upon such excluded remuneration or noncredited qualifying weeks.

For purposes of division (D)(2)(e) of this section, "dishonesty" means the commission of substantive theft, fraud, or deceitful acts.

(3) For purposes of division (D)(2)(a) of this section, an individual shall be considered to have quit work without just cause if all of the following apply:

(a) The individual is provided temporary work assignments by the individual's employer under agreed terms and conditions of employment.

(b) The individual is required pursuant to those terms and conditions to inquire with the individual's employer for available work assignments upon the conclusion of each work assignment.

(c) Suitable work assignments are available with the employer, but the individual fails to contact the employer to inquire about work assignments.

(E) No individual otherwise qualified to receive benefits shall lose the right to benefits by reason of a refusal to accept new work if:

(1) As a condition of being so employed the individual would be required to join a company union, or to resign from or refrain from joining any bona fide labor organization, or would be denied the right to retain membership in and observe the lawful rules of any such organization.

(2) The position offered is vacant due directly to a strike, lockout, or other labor dispute.

(3) The work is at an unreasonable distance from the individual's residence, having regard to the character of the work the individual has been accustomed to do, and travel to the place of work involves expenses substantially greater than that required for the individual's former work, unless the expense is provided for.

(4) The remuneration, hours, or other conditions of the work offered are substantially less favorable to the individual than those prevailing for similar work in the locality.

(F) Subject to the special exceptions contained in division (A)(4)(f) of this section and section 4141.301 of the Revised Code, in determining whether any work is suitable for a claimant in the administration of this chapter, the director, in addition to the determination required under division (E) of this section, shall consider the degree of risk to the claimant's health, safety, and morals, the individual's physical fitness for the work, the individual's prior training and experience, the length of the individual's unemployment, the distance of the available work from the individual's residence, and the individual's prospects for obtaining local work.

(G) The "duration of unemployment" as used in this section means the full period of unemployment next ensuing after a separation from any base period or subsequent work and until an individual has become reemployed in employment subject to this chapter, or the unemployment compensation act of another state, or of the United States, and until such individual has worked six weeks and for those weeks has earned or been paid remuneration equal to six times an average weekly wage of not less than: eighty-five dollars and ten cents per week beginning on June 26, 1990; and beginning on and after January 1, 1992, twenty-seven and one-half per cent of the statewide average weekly wage as computed each first day of January under division (B)(3) of section 4141.30 of the Revised Code, rounded down to the nearest dollar, except for purposes of division (D)(2)(c) of this section, such term means the full period of unemployment next ensuing after a separation from such work and until such individual has become reemployed subject to the terms set forth

above, and has earned wages equal to one-half of the individual's average weekly wage or sixty dollars, whichever is less.

(H) If a claimant is disqualified under division (D)(2)(a), (c), or (d) of this section or found to be qualified under the exceptions provided in division (D)(2)(a)(i), (iii), (iv), or (v) of this section or division (A)(2) of section 4141.291 of the Revised Code, then benefits that may become payable to such claimant, which are chargeable to the account of the employer from whom the individual was separated under such conditions, shall be charged to the mutualized account provided in section 4141.25 of the Revised Code, provided that no charge shall be made to the mutualized account for benefits chargeable to a reimbursing employer, except as provided in division (D)(2) of section 4141.24 of the Revised Code. In the case of a reimbursing employer, the director shall refund or credit to the account of the reimbursing employer any over-paid benefits that are recovered under division (B) of section 4141.35 of the Revised Code. Amounts chargeable to other states, the United States, or Canada that are subject to agreements and arrangements that are established pursuant to section 4141.43 of the Revised Code shall be credited or reimbursed according to the agreements and arrangements to which the chargeable amounts are subject.

(I)(1) Benefits based on service in employment as provided in divisions (B)(2)(a) and (b) of section 4141.01 of the Revised Code shall be payable in the same amount, on the same terms, and subject to the same conditions as benefits payable on the basis of other service subject to this chapter; except that after December 31, 1977:

(a) Benefits based on service in an instructional, research, or principal administrative capacity in an institution of higher education, as defined in division (Y) of section 4141.01 of the Revised Code; or for an educational institution as defined in division (CC) of section 4141.01 of the Revised Code, shall not be paid to any individual for any week of unemployment that begins during the period between two successive academic years or terms, or during a similar period between two regular but not successive terms or during a period of paid sabbatical leave provided for in the individual's contract, if the individual performs such services in the first of those academic years or terms and has a contract or a reasonable assurance that the individual will perform services in any such capacity for any such institution in the second of those academic years or terms.

(b) Benefits based on service for an educational institution or an institution of higher education in other than an instructional, research, or principal administrative capacity, shall not be paid to any individual for any week of unemployment which begins during the period between two successive academic years or terms of the employing educational institution or institution of higher education, provided the individual performed those services for the educational institution or institution of higher education during the first such academic year or term and, there is a reasonable assurance that such individual will perform those services for any educational institution or institution of higher education in the second of such academic years or terms.

If compensation is denied to any individual for any week under division (I)(1)(b) of this section and the individual was not offered an opportunity to perform those services for an

institution of higher education or for an educational institution for the second of such academic years or terms, the individual is entitled to a retroactive payment of compensation for each week for which the individual timely filed a claim for compensation and for which compensation was denied solely by reason of division (I)(1)(b) of this section. An application for retroactive benefits shall be timely filed if received by the director or the director's deputy within or prior to the end of the fourth full calendar week after the end of the period for which benefits were denied because of reasonable assurance of employment. The provision for the payment of retroactive benefits under division (I)(1)(b) of this section is applicable to weeks of unemployment beginning on and after November 18, 1983. The provisions under division (I)(1)(b) of this section shall be retroactive to September 5, 1982, only if, as a condition for full tax credit against the tax imposed by the "Federal Unemployment Tax Act," 53 Stat. 183 (1939), 26 U.S.C.A. 3301 to 3311, the United States secretary of labor determines that retroactivity is required by federal law.

(c) With respect to weeks of unemployment beginning after December 31, 1977, benefits shall be denied to any individual for any week which commences during an established and customary vacation period or holiday recess, if the individual performs any services described in divisions (I)(1)(a) and (b) of this section in the period immediately before the vacation period or holiday recess, and there is a reasonable assurance that the individual will perform any such services in the period immediately following the vacation period or holiday recess.

(d) With respect to any services described in division (I)(1)(a), (b), or (c) of this section, benefits payable on the basis of services in any such capacity shall be denied as

specified in division (I)(1)(a), (b), or (c) of this section to any individual who performs such services in an educational institution or institution of higher education while in the employ of an educational service agency. For this purpose, the term "educational service agency" means a governmental agency or governmental entity that is established and operated exclusively for the purpose of providing services to one or more educational institutions or one or more institutions of higher education.

(e) Any individual employed by a county board of developmental disabilities shall be notified by the thirtieth day of April each year if the individual is not to be reemployed the following academic year.

(f) Any individual employed by a school district, other than a municipal school district as defined in section 3311.71 of the Revised Code, shall be notified by the first day of June each year if the individual is not to be reemployed the following academic year.

(2) No disqualification will be imposed, between academic years or terms or during a vacation period or holiday recess under this division, unless the director or the director's deputy has received a statement in writing from the educational institution or institution of higher education that the claimant has a contract for, or a reasonable assurance of, reemployment for the ensuing academic year or term.

(3) If an individual has employment with an educational institution or an institution of higher education and employment with a noneducational employer, during the base period of the individual's benefit year, then the individual may become eligible for benefits during the between-term, or vacation or holiday recess, disqualification period, based on employment

performed for the noneducational employer, provided that the employment is sufficient to qualify the individual for benefit rights separately from the benefit rights based on school employment. The weekly benefit amount and maximum benefits payable during a disqualification period shall be computed based solely on the nonschool employment.

(J) Benefits shall not be paid on the basis of employment performed by an alien, unless the alien had been lawfully admitted to the United States for permanent residence at the time the services were performed, was lawfully present for purposes of performing the services, or was otherwise permanently residing in the United States under color of law at the time the services were performed, under section 212(d)(5) of the "Immigration and Nationality Act," 66 Stat. 163, 8 U.S.C.A. 1101:

(1) Any data or information required of individuals applying for benefits to determine whether benefits are not payable to them because of their alien status shall be uniformly required from all applicants for benefits.

(2) In the case of an individual whose application for benefits would otherwise be approved, no determination that benefits to the individual are not payable because of the individual's alien status shall be made except upon a preponderance of the evidence that the individual had not, in fact, been lawfully admitted to the United States.

(K) The director shall establish and utilize a system of profiling all new claimants under this chapter that:

(1) Identifies which claimants will be likely to exhaust regular compensation and will need job search assistance

services to make a successful transition to new employment;

(2) Refers claimants identified pursuant to division (K)(1) of this section to reemployment services, such as job search assistance services, available under any state or federal law;

(3) Collects follow-up information relating to the services received by such claimants and the employment outcomes for such claimant's subsequent to receiving such services and utilizes such information in making identifications pursuant to division (K)(1) of this section; and

(4) Meets such other requirements as the United States secretary of labor determines are appropriate.

(L) Except as otherwise provided in division (A)(6) of this section, ineligibility pursuant to division (A) of this section shall begin on the first day of the week in which the claimant becomes ineligible for benefits and shall end on the last day of the week preceding the week in which the claimant satisfies the eligibility requirements.

~~(M) The director may adopt rules that the director considers necessary for the administration of division (A) of this section.~~

Sec. 4141.43. (A) The director of job and family services may disclose information as provided in this section in accordance with federal law governing such disclosure and sections 4141.162, 4141.21, and 4141.211 of the Revised Code.

(B) The director may make the state's record relating to the administration of this chapter available to the railroad retirement board and may furnish the board at the board's expense such copies thereof as the board deems necessary for its purposes.

(C) The director may afford reasonable cooperation with every agency of the United States charged with the administration of any unemployment compensation law.

(D) The director may enter into arrangements with the appropriate agencies of other states or of the United States or Canada whereby individuals performing services in this and other states for a single employer under circumstances not specifically provided for in division (B) of section 4141.01 of the Revised Code or in similar provisions in the unemployment compensation laws of such other states shall be deemed to be engaged in employment performed entirely within this state or within one of such other states or within Canada, and whereby potential rights to benefits accumulated under the unemployment compensation laws of several states or under such a law of the United States, or both, or of Canada may constitute the basis for the payment of benefits through a single appropriate agency under terms that the director finds will be fair and reasonable as to all affected interests and will not result in any substantial loss to the unemployment compensation fund.

(E) The director may enter into agreements with the appropriate agencies of other states or of the United States or Canada:

(1) Whereby services or wages upon the basis of which an individual may become entitled to benefits under the unemployment compensation law of another state or of the United States or Canada shall be deemed to be employment or wages for employment by employers for the purposes of qualifying claimants for benefits under this chapter, and the director may estimate the number of weeks of employment represented by the wages reported to the director for such claimants by such other

agency, provided such other state agency or agency of the United States or Canada has agreed to reimburse the unemployment compensation fund for such portion of benefits paid under this chapter upon the basis of such services or wages as the director finds will be fair and reasonable as to all affected interests;

(2) Whereby the director will reimburse other state or federal or Canadian agencies charged with the administration of unemployment compensation laws with such reasonable portion of benefits, paid under the law of such other states or of the United States or of Canada upon the basis of employment or wages for employment by employers, as the director finds will be fair and reasonable as to all affected interests. Reimbursements so payable shall be deemed to be benefits for the purpose of section 4141.09 and division (A) of section 4141.30 of the Revised Code. However, no reimbursement so payable shall be charged against any employer's account for the purposes of section 4141.24 of the Revised Code if the employer's account, under the same or similar circumstances, with respect to benefits charged under the provisions of this chapter, other than this section, would not be charged or, if the claimant at the time the claimant files the combined wage claim cannot establish benefit rights under this chapter. This noncharging shall not be applicable to a nonprofit organization that has elected to make payments in lieu of contributions under section 4141.241 of the Revised Code, except as provided in division (D)(2) of section 4141.24 of the Revised Code. The director may make to other state or federal or Canadian agencies and receive from such other state or federal or Canadian agencies reimbursements from or to the unemployment compensation fund, in accordance with arrangements pursuant to this section.

(3) Notwithstanding division (B)(2)(f) of section 4141.01

of the Revised Code, the director may enter into agreements with other states whereby services performed for a crew leader, as defined in division (BB) of section 4141.01 of the Revised Code, may be covered in the state in which the crew leader either:

(a) Has the crew leader's place of business or from which the crew leader's business is operated or controlled;

(b) Resides if the crew leader has no place of business in any state.

(F) The director may apply for an advance to the unemployment compensation fund and do all things necessary or required to obtain such advance and arrange for the repayment of such advance in accordance with Title XII of the "Social Security Act" as amended.

(G) The director may enter into reciprocal agreements or arrangements with the appropriate agencies of other states in regard to services on vessels engaged in interstate or foreign commerce whereby such services for a single employer, wherever performed, shall be deemed performed within this state or within such other states.

(H) The director shall participate in any arrangements for the payment of compensation on the basis of combining an individual's wages and employment, covered under this chapter, with the individual's wages and employment covered under the unemployment compensation laws of other states which are approved by the United States secretary of labor in consultation with the state unemployment compensation agencies as reasonably calculated to assure the prompt and full payment of compensation in such situations and which include provisions for:

(1) Applying the base period of a single state law to a

claim involving the combining of an individual's wages and employment covered under two or more state unemployment compensation laws, and

(2) Avoiding the duplicate use of wages and employment by reason of such combining.

(I)(1) The director shall cooperate with the United States department of labor to the fullest extent consistent with this chapter, and shall take such action, ~~through~~ except the adoption of ~~appropriate~~ rules, ~~regulations, and administrative methods and standards,~~ as may be necessary to secure to this state and its citizens all advantages available under the provisions of the "Social Security Act" that relate to unemployment compensation, the "Federal Unemployment Tax Act," (1970) 84 Stat. 713, 26 U.S.C.A. 3301 to 3311, the "Wagner-Peyser Act," (1933) 48 Stat. 113, 29 U.S.C.A. 49, the "Federal-State Extended Unemployment Compensation Act of 1970," 84 Stat. 596, 26 U.S.C.A. 3306, and the "Workforce Innovation and Opportunity Act," 29 U.S.C.A. 3101 et seq.

(2) Nothing in division (I)(1) of this section requires the director to participate in, nor precludes the director from ceasing to participate in, any voluntary, optional, special, or emergency program offered by the federal government, including programs offered under any of the federal acts listed in division (I)(1) of this section, the "Coronavirus Aid, Relief, and Economic Security Act," 15 U.S.C. 9023, or any other federal program enacted to address exceptional unemployment conditions.

(J) The director may disclose wage information furnished to or maintained by the director under Chapter 4141. of the Revised Code to a consumer reporting agency as defined by the "Fair Credit Reporting Act," 84 Stat. 1128, 15 U.S.C.A. 1681a,

as amended, for the purpose of verifying an individual's income under a written agreement that requires all of the following:

(1) A written statement of informed consent from the individual whose information is to be disclosed;

(2) A written statement confirming that the consumer reporting agency and any other entity to which the information is disclosed or released will safeguard the information from illegal or unauthorized disclosure;

(3) A written statement confirming that the consumer reporting agency will pay to the department all costs associated with the disclosure.

The director shall prescribe a manner and format in which this information may be provided.

For purposes of this division, "wage information" means the name, social security number, quarterly wages paid to, and weeks worked by an employee, and the name, address, and state and federal tax identification number of an employer reporting wages under section 4141.20 of the Revised Code.

(K) The director shall disclose information furnished to or maintained by the director under this chapter upon request and on a reimbursable basis as required by section 303 of the "Social Security Act," 42 U.S.C.A. 503, and section 3304 of the "Internal Revenue Code," 26 U.S.C.A. 3304.

Sec. 4141.431. (A) Notwithstanding section 4141.20 of the Revised Code, the director of job and family services shall attempt to enter into an agreement under section 3510(F) of the "Internal Revenue Code of 1986" with the secretary of the treasury to collect, as the agent of this state, the taxes imposed by this chapter on remuneration paid for domestic

service in a private home of the employer.

(B) Upon the director entering into an agreement under division (A) of this section, returns with respect to taxes imposed by this chapter on remuneration paid for domestic service in a private home of the employer shall be made on a calendar-year basis.

~~(C) The director shall adopt rules to further implement the coordination of this chapter and the "Social Security Domestic Employment Reform Act of 1994," 108 Stat. 4071, 26 U.S.C.A. 3121. Such rules do not require approval of the unemployment compensation review commission under section 4141.14 of the Revised Code.~~

Sec. 4141.50. (A) As used in this section and in sections 4141.51 to 4141.56 of the Revised Code:

(1) "Affected unit" means a department, shift, or other organizational unit of two or more employees that is designated by a participating employer in a shared work plan.

(2) "Approved shared work plan" means an employer's shared work plan, submitted pursuant to section 4141.51 of the Revised Code, that satisfies all of the requirements for approval under that section and that the director of job and family services has approved in writing.

(3) "Intermittent basis" means employment that is not continuous but may consist of periodic intervals of weekly work and intervals of no weekly work.

(4) "Normal weekly hours of work" means the normal hours of work in employment each week for an employee in an affected unit when that unit is operating on a full-time basis, not to exceed forty hours and not including any overtime worked.

(5) "Participating employee" means an employee whose normal weekly hours of work are reduced by the reduction percentage under an approved shared work plan.

(6) "Participating employer" means an employer who has an approved shared work plan in effect.

(7) "Reduction percentage" means the percentage by which each participating employee's normal weekly hours of work are reduced under an approved shared work plan.

(8) "Seasonal basis" has the same meaning as "seasonal employment" as defined in division (A) of section 4141.33 of the Revised Code.

(9) "Shared work compensation" means the pro rata share of unemployment compensation benefits payable to a participating employee under an approved shared work plan. "Shared work compensation" does not include unemployment compensation benefits otherwise payable to an eligible claimant who is totally or partially unemployed.

(10) "Temporary basis" means employment where an employee is expected to remain in a position for only a limited period of time or is hired by a temporary agency to fill a gap in the employer's workforce.

(B) There is hereby created the "SharedWork Ohio" program, under which an employer who participates in the program reduces the number of hours worked by the employees of the employer in lieu of layoffs.

~~The director may adopt rules as the director determines necessary to implement any guidance issued by the United States secretary of labor with respect to the SharedWork Ohio program.~~

Sec. 4167.07. (A) ~~The~~ Except as provided in division (B) of this section, the administrator of workers' compensation, with the advice and consent of the bureau of workers' compensation board of directors, ~~shall adopt rules that establish employment risk reduction standards. Except as provided in division (B) of this section, in adopting these rules, the administrator~~ shall do both of the following:

(1) By no later than July 1, 1994, adopt as a rule and an Ohio employment risk reduction standard every federal occupational safety and health standard then adopted by the United States secretary of labor pursuant to the "Occupational Safety and Health Act of 1970," 84 Stat. 1590, 29 U.S.C.A. 651, as amended;

(2) By no later than one hundred twenty days after the United States secretary of labor adopts, modifies, or revokes any federal occupational safety and health standard, by rule do one of the following:

(a) Adopt the federal occupational safety and health standard as a rule and an Ohio employment risk reduction standard;

(b) Amend the existing rule and Ohio employment risk reduction standard to conform to the modification of the federal occupational safety and health standard;

(c) Rescind the existing rule and Ohio employment risk reduction standard that corresponds to the federal occupational safety and health standard the United States secretary of labor revoked.

(B) The administrator, with the advice and consent of the bureau of workers' compensation board of directors, may decline

to adopt any federal occupational safety and health standard as a rule and an Ohio employment risk reduction standard or to modify or rescind any existing rule and Ohio employment risk reduction standard to conform to any federal occupational safety and health standard modified or revoked by the United States secretary of labor or may adopt as a rule and an Ohio employment risk reduction standard any occupational safety and health standard that is not covered under the federal law or that differs from one adopted or modified by the United States secretary of labor, if the administrator determines that existing rules and Ohio employment risk reduction standards provide protection at least as effective as that which would be provided by the existing, new, or modified federal occupational safety and health standard or if the administrator determines that local conditions warrant a different standard from that of the existing federal occupational safety and health standard or from standards the United States secretary of labor adopts, modifies, or revokes.

(C) In adopting, modifying, or rescinding any rule or Ohio employment risk reduction standard dealing with toxic materials or harmful physical agents, the administrator, with the advice and consent of the bureau of workers' compensation board of directors, shall do all of the following:

(1) Set the employment risk reduction standard to most adequately assure, to the extent technologically feasible and on the basis of the best available evidence, that no public employee will suffer material impairment of health or functional capacity as a result of the hazards dealt with by the rule or Ohio employment risk reduction standard for the period of the public employee's working life;

(2) Base the development of these rules and Ohio employment risk reduction standards on research, demonstrations, experiments, and other information as is appropriate and upon the technological feasibility of the rule and standard, using the latest available scientific data in the field and the experience gained in the workplace under this chapter and other health and safety laws, to establish the highest degree of safety and health for the public employee;

(3) Whenever practicable, express the rule and Ohio employment risk reduction standard in terms of objective criteria and of the performance desired;

(4) Prescribe the use of labels or other appropriate forms of warning as are necessary to ensure that public employees are apprised of all hazards to which they are exposed, relevant symptoms and appropriate emergency treatment, and proper conditions and precautions of safe use or exposure where appropriate;

(5) Prescribe suitable protective equipment and control procedures to be used in connection with the hazards;

(6) Provide for measuring or monitoring public employee exposure in a manner necessary for the protection of the public employees;

(7) Where appropriate, prescribe the type and frequency of medical examinations or other tests the public employer shall make available, at the cost of the public employer, to the public employees exposed to the hazards in order to determine any adverse effect from the exposure.

(D) In determining the priority for adopting rules and Ohio employment risk reduction standards under this section, the

administrator shall give due regard to the urgency of need and recommendations of the department of health regarding that need for mandatory employment risk reduction standards for particular trades, crafts, occupations, services, and workplaces.

(E)(1) Except for rules adopted under division (A) of this section, the administrator, with the advice and consent of the bureau of workers' compensation board of directors, shall adopt all rules under this section in accordance with Chapter 119. of the Revised Code, provided that notwithstanding that chapter, the administrator may delay the effective date of any rule or Ohio employment risk reduction standard for the period the administrator determines necessary to ensure that affected public employers and public employees will be informed of the adoption, modification, or rescission of the rule and Ohio employment risk reduction standard and have the opportunity to familiarize themselves with the specific requirements of the rule and standard. In no case, however, shall the administrator delay the effective date of a rule adopted pursuant to Chapter 119. of the Revised Code in excess of ninety days beyond the otherwise required effective date.

(2) In regard to the rules for which the administrator does not have to comply with Chapter 119. of the Revised Code, the administrator shall file two certified copies of the rules and Ohio employment risk reduction standards adopted with the secretary of state and the director of the legislative service commission.

Sec. 4167.08. (A) In the event of an emergency or unusual situation, the administrator of workers' compensation shall issue an emergency temporary Ohio employment risk reduction standard to take immediate effect upon publication in newspapers

of general circulation in Cleveland, Columbus, Cincinnati, and Toledo if the administrator finds both of the following:

(1) Public employees are exposed to grave danger from exposure to substances or agents determined to be toxic or physically harmful or from new hazards;

(2) The emergency temporary Ohio employment risk reduction standard is necessary to protect employees from the danger.

(B)(1) Except as provided in division (B)(2) of this section an emergency temporary Ohio employment risk reduction standard issued by the administrator under division (A) of this section shall be in effect no longer than fifteen days, unless the bureau of workers' compensation board of directors approves the emergency temporary Ohio employment risk reduction standard as issued by the administrator, in which case, the emergency temporary Ohio employment risk reduction standard shall be in effect no longer than one hundred twenty days after the date the administrator issues it.

(2) The administrator may renew an emergency temporary Ohio employment risk reduction standard that has been approved by the board for an additional time period not to exceed one hundred days if the administrator finds that the conditions identified in divisions (A)(1) and (2) of this section continue to exist.

On or before the expiration date of the emergency temporary Ohio employment risk reduction standard or renewal thereof, if the conditions identified in divisions (A)(1) and (2) of this section continue to exist, the administrator, with the advice and consent of the board, shall adopt in accordance with Chapter 119. of the Revised Code a permanent Ohio

employment risk reduction standard ~~pursuant to section 4167.07 of the Revised Code~~ as a rule to replace the emergency temporary Ohio employment risk reduction standard.

Sec. 4167.11. (A) In order to further the purposes of this chapter, the administrator of workers' compensation shall develop and maintain, for public employers and public employees, an effective program of collection, compilation, and analysis of employment risk reduction statistics.

(B) To implement and maintain division (A) of this section, the administrator, with the advice and consent of the bureau of workers' compensation board of directors, shall adopt rules in accordance with Chapter 119. of the Revised Code that ~~extend to~~ do all of the following:

(1) ~~Requiring~~ Require each public employer to make, keep, and preserve, and make available to the administrator, reports and records regarding the public employer's activities, as determined by the rule that are necessary or appropriate ~~for the enforcement of this chapter or~~ for developing information regarding the causes and prevention of occupational accidents and illnesses. The rule shall prescribe which of these reports and records shall or may be furnished to public employees and public employee representatives.

(2) ~~Requiring~~ Require every public employer, through posting of notices or other appropriate means, to keep their public employees informed of public employees' rights and obligations under this chapter, including the provisions of applicable Ohio employment risk reduction standards. The rule shall allow any required notice to be posted on the internet in a manner that is accessible to the public employer's employees.

(3) ~~Requiring~~ Require public employers to maintain accurate records of public employee exposure to potentially toxic materials, carcinogenic materials, and harmful physical agents that are required to be monitored or measured under rules adopted under the guidelines of division (C) of section 4167.07 of the Revised Code. The rule shall provide public employees or public employee representatives an opportunity to observe the monitoring or measuring, and to have access on request to the records thereof, and may provide public employees or public employee representatives an opportunity to participate in and to undertake their own monitoring or measuring. The rules also shall permit each current or former public employee to have access to the records that indicate their own exposure to toxic materials, carcinogenic materials, or harmful agents.

(C) The administrator shall obtain any information under division (B) of this section with a minimum burden upon the public employer and shall, to the maximum extent feasible, reduce unnecessary duplication of efforts in obtaining the information.

Sec. 4301.03. The liquor control commission may adopt and promulgate, repeal, rescind, and amend, in the manner required by this section, rules, standards, requirements, and orders ~~necessary to carry out this chapter and Chapter 4303. of the Revised Code, but all rules of the board of liquor control that were in effect immediately prior to April 17, 1963, shall remain in full force and effect as rules of the liquor control commission until and unless amended or repealed by the liquor control commission. The rules of the commission may~~ that include the following:

(A) Rules with reference to applications for and the

issuance of permits for the manufacture, distribution, transportation, and sale of beer and intoxicating liquor, and the sale of alcohol; and rules governing the procedure of the division of liquor control in the suspension, revocation, and cancellation of those permits;

(B) Rules and orders providing in detail for the conduct of any retail business authorized under permits issued pursuant to this chapter and Chapter 4303. of the Revised Code, with a view to ensuring compliance with those chapters and laws relative to them, and the maintenance of public decency, sobriety, and good order in any place licensed under the permits. No rule or order shall prohibit the operation of video lottery terminal games at a commercial race track where live horse racing and simulcasting are conducted in accordance with Chapter 3769. of the Revised Code or the sale of lottery tickets issued pursuant to Chapter 3770. of the Revised Code by any retail business authorized under permits issued pursuant to that chapter.

No rule or order shall prohibit pari-mutuel wagering on simulcast horse races at a satellite facility that has been issued a D liquor permit under Chapter 4303. of the Revised Code. No rule or order shall prohibit a charitable organization that holds a D-4 permit from selling or serving beer or intoxicating liquor under its permit in a portion of its premises merely because that portion of its premises is used for the conduct of a bingo game, as described in division (O) of section 2915.01 of the Revised Code. As used in this division, "charitable organization" has the same meaning as in division (H) of section 2915.01 of the Revised Code. No rule or order pertaining to visibility into the premises of a permit holder after the legal hours of sale shall be adopted or maintained by

the commission.

(C) Standards, not in conflict with those prescribed by any law of this state or the United States, to secure the use of proper ingredients and methods in the manufacture of beer, mixed beverages, and wine to be sold within this state;

(D) Rules determining the nature, form, and capacity of all packages and bottles to be used for containing beer or intoxicating liquor, except for spirituous liquor to be kept or sold, governing the form of all seals and labels to be used on those packages and bottles;

(E) Rules requiring the label on every package, bottle, and container to state all of the following, as applicable:

(1) The ingredients in the contents;

(2) Except for beer, the terms of weight, volume, or proof spirits;

(3) Except for spirituous liquor, whether the product is beer, wine, alcohol, or any intoxicating liquor;

(4) Regarding beer that contains more than twelve per cent of alcohol by volume, the percentage of alcohol by volume and that the beer is a "high alcohol beer."

(F) Uniform rules governing all advertising with reference to the sale of beer and intoxicating liquor throughout the state and advertising upon and in the premises licensed for the sale of beer or intoxicating liquor;

(G) Rules restricting and placing conditions upon the transfer of permits;

(H) Rules and orders limiting the number of permits of any

class within the state or within any political subdivision of the state; and, for that purpose, adopting reasonable classifications of persons or establishments to which any authorized class of permits may be issued within any political subdivision;

(I) Rules and orders with reference to the hours of the day during which and the persons to whom intoxicating liquor of any class may be sold, and rules with reference to the manner of sale;

(J) Rules requiring permit holders buying beer to pay and permit holders selling beer to collect minimum cash deposits for kegs, cases, bottles, or other returnable containers of the beer; requiring the repayment, or credit, of the minimum cash deposit charges upon the return of the empty containers; and requiring the posting of such form of indemnity or such other conditions with respect to the charging, collection, and repayment of minimum cash deposit charges for returnable containers of beer as are necessary to ensure the return of the empty containers or the repayment upon that return of the minimum cash deposits paid;

(K) Rules establishing the method by which alcohol products may be imported for sale by wholesale distributors and the method by which manufacturers and suppliers may sell alcohol products to wholesale distributors.

Every rule, standard, requirement, or order of the commission and every repeal, amendment, or rescission of them shall be posted for public inspection in the principal office of the commission and the principal office of the division of liquor control, and a certified copy of them shall be filed in the office of the secretary of state. An order applying only to

persons named in it shall be served on the persons affected by personal delivery of a certified copy, or by mailing a certified copy to each person affected by it or, in the case of a corporation, to any officer or agent of the corporation upon whom a service of summons may be served in a civil action. The posting and filing required by this section constitutes sufficient notice to all persons affected by such rule or order which is not required to be served. General rules of the commission promulgated pursuant to this section shall be published in the manner the commission determines.

Sec. 4301.102. (A) The superintendent of liquor control shall collect the tax levied under section 307.697 or 4301.424 of the Revised Code on sales of spirituous liquor sold to liquor permit holders for resale, and sold at retail by the division of liquor control, in the county in which the tax is levied, and shall deposit the tax into the state treasury to the credit of the liquor control fund created by section 4301.12 of the Revised Code. The superintendent shall provide for payment of the full amount of the tax collected to the county in which the tax is levied as follows:

(1) For each county in which a tax is levied under section 307.697 or 4301.424 of the Revised Code, the superintendent of liquor control shall, on or before the sixteenth day of each month:

(a) From the best information available to the superintendent, determine and certify to the director of budget and management and to the tax commissioner the full amount of the tax levied in the county and collected during the first fifteen days of the preceding month;

(b) On or before the last working day of each month, from

the best information available to the superintendent, determine and certify to the director of budget and management and to the tax commissioner the full amount of the tax levied in the county and collected during the remainder of the preceding month.

(2) Upon receipt of such certification, the director of budget and management shall transfer from the liquor control fund to the permissive tax distribution fund created by division (B)(1) of section 4301.423 of the Revised Code the full amount certified to the director under division (A)(1) of this section.

(3) Within five working days after receiving the certification provided for in division (A)(1) of this section, the tax commissioner shall provide for payment to the county treasurer of each county that imposes a tax under section 307.697 or 4301.424 of the Revised Code the full amount certified to be paid to the county.

(B) ~~The superintendent of liquor control may adopt any rules necessary for the administration, collection, and enforcement of taxes levied under section 307.697 or 4301.424 of the Revised Code.~~

~~(C)~~ Notwithstanding any other provision of law to the contrary, no permit holder shall purchase liquor from the division of liquor control at wholesale from a store that is located outside of a county in which a tax is levied under section 307.697 or 4301.424 of the Revised Code if the liquor is to be resold in the county in which the tax is levied.

Sec. 4303.202. (A) The division of liquor control may issue an F-2 permit to an association or corporation, or to a recognized subordinate lodge, chapter, or other local unit of an association or corporation, to sell beer or intoxicating liquor

by the individual drink at an event to be held on premises located in a political subdivision or part thereof where the sale of beer or intoxicating liquor, but not spirituous liquor, on that day is otherwise permitted by law. However, the division may issue the F-2 permit only if the association, corporation, or recognized subordinate lodge, chapter, or other local unit of an association or corporation meets all of the following:

(1) It is organized not for profit;

(2) It is operated for a charitable, cultural, educational, fraternal, or political purpose;

(3) It is not affiliated with the holder of any class of liquor permit, other than a D-4 permit.

(B) Sales under an F-2 permit on Sundays are not affected by whether Sunday sales of beer or intoxicating liquor for consumption on the premises where sold are allowed to be made by persons holding another type of permit in the precinct or at the particular location where the event is to be held, provided that the F-2 permit is issued for other days of the week in addition to Sunday.

(C) The premises on which the permit is to be used shall be clearly defined and sufficiently restricted to allow proper supervision of the permit use by state and local law enforcement personnel. An F-2 permit may be issued for the same premises for which another class of permit is issued.

(D)(1) No F-2 permit shall be effective for more than four consecutive days, and sales shall be confined to the same hours permitted to the holder of a D-3 permit. The division shall not issue more than one F-2 permit in a thirty-day period to the same association, corporation, or local unit of an association

or corporation. The fee for an F-2 permit is one hundred fifty dollars.

(2) No association, corporation, local unit of an association or corporation, or D-permit holder who holds an F-2 permit shall sell beer or intoxicating liquor beyond the hours of sale allowed by the permit. Division (D)(2) of this section imposes strict liability on the holder of such permit and on any officer, agent, or employee of such permit holder.

(E) If an applicant wishes the holder of a D permit issued under sections 4303.13 to 4303.181 of the Revised Code to conduct the sale of beer and intoxicating liquor at the event, the applicant may request that the F-2 permit be issued jointly to the association, corporation, or local unit and the D-permit holder. If a permit is issued jointly, the association, corporation, or local unit and the D-permit holder shall both be held responsible for any conduct that violates laws pertaining to the sale of alcoholic beverages, including sales by the D-permit holder; otherwise, the association, corporation, or local unit shall be held responsible. In addition to the permit fee paid by the association, corporation, or local unit, the D-permit holder shall pay a fee of ten dollars. A D-permit holder may receive an unlimited number of joint F-2 permits.

(F)(1) Any association, corporation, or local unit applying for an F-2 permit shall file with the application a statement of the organizational purpose of the association, corporation, or local unit, the location and purpose of the event, and a list of its officers. The application form shall contain a notice that a person who knowingly makes a false statement on the application or statement is guilty of the crime of falsification, a misdemeanor of the first degree. In ruling

on an application, the division shall consider, among other things, the past activities of the association, corporation, or local unit and any D-permit holder while operating under other F-2 permits, the location of the event for which the current application is made, and any objections of local residents or law enforcement authorities. If the division approves the application, it shall send copies of the approved application to the proper law enforcement authorities prior to the scheduled event.

(2) Notwithstanding section 1711.09 of the Revised Code, this section applies to any association or corporation or a recognized subordinate lodge, chapter, or other local unit of an association or corporation.

~~(G) Using the procedures of Chapter 119. of the Revised Code, the liquor control commission may adopt such rules as are necessary to administer this section.~~

Sec. 4303.208. (A)(1) The division of liquor control may issue an F-8 permit to a not-for-profit organization that manages, for the benefit of the public and by contract with a political subdivision of this state, publicly owned property to sell beer or intoxicating liquor by the individual drink at specific events conducted on the publicly owned property and appurtenant streets, but only if, and then only at times at which, the sale of beer and intoxicating liquor on the premises is otherwise permitted by law. Additionally, an F-8 permit may be issued only if the publicly owned property is located in a county that has a population of more than seven hundred fifty thousand on and after ~~the effective date of this amendment~~April 30, 2015.

(2) The premises on which an F-8 permit will be used shall

be clearly defined and sufficiently restricted to allow proper supervision of the permit's use by state and local law enforcement officers. Sales under an F-8 permit shall be confined to the same hours permitted to the holder of a D-3 permit.

(3) The fee for an F-8 permit is one thousand seven hundred dollars. An F-8 permit is effective for a period not to exceed nine months as specified in the permit. An F-8 permit is not transferable or renewable. However, the holder of an F-8 permit may apply for a new F-8 permit at any time. An F-8 permit is not effective until any F-8 permit currently held expires. The holder of an F-8 permit shall make sales only at those specific events about which the permit holder has notified in advance the division of liquor control, the department of public safety, and the chief, sheriff, or other principal peace officer of the local law enforcement agencies having jurisdiction over the premises.

(B)~~(1)~~ An application for the issuance of an F-8 permit is subject to the notice and hearing requirements established in division (A) of section 4303.26 of the Revised Code.

~~(2) The liquor control commission shall adopt under Chapter 119. of the Revised Code rules necessary to administer this section.~~

(C) No F-8 permit holder shall sell beer or intoxicating liquor beyond the hours of sale allowed by the permit. This division imposes strict liability on the holder of an F-8 permit and on any officer, agent, or employee of that permit holder.

(D) Nothing in this section prohibits the division from issuing an F, F-2, or F-6 permit for a specific event not

conducted by the holder of an F-8 permit provided that the holder of the F-8 permit certifies to the division that it will not exercise its permit privileges during that specific event.

Sec. 4303.209. (A)(1) The division of liquor control may issue an F-9 permit to any of the following:

(a) A nonprofit corporation that operates a park on property leased from a municipal corporation;

(b) A nonprofit corporation that provides or manages entertainment programming pursuant to an agreement with a nonprofit corporation that operates a park on property leased from a municipal corporation;

(c) A nonprofit corporation that provides or manages entertainment programming at a municipal park pursuant to an agreement with the municipal corporation.

An F-9 permit holder may sell beer or intoxicating liquor by the individual drink at specific events conducted within the park property and appurtenant streets, but only if, and only at times at which, the sale of beer and intoxicating liquor on the premises is otherwise permitted by law.

(2) The division may issue separate F-9 permits under division (A)(1)(a), (b), or (c) of this section for the same location to be effective during the same time period. However, the permit privileges may be exercised by only one of the holders of an F-9 permit at specific events. The other holder of an F-9 permit shall certify to the division that it will not exercise its permit privileges during that specific event.

(3) The premises on which an F-9 permit will be used shall be clearly defined and sufficiently restricted to allow proper supervision of the permit's use by state and local law

enforcement officers. Sales under an F-9 permit shall be confined to the same hours permitted to the holder of a D-3 permit.

(4) The fee for an F-9 permit is one thousand seven hundred dollars. An F-9 permit is effective for a period not to exceed nine months as specified in the permit. An F-9 permit is not transferable or renewable. However, the holder of an F-9 permit may apply for a new F-9 permit at any time. The holder of an F-9 permit shall make sales only at those specific events about which the permit holder has notified in advance the division of liquor control, the department of public safety, and the chief, sheriff, or other principal peace officer of the local law enforcement agencies having jurisdiction over the premises.

(B) ~~(1)~~ An application for the issuance of an F-9 permit is subject to the notice and hearing requirements established in division (A) of section 4303.26 of the Revised Code.

~~(2) The liquor control commission shall adopt rules under Chapter 119. of the Revised Code necessary to administer this section.~~

(C) No F-9 permit holder shall sell beer or intoxicating liquor beyond the hours of sale allowed by the permit. This division imposes strict liability on the holder of an F-9 permit and on any officer, agent, or employee of that permit holder.

(D) Nothing in this section prohibits the division from issuing an F-2 permit for a specific event not conducted by the holder of an F-9 permit provided that the holder of the F-9 permit certifies to the division that it will not exercise its permit privileges during that specific event.

Sec. 4303.234. (A) As used in this section:

(1) "Fulfillment warehouse" means a person that operates a warehouse that is located outside this state and has entered into a written agreement with an S-2 permit holder to fulfill orders of the S-2 permit holder's wine to personal consumers via delivery by an H permit holder.

(2) "Personal consumer" has the same meaning as in section 4303.233 of the Revised Code.

(B) A fulfillment warehouse may send a shipment of wine sold by an S-2 permit holder to a personal consumer via an H permit holder. A fulfillment warehouse shall provide annually in electronic format by electronic means a report to the division not later than March first. The annual report shall include all of the following:

(1) The name and address of the fulfillment warehouse. The fulfillment warehouse shall include the address of each location owned or operated by the fulfillment warehouse that is used to ship wine to personal consumers in this state.

(2) The name and address of each S-2 liquor permit holder with which the fulfillment warehouse has entered into an agreement;

(3) The name and address of each personal consumer that the fulfillment warehouse sends wine to and the quantity of wine purchased by the personal consumer;

(4) The shipping tracking number provided by the H permit holder for each shipment of wine delivered to a personal consumer. The division shall prescribe and provide an electronic form for the report and shall determine the specific electronic means that the fulfillment warehouse must use to submit the

report.

~~(E) The division may adopt rules in accordance with Chapter 119. of the Revised Code necessary to administer and enforce this section.~~

Sec. 4303.251. (A) A manufacturer, supplier, broker, or wholesale distributor of beer or intoxicating liquor, or an agent, solicitor, or salesperson who is registered under section 4303.25 of the Revised Code and who represents the manufacturer, supplier, broker, or wholesale distributor of beer or intoxicating liquor, may conduct consumer product instruction, or provide sample servings of the manufacturer's, supplier's, broker's, or wholesale distributor's products, on the premises of a retail permit holder who is authorized to sell the products for on-premises consumption, without the manufacturer, supplier, broker, wholesale distributor, agent, solicitor, or salesperson having to be issued a retail permit under this chapter. The person providing a sample serving shall purchase the beer or intoxicating liquor at the ordinary retail price from the retail permit holder whose premises are involved. ~~The liquor control commission shall adopt rules in accordance with Chapter 119. of the Revised Code to implement this section.~~

(B) A manufacturer, supplier, or broker of beer, wine, or mixed beverages, or an agent, solicitor, or salesperson who is registered under section 4303.25 of the Revised Code and who represents the manufacturer, supplier, or broker of beer, wine, or mixed beverages, may conduct consumer product instruction, or provide sample servings of the manufacturer's, supplier's, or broker's products on the premises of a retail permit holder who holds a D-8 permit and who is authorized to sell the products for off-premises consumption, without the manufacturer,

supplier, broker, agent, solicitor, or salesperson having to be issued a retail permit under this chapter. The person providing a sample serving shall purchase the beer, wine, or mixed beverages at the ordinary retail price from the D-8 permit holder and shall limit the amount and frequency of the sample servings to those authorized pursuant to the D-8 permit. ~~The liquor control commission shall adopt rules in accordance with Chapter 119. of the Revised Code to implement this section.~~

Division (B) of this section does not apply to a wholesale distributor.

Sec. 4303.271. (A) Except as provided in divisions (B) and (D) of this section, the holder of a permit issued under sections 4303.02 to 4303.232 of the Revised Code, who files an application for the renewal of the same class of permit for the same premises, shall be entitled to the renewal of the permit. The division of liquor control shall renew the permit unless the division rejects for good cause any renewal application, subject to the right of the applicant to appeal the rejection to the liquor control commission.

(B) The legislative authority of the municipal corporation, the board of township trustees, or the board of county commissioners of the county in which a permit premises is located may object to the renewal of a permit issued under sections 4303.11 to 4303.183 of the Revised Code for any of the reasons contained in division (A) of section 4303.292 of the Revised Code. Any objection shall be made no later than thirty days prior to the expiration of the permit, and the division shall accept the objection if it is postmarked no later than thirty days prior to the expiration of the permit. The objection shall be made by a resolution specifying the reasons for

objecting to the renewal and requesting a hearing, but no objection shall be based upon noncompliance of the permit premises with local zoning regulations that prohibit the sale of beer or intoxicating liquor in an area zoned for commercial or industrial uses, for a permit premises that would otherwise qualify for a proper permit issued by the division. The resolution shall be accompanied by a statement by the chief legal officer of the political subdivision that, in the chief legal officer's opinion, the objection is based upon substantial legal grounds within the meaning and intent of division (A) of section 4303.292 of the Revised Code.

Upon receipt of a resolution of a legislative authority or board objecting to the renewal of a permit and a statement from the chief legal officer, the division shall set a time for the hearing and send by certified mail to the permit holder, at the permit holder's usual place of business, a copy of the resolution and notice of the hearing. The division shall then hold a hearing in the central office of the division, except that, upon written request of the legislative authority or board, the hearing shall be held in the county seat of the county in which the permit premises is located, to determine whether the renewal shall be denied for any of the reasons contained in division (A) of section 4303.292 of the Revised Code. Only the reasons for refusal contained in division (A) of section 4303.292 of the Revised Code and specified in the resolution of objection shall be considered at the hearing.

The permit holder and the objecting legislative authority or board shall be parties to the proceedings under this section and shall have the right to be present, to be represented by counsel, to offer evidence, to require the attendance of witnesses, and to cross-examine witnesses at the hearing.

(C) An application for renewal of a permit shall be filed with the division at least fifteen days prior to the expiration of an existing permit, and the existing permit shall continue in effect as provided in section 119.06 of the Revised Code until the application is approved or rejected by the division. Any holder of a permit, which has expired through failure to be renewed as provided in this section, shall obtain a renewal of the permit, upon filing an application for renewal with the division, at any time within thirty days from the date of the expired permit. A penalty of ten per cent of the permit fee shall be paid by the permit holder if the application for renewal is not filed at least fifteen days prior to the expiration of the permit.

(D)(1) Annually, the tax commissioner shall examine the department of taxation's records for the horse-racing, alcoholic beverage, motor fuel, petroleum activity, sales or use, cigarette, other tobacco products, employer withholding, commercial activity, and gross casino revenue tax and gross receipts taxes levied pursuant to section 5739.101 of the Revised Code for each holder of a permit issued under sections 4303.02 to 4303.232 of the Revised Code to determine if the permit holder is delinquent in filing any returns, submitting any information required by the commissioner, or remitting any payments with respect to those taxes or any fees, charges, penalties, or interest related to those taxes.

If any delinquency or liability exists, the commissioner shall send a notice of that fact to the permit holder in the manner provided in section 5703.37 of the Revised Code. The notice shall specify, in as much detail as is possible, the periods for which returns have not been filed and the nature and amount of unpaid assessments and other liabilities and shall be

sent on or before the first day of the third month preceding the month in which the permit expires. The commissioner also shall notify the division of liquor control of the delinquency or liability, identifying the permit holder by name and permit number.

(2)(a) Except as provided in division (D)(4) of this section, the division of liquor control shall not renew the permit of any permit holder the tax commissioner has identified as being delinquent in filing any returns, providing any information, or remitting any payments with respect to the taxes listed in division (D)(1) of this section as of the first day of the sixth month preceding the month in which the permit expires, or of any permit holder the commissioner has identified as having been assessed by the department on or before the first day of the third month preceding the month in which the permit expires, until the division is notified by the commissioner that the delinquency, liability, or assessment has been resolved.

(b)(i) Within ninety days after the date on which the permit expires, any permit holder whose permit is not renewed under this division may file an appeal with the liquor control commission. The commission shall notify the tax commissioner regarding the filing of any such appeal. During the period in which the appeal is pending, the permit shall not be renewed by the division. The permit shall be reinstated if the permit holder and the commissioner or the attorney general demonstrate to the liquor control commission that the commissioner's notification of a delinquency or assessment was in error or that the issue of the delinquency or assessment has been resolved.

(ii) A permit holder who has filed an appeal under division (D)(2)(b)(i) of this section may file a motion to

withdraw the appeal. The division of liquor control may renew a permit holder's permit if the permit holder has withdrawn such an appeal and the division receives written certification from the tax commissioner that the permit holder's delinquency or assessment has been resolved.

(3) A permit holder notified of delinquency or liability under this section may protest the notification to the tax commissioner on the basis that no return or information is delinquent and no tax, fee, charge, penalty, or interest is outstanding. The commissioner shall expeditiously consider any evidence submitted by the permit holder and, if it is determined that the notification was in error, immediately shall inform the division of liquor control that the renewal application may be granted. The renewal shall not be denied if the delinquency or unreported liability is the subject of a bona fide dispute as to the validity of the delinquency or unreported liability and is the subject of an assessment and of an appeal properly filed by the permit holder.

(4) If the commissioner concludes that under the circumstances the permit holder's delinquency or liability has been conditionally resolved, the commissioner shall allow the permit to be renewed, conditioned upon the permit holder's continuing performance in satisfying the delinquency and liability. The conditional nature of the renewal shall be specified in the notification given to the division of liquor control under division (D)(1) of this section. Upon receipt of notice of the resolution, the division shall issue a conditional renewal. If the taxpayer defaults on any agreement to pay the delinquency or liability or fails to keep subsequent tax or fee payments current, the liquor control commission, upon request and proof of the default or failure to keep subsequent tax or

fee payments current, shall indefinitely suspend the permit holder's permit until all taxes or fees and interest due are paid.

~~(5) The commissioner may adopt rules to assist in administering the duties imposed by this section.~~

Sec. 4307.04. The tax commissioner shall enforce and administer sections 4301.42, 4301.421, 4301.422, 4301.423, 4301.424, 4303.33, 4303.331, 4305.01, and 4307.01 to 4307.12 of the Revised Code. The commissioner may adopt ~~such rules as are necessary to carry out such sections and may adopt~~ different detail rules applicable to diverse methods and conditions of sale of bottled beverages in this state. All books, papers, invoices, and records of any manufacturer, bottler, or wholesale or retail dealer in this state, whether or not required under sections 4307.01 to 4307.12 of the Revised Code to be kept by that person, showing that person's sales receipts and purchases of bottled beverages, shall at all times, during the usual business hours of the day, be open for the inspection of the commissioner. The commissioner may investigate and examine the stock of bottled beverages in and upon any premises where the same is placed, stored, or sold.

Sec. 4501.02. (A) There is hereby created in the department of public safety a bureau of motor vehicles, which shall be administered by a registrar of motor vehicles. The registrar shall be appointed by the director of public safety and shall serve at the director's pleasure.

The registrar shall administer the laws of the state relative to the registration of and certificates of title for motor vehicles, and the licensing of motor vehicle dealers, motor vehicle leasing dealers, distributors, and salespersons,

and of motor vehicle salvage dealers, salvage motor vehicle auctions, and salvage motor vehicle pools. The registrar also shall, in accordance with section 4503.61 of the Revised Code, take those steps necessary to enter this state into membership in the international registration plan and carry out the registrar's other duties under that section. The registrar, with the approval of the director of public safety, may do all of the following:

(1) Adopt such forms ~~and rules~~ as are necessary to carry out all laws the registrar is required to administer;

(2) Appoint such number of assistants, deputies, clerks, stenographers, and other employees as are necessary to carry out such laws;

(3) Acquire or lease such facilities as are necessary to carry out the duties of the registrar's office;

(4) Apply for, allocate, disburse, and account for grants made available under federal law or from other federal, state, or private sources;

(5) Establish accounts in a bank or depository and deposit any funds collected by the registrar in those accounts to the credit of "state of Ohio, bureau of motor vehicles." Within three days after the deposit of funds in such an account, the registrar shall draw on that account in favor of the treasurer of state. The registrar may reserve funds against the draw to the treasurer of state to the extent reasonably necessary to ensure that the deposited items are not dishonored. The registrar may pay any service charge usually collected by the bank or depository;

(6) Develop rules that establish disqualifying offenses

for licensure as a motor vehicle salvage dealer pursuant to sections 4738.04, 4738.07, and 4776.10 of the Revised Code.

The registrar shall give a bond for the faithful performance of the registrar's duties in such amount and with such security as the director approves. When in the opinion of the director it is advisable, any deputy or other employee may be required to give bond in such amount and with such security as the director approves. In the discretion of the director, the bonds authorized to be taken on deputies or other employees may be individual, schedule, or blanket bonds.

The director of public safety may investigate the activities of the bureau and have access to its records at any time, and the registrar shall make a report to the director at any time upon request.

All laws relating to the licensing of motor vehicle dealers, motor vehicle leasing dealers, distributors, and salespersons, and of motor vehicle salvage dealers, salvage motor vehicle auctions, and salvage motor vehicle pools, designating and granting power to the registrar shall be liberally construed to the end that the practice or commission of fraud in the business of selling motor vehicles and of disposing of salvage motor vehicles may be prohibited and prevented.

(B) There is hereby created in the department of public safety a division of emergency medical services, which shall be administered by an executive director of emergency medical services appointed under section 4765.03 of the Revised Code.

Sec. 4501.022. (A) The registrar of motor vehicles shall determine the necessary or appropriate method by which written

notice of an order suspending a motor vehicle driver's or commercial driver's license or requiring the surrender of a certificate of registration and registration plates may be provided to the person holding the license or the certificate of registration and registration plates. Division (A) of this section does not apply if the registrar is required to provide notification by use of a method specified by law.

(B) Pursuant to rules adopted by the registrar in accordance with Chapter 119. of the Revised Code, the bureau of motor vehicles shall implement proof of mailing procedures to provide verification that written notice of an order suspending a motor vehicle driver's or commercial driver's license or requiring the surrender of a certificate of registration and registration plates was sent to the person holding the license or the certificate of registration and registration plates.

Sec. 4501.271. (A)(1) A peace officer, correctional employee, or youth services employee may file a written request with the bureau of motor vehicles to do either or both of the following:

(a) Prohibit disclosure of the officer's or employee's residence address as contained in motor vehicle records of the bureau;

(b) Provide a business address to be displayed on the officer's or employee's driver's license or certificate of registration, or both.

(2) The officer or employee shall file the request described in division (A)(1) of this section on a form provided by the registrar of motor vehicles and shall provide any documentary evidence verifying the person's status as a peace

officer, correctional employee, or youth services employee and the officer's or employee's business address that the registrar requires pursuant to division (G) of this section.

(B)(1) Except as provided in division (C) of this section, if a peace officer, correctional employee, or youth services employee has filed a request under division (A) of this section, neither the registrar nor an employee or contractor of the bureau of motor vehicles shall knowingly disclose the residence address of the officer or employee that the bureau obtained in connection with a motor vehicle record.

(2) In accordance with section 149.43 of the Revised Code, the registrar or an employee or contractor of the bureau shall make available for inspection or copying a motor vehicle record of a peace officer, correctional employee, or youth services employee who has filed a request under division (A) of this section if the record is a public record under that section, but shall obliterate the residence address of the officer or employee from the record before making the record available for inspection or copying. The business address of the officer or employee may be made available in response to a valid request under section 149.43 of the Revised Code.

(C) Notwithstanding division (B)(2) of section 4501.27 of the Revised Code, the registrar or an employee or contractor of the bureau may disclose the residence address of a peace officer, correctional employee, or youth services employee who files a request under division (A) of this section only in accordance with division (B)(1) of section 4501.27 of the Revised Code or pursuant to a court order.

(D) If a peace officer, correctional employee, or youth services employee files a request under division (A)(1)(b) of

this section, the officer shall still provide a residence address in any application for a driver's license or license renewal and in any application for a motor vehicle registration or registration renewal. In accordance with sections 4503.101 and 4507.09 of the Revised Code, an officer or employee shall notify the registrar of any change in the officer's or employee's residence within ten days after the change occurs.

(E) A certificate of registration issued to a peace officer, correctional employee, or youth services employee who files a request under division (A)(1)(b) of this section shall display the business address of the officer. Notwithstanding section 4507.13 of the Revised Code, a driver's license issued to an officer or employee who files a request under division (A)(1)(b) of this section shall display the business address of the officer or employee.

(F) The registrar may utilize the residence address of a peace officer, correctional employee, or youth services employee who files a request under division (A)(1)(b) of this section in carrying out the functions of the bureau of motor vehicles, including determining the district of registration for any applicable motor vehicle tax levied under Chapter 4504. of the Revised Code, determining whether tailpipe emissions inspections are required, and financial responsibility verification.

(G) The registrar shall adopt rules governing a request for confidentiality of a peace officer's, correctional employee's, or youth services employee's residence address or use of a business address, including the documentary evidence required to verify the person's status as a peace officer, correctional employee, or youth services employee, the length of time that the request will be valid, and procedures for ensuring

that the bureau of motor vehicles receives notice of any change in a person's status as a peace officer, correctional employee, or youth services employee~~, and any other procedures the registrar considers necessary~~. The rules of the registrar may require an officer or employee to surrender any certificate of registration and any driver's license bearing the business address of the officer or employee and, upon payment of any applicable fees, to receive a certificate of registration and license bearing the officer's or employee's residence address, whenever the officer or employee no longer is associated with that business address.

(H) As used in this section:

(1) "Motor vehicle record" has the same meaning as in section 4501.27 of the Revised Code.

(2) "Peace officer" means those persons described in division (A)(1), (2), (4), (5), (6), (9), (10), (12), (13), or (15) of section 109.71 of the Revised Code, an officer, agent, or employee of the state or any of its agencies, instrumentalities, or political subdivisions, upon whom, by statute, a duty to conserve the peace or to enforce all or certain laws is imposed and the authority to arrest violators is conferred, within the limits of that statutory duty and authority, an investigator of the bureau of criminal identification and investigation as defined in section 2903.11 of the Revised Code, the house sergeant at arms appointed under division (B)(1) of section 101.311 of the Revised Code, any assistant sergeant at arms appointed under division (C)(1) of section 101.311 of the Revised Code, the senate sergeant at arms, and an assistant senate sergeant at arms. "Peace officer" includes state highway patrol troopers but does not include the

sheriff of a county or a supervisory employee who, in the absence of the sheriff, is authorized to stand in for, exercise the authority of, and perform the duties of the sheriff.

(3) "Correctional employee" and "youth services employee" have the same meanings as in section 149.43 of the Revised Code.

Sec. 4501.81. (A) The bureau of motor vehicles shall establish a database of the next of kin of persons who are issued driver's licenses, commercial driver's licenses, temporary instruction permits, motorcycle operator's licenses and endorsements, and identification cards. Information in the database shall be accessible only to employees of the bureau and to criminal justice agencies and is not a public record for purposes of section 149.43 of the Revised Code.

(B) When an individual submits an application to the registrar of motor vehicles or a deputy registrar for a driver's license, commercial driver's license, temporary instruction permit, motorcycle operator's license or endorsement, or identification card, or renewal of any of them, the individual shall be furnished with a next of kin information form on which the individual may list the name, address, telephone number, and relationship to the individual of at least one contact person whom the individual wishes to be contacted if the individual is involved in a motor vehicle accident or emergency situation and the individual dies or is seriously injured or rendered unconscious and is unable to communicate with the contact person. The contact person may or may not be the next of kin of the applicant, except that if the applicant is under eighteen years of age and is not emancipated, the contact person shall include the parent, guardian, or custodian of the applicant.

The form described in this division shall inform the

individual that, after completing the form, the individual may return the form to the registrar or any deputy registrar, each of whom shall accept the form from the individual without payment of any fee. The form also shall contain the mailing address of the bureau, to which the individual may mail the completed form, and also instructions whereby the individual may furnish the information described in this division to the registrar through use of the internet.

(C) The bureau, in accordance with Chapter 119. of the Revised Code, shall adopt rules to ~~implement this section. The rules shall~~ address ~~all~~ both of the following:

(1) The methods whereby a person who has submitted the name of a contact person for inclusion in the database may make changes to that entry;

(2) The contents of the next of kin information form~~;~~

~~(3) Any other aspect of the database or its operation that the registrar determines is necessary in order to implement this section~~.

(D) In the event of a motor vehicle accident or emergency situation in which a person dies or is seriously injured or rendered unconscious and is unable to communicate with the contact person specified in the database, an employee of a criminal justice agency shall make a good faith effort to notify the contact person of the situation, but neither the bureau nor the employee nor the criminal justice agency that employs that employee incurs any liability if the employee is not able to make contact with the contact person.

Sec. 4503.03. (A)(1)(a) Except as provided in division (B) of this section, the registrar of motor vehicles may designate

one or more of the following persons to act as a deputy registrar in each county:

(i) The county auditor in any county;

(ii) The clerk of a court of common pleas in any county;

(iii) An individual;

(iv) A nonprofit corporation as defined in division (C) of section 1702.01 of the Revised Code.

All fees collected and retained by a clerk for conducting deputy registrar services shall be paid into the county treasury to the credit of the certificate of title administration fund created under section 325.33 of the Revised Code.

(b) As part of the selection process in awarding a deputy registrar contract, the registrar shall consider the customer service performance record of any person previously awarded a deputy registrar contract pursuant to division (A)(1) of this section.

(2) Deputy registrars shall accept applications for the annual license tax for any vehicle not taxed under section 4503.63 of the Revised Code and shall assign distinctive numbers in the same manner as the registrar. Such deputies shall be located in such locations as the registrar sees fit. Except as provided in division (A)(3) of this section, there shall be at least one deputy registrar in each county.

(3) The registrar need not appoint a deputy registrar in a county to which all of the following apply:

(a) No individual, nonprofit corporation, or, where applicable, clerk of court of common pleas participates in the competitive selection process to be designated as a deputy

registrar;

(b) Neither the county auditor nor the clerk of court of common pleas agrees to be designated as a deputy registrar;

(c) No individual or nonprofit corporation agrees to be designated as a deputy registrar;

(d) No deputy registrar operating an existing deputy registrar agency in another county agrees to be designated as the deputy registrar for that county.

(4) The registrar may reestablish a deputy registrar in any county without a deputy registrar if any of the following apply:

(a) The county auditor requests to be designated as a deputy registrar;

(b) The clerk of court of common pleas requests to be designated as a deputy registrar;

(c) A deputy registrar operating an existing deputy registrar agency in another county requests to be designated as a deputy registrar for that county;

(d) A qualified individual or nonprofit corporation requests to be designated as a deputy registrar. In the event that two or more qualified individuals, nonprofit corporations, or a combination thereof, request to be designated as a deputy registrar, the registrar may make the designation through the competitive selection process.

Deputy registrar contracts are subject to the provisions of division (B) of section 125.081 of the Revised Code.

(B)(1) The registrar shall not designate any person to act

as a deputy registrar under division (A)(1) of this section if the person or, where applicable, the person's spouse or a member of the person's immediate family has made, within the current calendar year or any one of the previous three calendar years, one or more contributions totaling in excess of one hundred dollars to any person or entity included in division (A)(2) of section 4503.033 of the Revised Code. As used in this division, "immediate family" has the same meaning as in division (D) of section 102.01 of the Revised Code, and "entity" includes any political party and any "continuing association" as defined in division (C)(4) of section 3517.01 of the Revised Code or "political action committee" as defined in division (C)(8) of that section that is primarily associated with that political party. For purposes of this division, contributions to any continuing association or any political action committee that is primarily associated with a political party shall be aggregated with contributions to that political party.

The contribution limitations contained in this division do not apply to any county auditor or clerk of a court of common pleas. A county auditor or clerk of a court of common pleas is not required to file the disclosure statement or pay the filing fee required under section 4503.033 of the Revised Code. The limitations of this division also do not apply to a deputy registrar who, subsequent to being awarded a deputy registrar contract, is elected to an office of a political subdivision.

(2) The registrar shall not designate either of the following to act as a deputy registrar:

(a) Any elected public official other than a county auditor or, as authorized by division (A)(1) of this section, a clerk of a court of common pleas, acting in an official

capacity, except that, the registrar shall continue and may renew a contract with any deputy registrar who, subsequent to being awarded a deputy registrar contract, is elected to an office of a political subdivision;

(b) Any person holding a current, valid contract to conduct motor vehicle inspections under section 3704.14 of the Revised Code.

(3) As used in division (B) of this section, "political subdivision" has the same meaning as in section 3501.01 of the Revised Code.

(C)(1) Except as provided in division (C)(2) of this section, deputy registrars are independent contractors and neither they nor their employees are employees of this state, except that nothing in this section shall affect the status of county auditors or clerks of courts of common pleas as public officials, nor the status of their employees as employees of any of the counties of this state, which are political subdivisions of this state. Each deputy registrar shall be responsible for the payment of all unemployment compensation premiums, all workers' compensation premiums, social security contributions, and any and all taxes for which the deputy registrar is legally responsible. Each deputy registrar shall comply with all applicable federal, state, and local laws requiring the withholding of income taxes or other taxes from the compensation of the deputy registrar's employees. Each deputy registrar shall maintain during the entire term of the deputy registrar's contract a policy of business liability insurance satisfactory to the registrar and shall hold the department of public safety, the director of public safety, the bureau of motor vehicles, and the registrar harmless upon any and all claims for damages

arising out of the operation of the deputy registrar agency.

(2) For purposes of Chapter 4141. of the Revised Code, determinations concerning the employment of deputy registrars and their employees shall be made under Chapter 4141. of the Revised Code.

(D)(1) With the approval of the director, the registrar shall adopt rules governing deputy registrars. The rules shall do all of the following:

(a) Establish requirements governing the terms of the contract between the registrar and each deputy registrar and the services to be performed;

(b) Establish requirements governing the amount of bond to be given as provided in this section;

(c) Establish requirements governing the size and location of the deputy's office;

(d) Establish requirements governing the leasing of equipment necessary to conduct the vision screenings required under section 4507.12 of the Revised Code and training in the use of the equipment;

(e) Encourage every deputy registrar to inform the public of the location of the deputy registrar's office and hours of operation by means of public service announcements;

(f) Allow any deputy registrar to advertise in regard to the operation of the deputy registrar's office, including allowing nonprofit corporations operating as a deputy registrar to advertise that a specified amount of proceeds collected by the nonprofit corporation are directed to a specified charitable organization or philanthropic cause;

(g) Specify the hours the deputy's office is to be open to the public and require as a minimum that one deputy's office in each county be open to the public for at least four hours each weekend, provided that if only one deputy's office is located within the boundary of the county seat, that office is the office that shall be open for the four-hour period each weekend;

(h) Specify that every deputy registrar, upon request, provide any person with information about the location and office hours of all deputy registrars in the county;

(i) Allow a deputy registrar contract to be awarded to a nonprofit corporation formed under the laws of this state;

(j) Establish procedures for a deputy registrar to request the authority to collect reinstatement fees under sections 4507.1612, 4507.45, 4509.101, 4509.81, 4510.10, 4510.22, 4510.72, and 4511.191 of the Revised Code and to transmit the reinstatement fees and two dollars of the service fee collected under those sections. The registrar shall ensure that at least one deputy registrar in each county has the necessary equipment and is able to accept reinstatement fees. The registrar shall deposit the service fees received from a deputy registrar under those sections into the public safety - highway purposes fund created in section 4501.06 of the Revised Code and shall use the money for deputy registrar equipment necessary in connection with accepting reinstatement fees.

(k) Establish standards for a deputy registrar, when the deputy registrar is not a county auditor or a clerk of a court of common pleas, to sell advertising rights to third party businesses to be placed in the deputy registrar's office;

(l) Allow any deputy registrar that is not a county

auditor or a clerk of a court of common pleas to operate a vending machine~~;~~

~~(m) Establish such other requirements as the registrar and director consider necessary to provide a high level of service~~.

(2) The rules may allow both of the following:

(a) The registrar to award a contract to a deputy registrar to operate more than one deputy registrar's office if determined by the registrar to be practical;

(b) A nonprofit corporation formed for the purposes of providing automobile-related services to its members or the public and that provides such services from more than one location in this state to operate a deputy registrar office at any location.

(3) As a daily adjustment, the bureau of motor vehicles shall credit to a deputy registrar the amount established under section 4503.038 of the Revised Code for each damaged license plate or validation sticker the deputy registrar replaces as a service to a member of the public.

(4)(a) With the prior approval of the registrar, each deputy registrar may conduct at the location of the deputy registrar's office any business that is consistent with the functions of a deputy registrar and that is not specifically mandated or authorized by this or another chapter of the Revised Code or by implementing rules of the registrar.

(b) In accordance with guidelines the director of public safety shall establish, a deputy registrar may operate or contract for the operation of a vending machine at a deputy registrar location if products of the vending machine are consistent with the functions of a deputy registrar.

(c) A deputy registrar may enter into an agreement with the Ohio turnpike and infrastructure commission pursuant to division (A)(11) of section 5537.04 of the Revised Code for the purpose of allowing the general public to acquire from the deputy registrar the electronic toll collection devices that are used under the multi-jurisdiction electronic toll collection agreement between the Ohio turnpike and infrastructure commission and any other entities or agencies that participate in such an agreement. The approval of the registrar is not necessary if a deputy registrar engages in this activity.

(5) As used in this section and in section 4507.01 of the Revised Code, "nonprofit corporation" has the same meaning as in section 1702.01 of the Revised Code.

(E)(1) Unless otherwise terminated and except for interim contracts lasting not longer than one year, contracts with deputy registrars shall be entered into through a competitive selection process and shall be limited in duration as follows:

(a) For contracts entered into between July 1, 1996 and June 29, 2014, for a period of not less than two years, but not more than three years;

(b) For contracts entered into on or after June 29, 2014, for a period of five years, unless the registrar determines that a shorter contract term is appropriate for a particular deputy registrar.

(2) All contracts with deputy registrars shall expire on the last Saturday of June in the year of their expiration. Prior to the expiration of any deputy registrar contract, the registrar, with the approval of the director, may award a one-year contract extension to any deputy registrar who has provided

exemplary service based upon objective performance evaluations.

(3)(a) The auditor of state may examine the accounts, reports, systems, and other data of each deputy registrar at least every two years. The registrar, with the approval of the director, shall immediately remove a deputy who violates any provision of the Revised Code related to the duties as a deputy, any rule adopted by the registrar, or a term of the deputy's contract with the registrar. The registrar also may remove a deputy who, in the opinion of the registrar, has engaged in any conduct that is either unbecoming to one representing this state or is inconsistent with the efficient operation of the deputy's office.

(b) If the registrar, with the approval of the director, determines that there is good cause to believe that a deputy registrar or a person proposing for a deputy registrar contract has engaged in any conduct that would require the denial or termination of the deputy registrar contract, the registrar may require the production of books, records, and papers as the registrar determines are necessary, and may take the depositions of witnesses residing within or outside the state in the same manner as is prescribed by law for the taking of depositions in civil actions in the court of common pleas, and for that purpose the registrar may issue a subpoena for any witness or a subpoena duces tecum to compel the production of any books, records, or papers, directed to the sheriff of the county where the witness resides or is found. Such a subpoena shall be served and returned in the same manner as a subpoena in a criminal case is served and returned. The fees of the sheriff shall be the same as that allowed in the court of common pleas in criminal cases. Witnesses shall be paid the fees and mileage provided for under section 119.094 of the Revised Code. The fees and mileage shall

be paid from the fund in the state treasury for the use of the agency in the same manner as other expenses of the agency are paid.

In any case of disobedience or neglect of any subpoena served on any person or the refusal of any witness to testify to any matter regarding which the witness lawfully may be interrogated, the court of common pleas of any county where the disobedience, neglect, or refusal occurs or any judge of that court, on application by the registrar, shall compel obedience by attachment proceedings for contempt, as in the case of disobedience of the requirements of a subpoena issued from that court, or a refusal to testify in that court.

(4) Nothing in division (E) of this section shall be construed to require a hearing of any nature prior to the termination of any deputy registrar contract by the registrar, with the approval of the director, for cause.

(F) Except as provided in section 2743.03 of the Revised Code, no court, other than the court of common pleas of Franklin county, has jurisdiction of any action against the department of public safety, the director, the bureau, or the registrar to restrain the exercise of any power or authority, or to entertain any action for declaratory judgment, in the selection and appointment of, or contracting with, deputy registrars. Neither the department, the director, the bureau, nor the registrar is liable in any action at law for damages sustained by any person because of any acts of the department, the director, the bureau, or the registrar, or of any employee of the department or bureau, in the performance of official duties in the selection and appointment of, and contracting with, deputy registrars.

(G) The registrar shall assign to each deputy registrar a

series of numbers sufficient to supply the demand at all times in the area the deputy registrar serves, and the registrar shall keep a record in the registrar's office of the numbers within the series assigned. Except as otherwise provided in section 3.061 of the Revised Code, each deputy shall be required to give bond in the amount of at least twenty-five thousand dollars, or in such higher amount as the registrar determines necessary, based on a uniform schedule of bond amounts established by the registrar and determined by the volume of registrations handled by the deputy. The form of the bond shall be prescribed by the registrar. The bonds required of deputy registrars, in the discretion of the registrar, may be individual or schedule bonds or may be included in any blanket bond coverage carried by the department.

(H) Each deputy registrar shall keep a file of each application received by the deputy and shall register that motor vehicle with the name and address of its owner.

(I) Upon request, a deputy registrar shall make the physical inspection of a motor vehicle and issue the physical inspection certificate required in section 4505.061 of the Revised Code.

(J) Each deputy registrar shall file a report semiannually with the registrar of motor vehicles listing the number of applicants for licenses the deputy has served, the number of voter registration applications the deputy has completed and transmitted to the board of elections, and the number of voter registration applications declined.

Sec. 4503.036. (A) The registrar of motor vehicles shall adopt rules for the appointment of limited authority deputy registrars in accordance with division (D) of this section.

Notwithstanding section 4503.03 of the Revised Code, the registrar may appoint the clerk of a court of common pleas or an electronic motor vehicle dealer qualified under section 4503.035 of the Revised Code as a limited authority deputy registrar.

(B) A limited authority deputy registrar may conduct only initial and transfer motor vehicle transactions using electronic means, vehicle identification number inspections, and other associated transactions in a manner approved in the rules that the registrar adopts in accordance with division (D) of this section.

(C) A limited authority deputy registrar may collect and retain a fee equal to the amount established under section 4503.038 of the Revised Code for each transaction or physical inspection that the limited authority deputy registrar conducts, and shall collect all fees and taxes that are required by law and related to the transaction or inspection in a manner approved by the registrar. A clerk of a court of common pleas shall pay all fees collected and retained under this section into the county treasury to the credit of the certificate of title administration fund created under section 325.33 of the Revised Code.

(D) The rules adopted by the registrar may establish reasonable eligibility standards for clerks and electronic motor vehicle dealers. The rules shall prescribe the terms and conditions of limited authority deputy registrar contracts and shall require each limited authority deputy registrar to sign a contract before assuming any duties as a limited authority deputy registrar. The rules may establish different eligibility standards and contract terms and conditions depending on whether the limited authority deputy registrar is a clerk or an

electronic motor vehicle dealer. No contract shall be for a period of more than three years. The contract may contain any other provisions the registrar reasonably prescribes. Each contract shall terminate on a date specified by the registrar.

(E) Any eligible clerk or qualified electronic motor vehicle dealer may make an application to the registrar for appointment as a limited authority deputy registrar. With the approval of the director of public safety, the registrar shall make the appointments from the applications submitted, based upon the discretion of the registrar and director and not upon a competitive basis.

(F) A limited authority deputy registrar is not subject to the contribution limits of division (B) of section 4503.03 of the Revised Code or the filing requirement of division (A) of section 4503.033 of the Revised Code.

Sec. 4503.10. (A) The owner of every snowmobile, off-highway motorcycle, and all-purpose vehicle required to be registered under section 4519.02 of the Revised Code shall file an application for registration under section 4519.03 of the Revised Code. The owner of a motor vehicle, other than a snowmobile, off-highway motorcycle, or all-purpose vehicle, that is not designed and constructed by the manufacturer for operation on a street or highway may not register it under this chapter except upon certification of inspection pursuant to section 4513.02 of the Revised Code by the sheriff, or the chief of police of the municipal corporation or township, with jurisdiction over the political subdivision in which the owner of the motor vehicle resides. Except as provided in sections 4503.103 and 4503.107 of the Revised Code, every owner of every other motor vehicle not previously described in this section and

every person mentioned as owner in the last certificate of title of a motor vehicle that is operated or driven upon the public roads or highways shall cause to be filed each year, by mail or otherwise, in the office of the registrar of motor vehicles or a deputy registrar, a written or electronic application or a preprinted registration renewal notice issued under section 4503.102 of the Revised Code, the form of which shall be prescribed by the registrar, for registration for the following registration year, which shall begin on the first day of January of every calendar year and end on the thirty-first day of December in the same year. Applications for registration and registration renewal notices shall be filed at the times established by the registrar pursuant to section 4503.101 of the Revised Code. A motor vehicle owner also may elect to apply for or renew a motor vehicle registration by electronic means using electronic signature in accordance with rules adopted by the registrar. Except as provided in division (J) of this section, applications for registration shall be made on blanks furnished by the registrar for that purpose, containing the following information:

(1) A brief description of the motor vehicle to be registered, including the year, make, model, and vehicle identification number, and, in the case of commercial cars, the gross weight of the vehicle fully equipped computed in the manner prescribed in section 4503.08 of the Revised Code;

(2) The name and residence address of the owner, and the township and municipal corporation in which the owner resides;

(3) The district of registration, which shall be determined as follows:

(a) In case the motor vehicle to be registered is used for

hire or principally in connection with any established business or branch business, conducted at a particular place, the district of registration is the municipal corporation in which that place is located or, if not located in any municipal corporation, the county and township in which that place is located.

(b) In case the vehicle is not so used, the district of registration is the municipal corporation or county in which the owner resides at the time of making the application.

(4) Whether the motor vehicle is a new or used motor vehicle;

(5) The date of purchase of the motor vehicle;

(6) Whether the fees required to be paid for the registration or transfer of the motor vehicle, during the preceding registration year and during the preceding period of the current registration year, have been paid. Each application for registration shall be signed by the owner, either manually or by electronic signature, or pursuant to obtaining a limited power of attorney authorized by the registrar for registration, or other document authorizing such signature. If the owner elects to apply for or renew the motor vehicle registration with the registrar by electronic means, the owner's manual signature is not required.

(7) The owner's social security number, driver's license number, or state identification number, or, where a motor vehicle to be registered is used for hire or principally in connection with any established business, the owner's federal taxpayer identification number. The bureau of motor vehicles shall retain in its records all social security numbers provided

under this section, but the bureau shall not place social security numbers on motor vehicle certificates of registration.

(8) Whether the applicant wishes to certify willingness to make an anatomical gift if an applicant has not so certified under section 2108.05 of the Revised Code. The applicant's response shall not be considered in the decision of whether to approve the application for registration.

(B)(1) When an applicant first registers a motor vehicle in the applicant's name, the applicant shall provide proof of ownership of that motor vehicle. Proof of ownership may include any of the following:

(a) The applicant may present for inspection a physical certificate of title or memorandum certificate showing title to the motor vehicle to be registered in the name of the applicant.

(b) The applicant may present for inspection an electronic certificate of title for the applicant's motor vehicle in a manner prescribed by rules adopted by the registrar.

(c) The registrar or deputy registrar may electronically confirm the applicant's ownership of the motor vehicle.

An applicant is not required to present a certificate of title to an electronic motor vehicle dealer acting as a limited authority deputy registrar in accordance with rules adopted by the registrar.

(2) When a motor vehicle inspection and maintenance program is in effect under section 3704.14 of the Revised Code and rules adopted under it, each application for registration for a vehicle required to be inspected under that section and those rules shall be accompanied by an inspection certificate or alternative emissions certificate for the motor vehicle issued

in accordance with that section.

(3) An application for registration shall be refused if any of the following applies:

(a) The application is not in proper form.

(b) The application is prohibited from being accepted by division (D) of section 2935.27, division (A) of section 4503.13, division (B) of section 4510.22, division (D) of section 4503.234, division (B)(1) of section 4521.10, or division (B) of section 5537.041 of the Revised Code.

(c) Proof of ownership is required but is not presented or confirmed in accordance with division (B)(1) of this section.

(d) All registration and transfer fees for the motor vehicle, for the preceding year or the preceding period of the current registration year, have not been paid.

(e) The owner or lessee does not have an inspection certificate or alternative emissions certificate for the motor vehicle as provided in section 3704.14 of the Revised Code, and rules adopted under it, if that section is applicable.

(4) This section does not require the payment of license or registration taxes on a motor vehicle for any preceding year, or for any preceding period of a year, if the motor vehicle was not taxable for that preceding year or period under sections 4503.02, 4503.04, 4503.11, 4503.12, and 4503.16 or Chapter 4504. of the Revised Code.

(5) When a certificate of registration is issued upon the first registration of a motor vehicle by or on behalf of the owner, the official issuing the certificate shall indicate the issuance with a stamp on the certificate of title or memorandum

certificate or, in the case of an electronic certificate of title or electronic verification of ownership, an electronic stamp or other notation as specified in rules adopted by the registrar, and with a stamp on the inspection certificate for the motor vehicle, if any.

(6) The official also shall indicate, by a stamp or by other means the registrar prescribes, on the registration certificate issued upon the first registration of a motor vehicle by or on behalf of the owner the odometer reading of the motor vehicle as shown in the odometer statement included in or attached to the certificate of title. Upon each subsequent registration of the motor vehicle by or on behalf of the same owner, the official also shall so indicate the odometer reading of the motor vehicle as shown on the immediately preceding certificate of registration.

(7) The registrar shall include in the permanent registration record of any vehicle required to be inspected under section 3704.14 of the Revised Code the inspection certificate number from the inspection certificate or the alternative emissions certificate number from the alternative emissions certificate that is presented at the time of registration of the vehicle as required under this division.

(C)(1) The registrar and each deputy registrar shall collect the following additional fees for each application for registration and registration renewal received:

(a) Except as provided in division (C)(1)(b) of this section, a fee of eleven dollars on or before December 31, 2025, and a fee of sixteen dollars on and after January 1, 2026;

(b) For vehicles specified in divisions (A)(1) to (21) of

section 4503.042 of the Revised Code, a fee of thirty dollars on or before December 31, 2025, and a fee of thirty-five dollars on and after January 1, 2026.

No additional fee shall be charged for vehicles registered under section 4503.65 of the Revised Code. Each additional fee is for the purpose of defraying the department of public safety's costs associated with the administration and enforcement of the motor vehicle and traffic laws of Ohio. Each deputy registrar shall transmit the fees collected under divisions (C)(1) and (3) of this section in the time and manner provided in this section. The registrar shall deposit all moneys received under division (C)(1) of this section into the public safety - highway purposes fund established in section 4501.06 of the Revised Code.

(2) In addition, a charge of twenty-five cents shall be made for each reflectorized safety license plate issued, and a single charge of twenty-five cents shall be made for each county identification sticker or each set of county identification stickers issued, as the case may be, to cover the cost of producing the license plates and stickers, including material, manufacturing, and administrative costs. Those fees shall be in addition to the license tax. If the total cost of producing the plates is less than twenty-five cents per plate, or if the total cost of producing the stickers is less than twenty-five cents per sticker or per set issued, any excess moneys accruing from the fees shall be distributed in the same manner as provided by section 4501.04 of the Revised Code for the distribution of license tax moneys. If the total cost of producing the plates exceeds twenty-five cents per plate, or if the total cost of producing the stickers exceeds twenty-five cents per sticker or per set issued, the difference shall be paid from the license

tax moneys collected pursuant to section 4503.02 of the Revised Code.

(3) The registrar and each deputy registrar shall collect the following additional fee, as applicable, for each application for registration or registration renewal received for any hybrid motor vehicle, plug-in hybrid electric motor vehicle, or battery electric motor vehicle:

(a) One hundred dollars for a hybrid motor vehicle;

(b) One hundred fifty dollars for a plug-in hybrid electric motor vehicle;

(c) Two hundred dollars for a battery electric motor vehicle.

Each fee imposed under this division shall be prorated based on the number of months for which the vehicle is registered. The registrar shall transmit all money arising from each fee to the treasurer of state for distribution in accordance with division (E) of section 5735.051 of the Revised Code, subject to division (D) of section 5735.05 of the Revised Code.

(D) Each deputy registrar shall be allowed a fee equal to the amount established under section 4503.038 of the Revised Code for each application for registration and registration renewal notice the deputy registrar receives, which shall be for the purpose of compensating the deputy registrar for the deputy registrar's services, and such office and rental expenses, as may be necessary for the proper discharge of the deputy registrar's duties in the receiving of applications and renewal notices and the issuing of registrations.

(E) Upon the certification of the registrar, the county

sheriff or local police officials shall recover license plates erroneously or fraudulently issued.

(F) Each deputy registrar, upon receipt of any application for registration or registration renewal notice, together with the license fee and any local motor vehicle license tax levied pursuant to Chapter 4504. of the Revised Code, shall transmit that fee and tax, if any, in the manner provided in this section, together with the original and duplicate copy of the application, to the registrar. The registrar, subject to the approval of the director of public safety, may deposit the funds collected by those deputies in a local bank or depository to the credit of the "state of Ohio, bureau of motor vehicles." Where a local bank or depository has been designated by the registrar, each deputy registrar shall deposit all moneys collected by the deputy registrar into that bank or depository not more than one business day after their collection and shall make reports to the registrar of the amounts so deposited, together with any other information, some of which may be prescribed by the treasurer of state, as the registrar may require and as prescribed by the registrar by rule. The registrar, within three days after receipt of notification of the deposit of funds by a deputy registrar in a local bank or depository, shall draw on that account in favor of the treasurer of state. The registrar, subject to the approval of the director and the treasurer of state, may make reasonable rules necessary for the prompt transmittal of fees ~~and for safeguarding the interests of the state and of counties, townships, municipal corporations, and transportation improvement districts levying local motor vehicle license taxes~~. The registrar may pay service charges usually collected by banks and depositories for such service. If deputy registrars are located in communities where banking facilities

are not available, they shall transmit the fees forthwith, by money order or otherwise, as the registrar, by rule approved by the director and the treasurer of state, may prescribe. The registrar may pay the usual and customary fees for such service.

(G) This section does not prevent any person from making an application for a motor vehicle license directly to the registrar by mail, by electronic means, or in person at any of the registrar's offices, upon payment of a service fee equal to the amount established under section 4503.038 of the Revised Code for each application.

(H) No person shall make a false statement as to the district of registration in an application required by division (A) of this section. Violation of this division is falsification under section 2921.13 of the Revised Code and punishable as specified in that section.

(I)(1) Where applicable, the requirements of division (B) of this section relating to the presentation of an inspection certificate issued under section 3704.14 of the Revised Code and rules adopted under it for a motor vehicle, the refusal of a license for failure to present an inspection certificate or alternative emissions certificate, and the stamping of the inspection certificate or alternative emissions certificate by the official issuing the certificate of registration apply to the registration of and issuance of license plates for a motor vehicle under sections 4503.102, 4503.12, 4503.14, 4503.15, 4503.16, 4503.171, 4503.172, 4503.19, 4503.40, 4503.41, 4503.42, 4503.43, 4503.44, 4503.46, 4503.47, and 4503.51 of the Revised Code.

(2)(a) The registrar shall adopt rules ensuring that each owner registering a motor vehicle in a county where a motor

vehicle inspection and maintenance program is in effect under section 3704.14 of the Revised Code and rules adopted under it receives information about the requirements established in that section and those rules and about the need in those counties to present an inspection certificate or an alternative emissions certificate with an application for registration or preregistration.

(b) Upon request, the registrar shall provide the director of environmental protection, or any person that has been awarded a contract under section 3704.14 of the Revised Code, an on-line computer data link to registration information for all passenger cars, noncommercial motor vehicles, and commercial cars that are subject to that section. The registrar also shall provide to the director of environmental protection a magnetic data tape containing registration information regarding passenger cars, noncommercial motor vehicles, and commercial cars for which a multi-year registration is in effect under section 4503.103 of the Revised Code or rules adopted under it, including, without limitation, the date of issuance of the multi-year registration, the registration deadline established under rules adopted under section 4503.101 of the Revised Code that was applicable in the year in which the multi-year registration was issued, and the registration deadline for renewal of the multi-year registration.

(J) Subject to division (K) of this section, application for registration under the international registration plan, as set forth in sections 4503.60 to 4503.66 of the Revised Code, shall be made to the registrar on forms furnished by the registrar. In accordance with international registration plan guidelines and pursuant to rules adopted by the registrar, the forms shall include the following:

(1) A uniform mileage schedule;

(2) The gross vehicle weight of the vehicle or combined gross vehicle weight of the combination vehicle as declared by the registrant~~;~~

~~(3) Any other information the registrar requires by rule~~.

(K) The registrar shall determine the feasibility of implementing an electronic commercial fleet licensing and management program that will enable the owners of commercial tractors, commercial trailers, and commercial semitrailers to conduct electronic transactions by July 1, 2010, or sooner. If the registrar determines that implementing such a program is feasible, the registrar shall adopt new rules under this division or amend existing rules adopted under this division as necessary in order to respond to advances in technology.

If international registration plan guidelines and provisions allow member jurisdictions to permit applications for registrations under the international registration plan to be made via the internet, the rules the registrar adopts under this division shall permit such action.

Sec. 4503.101. (A) The registrar of motor vehicles shall adopt rules to establish a system of motor vehicle registration based upon the type of vehicle to be registered, the type of ownership of the vehicle, and the class of license plate to be issued~~, and any other factor the registrar determines to be relevant~~. Except for commercial cars, buses, trailers, and semitrailers that are registered in this state and that are taxed under sections 4503.042 and 4503.65 of the Revised Code; and except for rental vehicles owned by motor vehicle renting dealers~~; and except as otherwise provided by rule~~, motor

vehicles owned by an individual shall be registered based upon the motor vehicle owner's date of birth. Beginning with the 2004 registration year, the registrar shall assign motor vehicles to the registration periods established by rules adopted under this section.

(B) The registrar shall adopt rules to permit motor vehicle owners residing together at one address to select the date of birth of any one of the owners as the date to register any or all of the vehicles at that residence address, as shown in the records of the bureau of motor vehicles.

(C) The registrar shall adopt rules to assign and reassign all commercial cars, trailers, and semitrailers that are registered in this state and that are taxed under sections 4503.042 and 4503.65 of the Revised Code and all rental vehicles owned by motor vehicle renting dealers to a system of registration so that the registrations of approximately one-twelfth of all such vehicles expire on the last day of each month of a calendar year. ~~To effect a reassignment from the registration period in effect on June 30, 2003, to the new registration periods established by the rules adopted under this section as amended, the rules may require the motor vehicle to be registered for more or less than a twelve-month period at the time the motor vehicle's registration is subject to its initial renewal following the effective date of such rules. If necessary to effect an efficient transition, the rules may provide that the registration reassignments take place over two consecutive registration periods. The registration taxes to be charged shall be determined by the registrar on the basis of the annual tax otherwise due on the motor vehicle, prorated in accordance with the number of months for which the motor vehicle is registered, except that the fee established by division (C)(1) of section~~

~~4503.10 of the Revised Code shall be collected in full for each renewal that occurs during the transition period and shall not be prorated.~~

(D) The registrar shall adopt rules to permit any commercial motor vehicle owner or motor vehicle renting dealer who owns two or more motor vehicles to request the registrar to permit the owner to separate the owner's fleet into up to four divisions for assignment to separate dates upon which to register the vehicles, provided that the registrar may disapprove any such request whenever the registrar has reason to believe that an uneven distribution of registrations throughout the calendar year has developed or is likely to develop.

(E) Every owner or lessee of a motor vehicle holding a certificate of registration shall notify the registrar of any change of the owner's or lessee's correct address within ten days after the change occurs. The notification shall be in writing on a form provided by the registrar or by electronic means approved by the registrar and shall include the full name, date of birth if applicable, license number, county of residence or place of business, social security account number of an individual or federal tax identification number of a business, and new address.

(F) As used in this section, "motor vehicle renting dealer" has the same meaning as in section 4549.65 of the Revised Code.

Sec. 4503.102. (A)(1) The registrar of motor vehicles may ~~adopt rules to~~ establish a centralized system of motor vehicle registration for initial registration, registration renewal, and transfer of registration, by mail or by electronic means.

(2) Any person applying electronically for initial registration or for transfer of registration may submit all associated documents electronically through the centralized system of motor vehicle registration established under this section. The registrar or a deputy registrar shall verify and authenticate such documents.

(3) Any person owning a motor vehicle that was registered in the person's name during the preceding registration year shall renew the registration of the motor vehicle not more than ninety days prior to the expiration date of the registration through one of the following:

(a) By mail or by electronic means through the centralized system of registration established under this section;

(b) In person at any office of the registrar or at a deputy registrar's office.

(B)(1) Except as provided in division (B)(2) of this section, no less than forty-five days prior to the expiration date of any motor vehicle registration, the registrar shall mail a renewal notice to the person in whose name the motor vehicle is registered. The renewal notice shall clearly state that the registration of the motor vehicle may be renewed by mail or electronic means through the centralized system of registration or in person at any office of the registrar or at a deputy registrar's office and shall be preprinted with information including, but not limited to, the owner's name and residence address as shown in the records of the bureau of motor vehicles, a brief description of the motor vehicle to be registered, notice of the license taxes and fees due on the motor vehicle, and the toll-free telephone number of the registrar as required under division (D)(1) of section 4503.031 of the Revised Code~~,~~

~~and any additional information the registrar may require by rule~~. The renewal notice shall not include the social security number of either the owner of the motor vehicle or the person in whose name the motor vehicle is registered. The renewal notice shall be sent by regular mail to the owner's last known address as shown in the records of the bureau of motor vehicles.

(2) The registrar is not required to mail a renewal notice if either of the following applies:

(a) The owner of the vehicle has consented to receiving the renewal notice by electronic means only.

(b) The application for renewal of the registration of a motor vehicle is prohibited from being accepted by the registrar or a deputy registrar by division (D) of section 2935.27, division (A) of section 4503.13, division (B) of section 4510.22, division (D) of section 4503.234, division (B)(1) of section 4521.10, or division (B) of section 5537.041 of the Revised Code.

(3) If the owner of a motor vehicle has consented to receiving a renewal notice by electronic means only, the registrar shall send an electronic renewal notice to the owner that contains the information specified in division (B)(1) of this section at the time specified under that division.

(C) The owner of the motor vehicle shall verify the information contained in the notice, sign it either manually or by electronic means, and return it, either by mail or electronic means, or the owner may take it in person to any office of the registrar or of a deputy registrar. The owner shall include with the notice a financial transaction device number when renewing in person or by electronic means but not by mail, check, or

money order in the amount of the registration taxes and fees payable on the motor vehicle and a service fee equal to the amount established under section 4503.038 of the Revised Code, plus postage as indicated on the notice if the registration is renewed or fulfilled by mail, and an inspection certificate or alternative emissions certificate for the motor vehicle as provided in section 3704.14 of the Revised Code. If the motor vehicle owner chooses to renew the motor vehicle registration by electronic means, the owner shall proceed in accordance with ~~the rules the registrar adopts~~this section.

(D) If all registration and transfer fees for the motor vehicle for the preceding year or the preceding period of the current registration year have not been paid, if division (D) of section 2935.27, division (A) of section 4503.13, division (B) of section 4510.22, division (D) of section 4503.234, division (B)(1) of section 4521.10, or division (B) of section 5537.041 of the Revised Code prohibits acceptance of the renewal notice, or if the owner or lessee does not have an inspection certificate or alternative emissions certificate for the motor vehicle as provided in section 3704.14 of the Revised Code, if that section is applicable, the license shall be refused, and the registrar or deputy registrar shall so notify the owner. This section does not require the payment of license or registration taxes on a motor vehicle for any preceding year, or for any preceding period of a year, if the motor vehicle was not taxable for that preceding year or period under section 4503.02, 4503.04, 4503.11, 4503.12, or 4503.16 or Chapter 4504. of the Revised Code.

(E)(1) Failure to receive a renewal notice does not relieve a motor vehicle owner from the responsibility to renew the registration for the motor vehicle. Any person who has a

motor vehicle registered in this state and who does not receive a renewal notice as provided in division (B) of this section prior to the expiration date of the registration shall request an application for registration from the registrar or a deputy registrar and sign the application manually or by electronic means and submit the application and pay any applicable license taxes and fees to the registrar or deputy registrar.

(2) If the owner of a motor vehicle submits an application for registration and the registrar is prohibited by division (D) of section 2935.27, division (A) of section 4503.13, division (B) of section 4510.22, division (D) of section 4503.234, division (B)(1) of section 4521.10, or division (B) of section 5537.041 of the Revised Code from accepting the application, the registrar shall return the application and the payment to the owner. If the owner of a motor vehicle submits a registration renewal application to the registrar by electronic means and the registrar is prohibited from accepting the application as provided in this division, the registrar shall notify the owner of this fact and deny the application and return the payment or give a credit on the financial transaction device account of the owner in the manner the registrar prescribes by rule adopted ~~pursuant to division (A) of this section~~by the registrar.

(F) Every deputy registrar shall post in a prominent place at the deputy's office a notice informing the public of the mail registration system required by this section and also shall post a notice that every owner of a motor vehicle and every chauffeur holding a certificate of registration is required to notify the registrar in writing of any change of residence within ten days after the change occurs. The notice shall be in such form as the registrar prescribes by rule.

(G)(1) The service fee equal to the amount established under section 4503.038 of the Revised Code that is collected from a person who renews a motor vehicle registration by electronic means or by mail, plus postage collected by the registrar and any financial transaction device surcharge collected by the registrar, shall be paid to the credit of the public safety - highway purposes fund established by section 4501.06 of the Revised Code.

(2) A person who submits an initial registration or a transfer of registration by electronic means under this section shall pay a service fee equal to the amount established under section 4503.038 of the Revised Code, any necessary postage costs, and any financial transaction device surcharge, as applicable. The service fee collected shall be paid either to the registrar or to the deputy registrar that verifies and authenticates the submitted documents in accordance with division (A)(2) of this section. If the registrar authorizes a deputy registrar to mail the certificate of registration and any associated license plate to the applicant, the postage costs shall be paid to that deputy registrar.

(H)(1) Pursuant to section 113.40 of the Revised Code, the registrar shall implement a program permitting payment of motor vehicle registration taxes and fees, driver's license and commercial driver's license fees, and any other taxes, fees, penalties, or charges imposed or levied by the state by means of a financial transaction device for transactions occurring online, at any office of the registrar, and at all deputy registrar locations. The program shall take effect not later than July 1, 2016. ~~The registrar shall adopt rules as necessary for this purpose, but all such rules are subject to any action, policy, or procedure of the board of deposit or treasurer of~~

~~state taken or adopted under section 113.40 of the Revised Code.~~

(2) ~~The rules adopted under division (H)(1) of this section shall require a~~ A deputy registrar ~~to~~ shall accept payments by means of a financial transaction device ~~beginning on the effective date of the rules~~ unless the deputy registrar contract entered into by the deputy registrar prohibits the acceptance of such payments by financial transaction device. However, commencing with deputy registrar contract awards that have a start date of July 1, 2016, and for all contract awards thereafter, the registrar shall require that the proposer accept payment by means of a financial transaction device, including credit cards and debit cards, for all department of public safety transactions conducted at that deputy registrar location.

The bureau and deputy registrars are not required to pay any costs that result from accepting payment by means of a financial transaction device. A deputy registrar may charge a person who tenders payment for a department transaction by means of a financial transaction device any cost the deputy registrar incurs from accepting payment by the financial transaction device, but the deputy registrar shall not require the person to pay any additional fee of any kind in connection with the use by the person of the financial transaction device.

(3) In accordance with division (H)(1) of this section ~~and rules adopted by the registrar under that division~~, a county auditor or clerk of a court of common pleas that is designated a deputy registrar shall accept payment by means of a financial transaction device, including credit cards and debit cards, for all department transactions conducted at the office of the county auditor or clerk in the county auditor's or clerk's capacity as deputy registrar. The bureau is not required to pay

any costs incurred by a county auditor or clerk that result from accepting payment by means of a financial transaction device for any department transaction.

(I) For persons who reside in counties where tailpipe emissions inspections are required under the motor vehicle inspection and maintenance program, the notice required by division (B) of this section shall also include the toll-free telephone number maintained by the Ohio environmental protection agency to provide information concerning the locations of emissions testing centers. The registrar also shall include a statement in the notice that a battery electric motor vehicle is not required to undergo emissions inspection under the motor vehicle inspection and maintenance program established under section 3704.14 of the Revised Code.

Sec. 4503.111. (A) Within thirty days of becoming a resident of this state, any person who owns a motor vehicle operated or driven upon the public roads or highways shall register the vehicle in this state. If such a person fails to register a vehicle owned by the person, the person shall not operate any motor vehicle in this state under a license issued by another state.

(B)(1) Whoever violates division (A) of this section is guilty of a minor misdemeanor.

(2) The offense established under division (B)(1) of this section is a strict liability offense and strict liability is a culpable mental state for purposes of section 2901.20 of the Revised Code. The designation of this offense as a strict liability offense shall not be construed to imply that any other offense, for which there is no specified degree of culpability, is not a strict liability offense.

(C) For purposes of division (A) of this section, "resident" means any person to whom any of the following applies:

~~(3)~~ (1) The person maintains their principal residence in this state and does not reside in this state as a result of the person's active service in the United States armed forces.

~~(4)~~ (2) The person is ~~determined by the registrar of motor vehicles to be~~ a resident in accordance with ~~standards adopted by the registrar under~~ section 4507.01 of the Revised Code.

Sec. 4503.29. (A) The director of veterans services in conjunction with the registrar of motor vehicles shall develop and maintain a program to establish and issue specialty license plates recognizing military service and military honors pertaining to valor and service.

(B) The director and the registrar shall jointly adopt rules in accordance with Chapter 119. of the Revised Code ~~for purposes of establishing the program under this section. The director and registrar shall adopt the rules as soon as possible after June 29, 2018, but not later than nine months after June 29, 2018. The rules shall~~ to do all of the following:

(1) Establish specialty license plates recognizing military service;

(2) Establish specialty license plates recognizing military honors pertaining to valor and service;

(3) Establish eligibility criteria that apply to each specialty license plate issued under this section;

(4) Establish requirements governing any necessary documentary evidence required to be presented by an applicant

for a specialty license plate issued under this section. The rules shall allow an applicant to present a veterans identification card issued in accordance with section 317.241 of the Revised Code in lieu of a copy of the applicant's DD-214 or an equivalent document. An applicant may be required to present additional evidence if the veterans identification card does not show all of the information needed for issuance of the specific nonstandard license plate requested by the applicant.

(5) Establish guidelines for the designs, markings, and inscriptions on a specialty license plate established under this section;

(6) Establish procedures for altering the designs, markings, or inscriptions on a specialty license plate established under this section;

(7) Prohibit specialty license plates established under this section from recognizing achievement awards or unit awards~~;~~

~~(8) Establish any other procedures or requirements that are necessary for the implementation and administration of this section~~.

(C) The rules adopted under division (B) of this section shall provide for the establishment of the military specialty license plates created prior to June 29, 2018, that are no longer codified in the Revised Code.

(D)(1) Any person who meets the applicable qualifications for the issuance of a specialty license plate established by rule adopted under division (B) of this section may apply to the registrar of motor vehicles for the registration of any passenger car, noncommercial motor vehicle, recreational vehicle, or other vehicle the person owns or leases of a class

approved by the registrar. The application may be combined with a request for a special reserved license plate under section 4503.40 or 4503.42 of the Revised Code.

(2)(a) Except as provided in division (D)(2)(b) of this section, upon receipt of an application for registration of a motor vehicle under this section and the required taxes and fees, compliance with all applicable laws relating to the registration of a motor vehicle, and, if necessary, upon presentation of the required documentary evidence, the registrar shall issue to the applicant the appropriate motor vehicle registration and a set of license plates and a validation sticker, or a validation sticker alone when required by section 4503.191 of the Revised Code.

(b) Any disabled veteran who qualifies to apply to the registrar for the registration of a motor vehicle under section 4503.41 of the Revised Code without the payment of any registration taxes or fees, may apply instead for registration of the motor vehicle under this section. The disabled veteran applying for registration under this section is not required to pay any registration taxes or fees as required by sections 4503.038, 4503.04, 4503.10, 4503.102, and 4503.103 of the Revised Code, any local motor vehicle tax levied under Chapter 4504. of the Revised Code, any fee charged under section 4503.19 of the Revised Code for up to two motor vehicles, including any motor vehicle registered under section 4503.41 of the Revised Code, or any fees associated with transferring a registration under section 4503.12 of the Revised Code. Upon receipt of an application for registration of the motor vehicle and presentation of any documentation the registrar may require by rule, the registrar shall issue to the applicant the appropriate motor vehicle registration and a set of license plates

authorized under this section and a validation sticker, or a validation sticker alone when required by section 4503.191 of the Revised Code.

(3) The license plates shall display county identification stickers that identify the county of registration as required under section 4503.19 of the Revised Code.

Sec. 4503.51. (A) The owner or lessee of any passenger car, noncommercial motor vehicle, recreational vehicle, or vehicle of a class approved by the registrar of motor vehicles may apply to the registrar for registration of the vehicle and for issuance of collegiate license plates. The application may be combined with a request for a special reserved license plate under section 4503.40 or 4503.42 of the Revised Code.

Upon receipt of the completed application for registration of a vehicle ~~in accordance with any rules adopted under this section~~ and upon compliance with divisions (B) and (C) of this section, the registrar shall issue to the applicant appropriate vehicle registration and a set of collegiate license plates with a validation sticker, or a validation sticker alone when required by section 4503.191 of the Revised Code.

In addition to the letters and numbers ordinarily inscribed on the license plates, collegiate license plates shall display the name of a university or college that is participating with the registrar in the issuance of collegiate license plates, or any other identifying marking or design selected by such a university or college and approved by the registrar. Collegiate license plates shall display county identification stickers that identify the county of registration as required under section 4503.19 of the Revised Code.

(B) The collegiate license plates and validation sticker, or validation sticker alone, shall be issued upon receipt of an application for registration of a motor vehicle under this section; payment of the regular license tax as prescribed under section 4503.04 of the Revised Code, any applicable motor vehicle tax levied under Chapter 4504. of the Revised Code, any applicable additional fee prescribed by section 4503.40 or 4503.42 of the Revised Code, an additional administrative fee of ten dollars, and a contribution as provided in division (C)(1) of this section; and compliance with all other applicable laws relating to the registration of motor vehicles.

(C)(1) For each application for registration and registration renewal notice the registrar receives under this section, the registrar shall collect a contribution of twenty-five dollars.

The registrar shall deposit this contribution into the state treasury to the credit of the license plate contribution fund created in section 4501.21 of the Revised Code.

(2) The registrar shall deposit the administrative fee of ten dollars, which is to compensate the bureau of motor vehicles for the additional services required in the issuing of the collegiate license plates, into the state treasury to the credit of the public safety - highway purposes fund created in section 4501.06 of the Revised Code.

(D) ~~The registrar, in accordance with Chapter 119. of the Revised Code, shall adopt rules necessary for the efficient administration of the collegiate license plate program.~~

~~(E)~~ As used in this section, "university or college" means a state university or college or a private university or college

located in this state that possesses a certificate of authorization issued by the Ohio board of regents pursuant to Chapter 1713. of the Revised Code. "University or college" also includes community colleges created pursuant to Chapter 3354. of the Revised Code, university branches created pursuant to Chapter 3355. of the Revised Code, technical colleges created pursuant to Chapter 3357. of the Revised Code, and state community colleges created pursuant to Chapter 3358. of the Revised Code.

Sec. 4503.64. Upon receipt of an application pursuant to division (J) of section 4503.10 of the Revised Code for apportioned registration under the international registration plan and payment of all taxes or fees due on the vehicle, the registrar of motor vehicles shall issue a license plate as provided in section 4503.19 of the Revised Code and a registration card for each vehicle registered under the international registration plan. The registration card shall identify the vehicle for which it is issued, list the jurisdictions in which the vehicle has been apportioned, and the weight and classification for which the vehicle has been registered~~, and any other information the registrar may require by rule~~. The registration card shall, at all times, be carried in or upon the vehicle for which it has been issued.

Sec. 4503.642. (A) There is hereby created in the bureau of motor vehicles a performance registration and information systems management program for coordinating motor carrier safety information with federal and state agencies. The registrar of motor vehicles shall collect and maintain necessary motor carrier, commercial motor vehicle, and driver data in a manner that complies with the information systems established by the United States secretary of transportation under 49 U.S.C. 31106.

(B) The registrar shall refuse to issue a registration, license plate, permit, or certificate of title for any commercial motor vehicle that is assigned to a motor carrier that has been prohibited from operating by a federal agency. The registrar may allow a prohibited motor vehicle carrier to transfer title on a commercial motor vehicle if the prohibited carrier does not retain a direct or indirect interest in the vehicle.

(C) The registrar shall suspend, revoke, deny, or remove the registration, license plates, or any permit issued to any commercial motor vehicle that is assigned to a motor carrier who has been prohibited from operating by a federal agency. The suspension, revocation, denial, or removal shall remain in effect until the carrier is no longer prohibited from operating by the federal agency. The suspension, revocation, denial, or removal shall apply to all commercial motor vehicles under the carrier's control.

(D) A carrier or registrant whose privilege to operate a commercial motor vehicle has been suspended, revoked, denied, or removed under division (C) of this section may request a hearing in accordance with Chapter 119. of the Revised Code. The hearing shall be limited to whether the carrier or registrant has been correctly identified, whether the carrier or registrant has been prohibited from operating by the federal agency, and whether the federal agency subsequently has rescinded the prohibition.

(E) The registrar shall restore a motor carrier's or registrant's privilege to register, transfer a title, or operate a commercial motor vehicle only upon acceptable notification from the federal agency that the prohibition has been removed and upon payment of all applicable taxes and fees.

(F) The registrar shall take those steps necessary to implement this section, including the adoption of ~~rules,~~ procedures~~,~~ and forms.

Sec. 4505.01. (A) As used in this chapter:

"Buyer" and "transferee" mean the applicant for a certificate of title.

"Certificate of title" and "title" include an electronic certificate of title, unless otherwise specified.

"Electronic certificate of title" means an electronic record stored in the automated title processing system that establishes ownership of a motor vehicle and any security interests that exist on that motor vehicle.

"Lien" includes, unless the context requires a different meaning, a security interest in a motor vehicle.

"Manufactured home" has the same meaning as section 3781.06 of the Revised Code.

"Manufactured housing dealer," "manufactured housing broker," and "manufactured housing salesperson" have the same meanings as in section 4781.01 of the Revised Code.

"Mobile home" has the same meaning as in section 4501.01 of the Revised Code.

"Motor vehicle" includes manufactured homes, mobile homes, recreational vehicles, and trailers and semitrailers whose weight exceeds four thousand pounds.

"Motor vehicle dealer" and "dealer" have the same meaning as in section 4517.01 of the Revised Code and includes manufactured housing dealers.

"Motor vehicle salesperson" includes manufactured housing salespersons.

"Resident" means any person who either maintains their principal residence in this state or is ~~determined by the registrar of motor vehicles to be~~ a permanent or temporary resident in accordance with ~~the standards adopted by the registrar under~~ section 4507.01 of the Revised Code.

"Signature" includes an electronic signature as defined by section 1306.01 of the Revised Code.

(B) The various certificates, applications, and assignments necessary to provide certificates of title for manufactured homes, mobile homes, recreational vehicles, and trailers and semitrailers whose weight exceeds four thousand pounds, shall be made upon forms prescribed by the registrar of motor vehicles.

Sec. 4505.02. The registrar of motor vehicles shall ~~issue rules as the registrar determines necessary to~~ ensure uniform and orderly operation of this chapter and adopt rules in accordance with Chapter 119. of the Revised Code to ensure that the identification of each applicant for a certificate of title is reasonably accurate. The clerks of the courts of common pleas shall conform thereto. The clerks shall provide the forms as prescribed by the registrar, except the manufacturers' or importers' certificates. The clerks shall provide, from moneys in the automated title processing fund, certificates of title and ribbons, cartridges, or other devices necessary for the operation of the certificate of title processing equipment as determined by the automated title processing board pursuant to division (C) of section 4505.09 of the Revised Code. All other automated title processing system supplies shall be provided by

the clerks.

If it appears that any certificate of title has been improperly issued, the registrar shall cancel the certificate unless the title is deemed valid pursuant to section 4505.191 of the Revised Code. Upon the cancellation of any certificate of title, the registrar shall notify the clerk who issued it, and the clerk thereupon shall enter the cancellation upon the clerk's records. The registrar also shall notify the person to whom such certificate of title was issued, as well as any lienholders appearing thereon, of the cancellation and shall demand the surrender of the certificate of title immediately, but the cancellation shall not affect the validity of any lien noted thereon. The holder of such certificate of title immediately shall return it to the registrar. If a certificate of registration has been issued to the holder of a certificate of title so canceled the registrar immediately shall cancel it and demand the return of such certificate of registration and license plates, and the holder of such certificate of registration and license plates shall return the same to the registrar forthwith. The clerks shall keep on hand a sufficient supply of blank forms, which, except for certificate of title and memorandum certificate forms, shall be furnished and distributed without charge to registered manufacturers or dealers, or other persons residing within the county.

Sec. 4505.20. (A) Notwithstanding division (A)(2) of section 4505.18 of the Revised Code or any other provision of this chapter or Chapter 4517. of the Revised Code, a secured party may designate a manufactured housing dealer to display, display for sale, or sell a manufactured or mobile home if the home has come into the possession of that secured party by a default in the terms of a security instrument and the

certificate of title remains in the name and possession of the secured party.

(B) Notwithstanding division (A)(2) of section 4505.18 of the Revised Code or any other provision of this chapter or Chapter 4517. of the Revised Code, the owner of a recreational vehicle or a secured party of a recreational vehicle who has come into possession of the vehicle by a default in the terms of a security instrument, may designate a new motor vehicle dealer to display, display for sale, or sell the vehicle while the certificate of title remains in the possession of the owner or secured party. No new motor vehicle dealer may display or offer for sale more than five recreational vehicles at any time under this division. No new motor vehicle dealer may display or offer for sale a recreational vehicle under this division unless the new motor vehicle dealer maintains insurance or the bond of a surety company authorized to transact business within this state in an amount sufficient to satisfy the fair market value of the vehicle.

(C) ~~The registrar may adopt reasonable rules regarding the resale of recreational vehicles that the registrar considers necessary.~~

~~(D)~~ The manufactured housing dealer or new motor vehicle secured party or owner shall provide the dealer with written authorization to display, display for sale, or sell the manufactured home, mobile home, or recreational vehicle. The manufactured housing dealer or new motor vehicle dealer shall show and explain the written authorization to any prospective purchaser. The written authorization shall contain the vehicle identification number, make, model, year of manufacture, and physical description of the manufactured home, mobile home, or

recreational vehicle that is provided to the manufactured housing dealer or new motor vehicle dealer.

~~(E)~~ (D) Whoever violates this section shall be fined not more than two hundred dollars, imprisoned not more than ninety days, or both.

Sec. 4506.11. (A) Every commercial driver's license shall be marked "commercial driver's license" or "CDL" and shall be of such material and so designed as to prevent its reproduction or alteration without ready detection. The commercial driver's license for licensees under twenty-one years of age shall have characteristics prescribed by the registrar of motor vehicles distinguishing it from that issued to a licensee who is twenty-one years of age or older. Every commercial driver's license shall display all of the following information:

(1) The name and residence address of the licensee;

(2) A photograph of the licensee showing the licensee's uncovered face;

(3) A physical description of the licensee, including sex, height, weight, and color of eyes and hair;

(4) The licensee's date of birth;

(5) The licensee's social security number if the person has requested that the number be displayed in accordance with section 4501.31 of the Revised Code or if federal law requires the social security number to be displayed and any number or other identifier the director of public safety considers appropriate and establishes by rules adopted under Chapter 119. of the Revised Code and in compliance with federal law;

(6) The licensee's signature;

(7) The classes of commercial motor vehicles the licensee is authorized to drive and any endorsements or restrictions relating to the licensee's driving of those vehicles;

(8) The name of this state;

(9) The dates of issuance and of expiration of the license;

(10) If the licensee has certified willingness to make an anatomical gift under section 2108.05 of the Revised Code, any symbol chosen by the registrar of motor vehicles to indicate that the licensee has certified that willingness;

(11) If the licensee has executed a durable power of attorney for health care or a declaration governing the use or continuation, or the withholding or withdrawal, of life-sustaining treatment and has specified that the licensee wishes the license to indicate that the licensee has executed either type of instrument, any symbol chosen by the registrar to indicate that the licensee has executed either type of instrument;

(12) If the licensee has specified that the licensee wishes the license to indicate that the licensee is a veteran, active duty, or reservist of the armed forces of the United States and has presented a copy of the licensee's DD-214 form or an equivalent document, any symbol chosen by the registrar to indicate that the licensee is a veteran, active duty, or reservist of the armed forces of the United States;

(13) If the licensee is a noncitizen of the United States, a notation designating that the licensee is a noncitizen~~;~~

~~(14) Any other information the registrar considers advisable and requires by rule~~.

(B) The registrar may establish and maintain a file of negatives of photographs taken for the purposes of this section.

(C) Neither the registrar nor any deputy registrar shall issue a commercial driver's license to anyone under twenty-one years of age that does not have the characteristics prescribed by the registrar distinguishing it from the commercial driver's license issued to persons who are twenty-one years of age or older.

(D) Whoever violates division (C) of this section is guilty of a minor misdemeanor.

Sec. 4506.17. (A) Both of the following are deemed to have given consent to a test or tests of the person's whole blood, blood serum or plasma, breath, oral fluid, or urine for the purpose of determining the person's alcohol concentration or the presence of any controlled substance or a metabolite of a controlled substance:

(1) A person while operating a commercial motor vehicle that requires a commercial driver's license or commercial driver's license temporary instruction permit;

(2) A person who holds a commercial driver's license or commercial driver's license temporary instruction permit while operating a motor vehicle, including a commercial motor vehicle.

(B) A test or tests as provided in division (A) of this section may be administered at the direction of a peace officer having reasonable ground to stop or detain the person and, after investigating the circumstances surrounding the operation of the motor vehicle, also having reasonable ground to believe the person was driving the motor vehicle while having a measurable or detectable amount of alcohol or of a controlled substance or

a metabolite of a controlled substance in the person's whole blood, blood serum or plasma, breath, oral fluid, or urine. Any such test shall be given within two hours of the time of the alleged violation.

(C) A person requested by a peace officer to submit to a test under division (A) of this section shall be advised by the peace officer that a refusal to submit to the test will result in the person immediately being placed out-of-service for a period of twenty-four hours and being disqualified from operating a commercial motor vehicle for a period of not less than one year, and that the person is required to surrender the person's commercial driver's license or permit to the peace officer.

(D) If a person refuses to submit to a test after being warned as provided in division (C) of this section or submits to a test that discloses the presence of an amount of alcohol or a controlled substance prohibited by divisions (A)(1) to (6) of section 4506.15 of the Revised Code or a metabolite of a controlled substance, the person immediately shall surrender the person's commercial driver's license or permit to the peace officer. The peace officer shall forward the license or permit, together with a sworn report, to the registrar of motor vehicles certifying that the test was requested pursuant to division (A) of this section and that the person either refused to submit to testing or submitted to a test that disclosed the presence of one of the prohibited concentrations of a substance listed in divisions (A)(1) to (6) of section 4506.15 of the Revised Code or a metabolite of a controlled substance. The form and contents of the report required by this section shall be established by the registrar by rule, but shall contain the advice to be read to the driver and a statement to be signed by the driver

acknowledging that the driver has been read the advice and that the form was shown to the driver.

(E) Upon receipt of a sworn report from a peace officer as provided in division (D) of this section, or upon receipt of notification that a person has been disqualified under a similar law of another state or foreign jurisdiction, the registrar shall disqualify the person named in the report from driving a commercial motor vehicle for the period described below:

(1) Upon a first incident, one year;

(2) Upon an incident of refusal or of a prohibited concentration of alcohol, a controlled substance, or a metabolite of a controlled substance after one or more previous incidents of either refusal or of a prohibited concentration of alcohol, a controlled substance, or a metabolite of a controlled substance, the person shall be disqualified for life or such lesser period as prescribed by rule by the registrar.

(F) A test of a person's whole blood or a person's blood serum or plasma given under this section shall comply with the applicable provisions of division (D) of section 4511.19 of the Revised Code and any physician, registered nurse, emergency medical technician-intermediate, emergency medical technician-paramedic, or qualified technician, chemist, or phlebotomist who withdraws whole blood or blood serum or plasma from a person under this section, and any hospital, first-aid station, clinic, or other facility at which whole blood or blood serum or plasma is withdrawn from a person pursuant to this section, is immune from criminal liability, and from civil liability that is based upon a claim of assault and battery or based upon any other claim of malpractice, for any act performed in withdrawing whole blood or blood serum or plasma from the person. The immunity

provided in this division also extends to an emergency medical service organization that employs an emergency medical technician-intermediate or emergency medical technician-paramedic who withdraws blood under this section.

(G) When a person submits to a test under this section, the results of the test, at the person's request, shall be made available to the person, the person's attorney, or the person's agent, immediately upon completion of the chemical test analysis. The person also may have an additional test administered by a physician, a registered nurse, or a qualified technician, chemist, or phlebotomist of the person's own choosing as provided in division (D) of section 4511.19 of the Revised Code for tests administered under that section, and the failure to obtain such a test has the same effect as in that division.

(H) No person shall refuse to immediately surrender the person's commercial driver's license or permit to a peace officer when required to do so by this section.

(I) A peace officer issuing an out-of-service order or receiving a commercial driver's license or permit surrendered under this section may remove or arrange for the removal of any commercial motor vehicle affected by the issuance of that order or the surrender of that license.

(J)(1) Except for civil actions arising out of the operation of a motor vehicle and civil actions in which the state is a plaintiff, no peace officer of any law enforcement agency within this state is liable in compensatory damages in any civil action that arises under the Revised Code or common law of this state for an injury, death, or loss to person or property caused in the performance of official duties under this

section ~~and rules adopted under this section~~, unless the officer's actions were manifestly outside the scope of the officer's employment or official responsibilities, or unless the officer acted with malicious purpose, in bad faith, or in a wanton or reckless manner.

(2) Except for civil actions that arise out of the operation of a motor vehicle and civil actions in which the state is a plaintiff, no peace officer of any law enforcement agency within this state is liable in punitive or exemplary damages in any civil action that arises under the Revised Code or common law of this state for any injury, death, or loss to person or property caused in the performance of official duties under this section of the Revised Code ~~and rules adopted under this section~~, unless the officer's actions were manifestly outside the scope of the officer's employment or official responsibilities, or unless the officer acted with malicious purpose, in bad faith, or in a wanton or reckless manner.

(K) When disqualifying a driver, the registrar shall cause the records of the bureau of motor vehicles to be updated to reflect the disqualification within ten days after it occurs.

(L) The registrar immediately shall notify a driver who is subject to disqualification of the disqualification, of the length of the disqualification, and that the driver may request a hearing within thirty days of the mailing of the notice to show cause why the driver should not be disqualified from operating a commercial motor vehicle. If a request for such a hearing is not made within thirty days of the mailing of the notice, the order of disqualification is final. The registrar may designate hearing examiners who, after affording all parties reasonable notice, shall conduct a hearing to determine whether

the disqualification order is supported by reliable evidence. ~~The registrar shall adopt rules to implement this division.~~

(M) Any person who is disqualified from operating a commercial motor vehicle under this section may apply to the registrar for a driver's license to operate a motor vehicle other than a commercial motor vehicle, provided the person's commercial driver's license or permit is not otherwise suspended. A person whose commercial driver's license or permit is suspended shall not apply to the registrar for or receive a driver's license under Chapter 4507. of the Revised Code during the period of suspension.

(N) Whoever violates division (H) of this section is guilty of a misdemeanor of the first degree.

(O) As used in this section, "emergency medical technician-intermediate" and "emergency medical technician-paramedic" have the same meanings as in section 4765.01 of the Revised Code.

Sec. 4507.061. (A) The registrar of motor vehicles may authorize the online renewal of a driver's license, commercial driver's license, or identification card issued by the bureau of motor vehicles for eligible applicants. An applicant is eligible for online renewal if all of the following apply:

(1) The applicant's current driver's license, commercial driver's license, or identification card was processed in person at a deputy registrar office.

(2) The applicant has a photo on file with the bureau of motor vehicles from the applicant's current driver's license, commercial driver's license, or identification card.

(3) The applicant's current driver's license, commercial

driver's license, or identification card expires on the birthday of the applicant in the fourth year after the date it was issued.

(4) The applicant is applying for a driver's license, commercial driver's license, or identification card that expires on the birthday of the applicant in the fourth year after the date it is issued.

(5) The applicant's current driver's license, commercial driver's license, or identification card is unexpired or expired not more than six months prior to the date of the application.

(6) The applicant is a citizen or a permanent resident of the United States and a permanent resident of this state.

(7) The applicant's current driver's license, commercial driver's license, or identification card was issued when the applicant was twenty-one years of age or older.

(8) If the applicant is renewing a driver's license or commercial driver's license, the applicant is less than sixty-five years of age.

(9) The applicant's current driver's license, commercial driver's license, or driving privileges are not suspended, canceled, revoked, or restricted, and the applicant is not otherwise prohibited by law from obtaining a driver's license, commercial driver's license, or identification card.

(10) The applicant has no changes to the applicant's name or personal information, other than a change of address.

(11) The applicant has no medical restrictions that would require the applicant to apply for a driver's license, commercial driver's license, or identification card in person at

a deputy registrar office. The registrar shall determine the medical restrictions that require in person applications.

(12) For a commercial driver's license, the applicant complies with all the requirements of Chapter 4506. of the Revised Code, including self-certification and medical certificate requirements.

(13) For a commercial driver's license, the applicant is not under any restriction specified by any federal regulation.

(B) An applicant may not submit an application online for any of the following:

(1) A temporary instruction permit;

(2) A commercial driver's license temporary instruction permit;

(3) An initial issuance of an Ohio driver's license, commercial driver's license, or identification card;

(4) An initial issuance of a federally compliant driver's license, commercial driver's license, or identification card;

(5) An ignition interlock license;

(6) A limited term driver's license or limited term commercial driver's license issued to a temporary resident.

(C) The registrar may require an applicant to provide a digital copy of any identification documents and supporting documents as required by statute or administrative rule to comply with current state and federal requirements.

(D) Except as otherwise provided, an applicant shall comply with all other applicable laws related to the issuance of a driver's license, commercial driver's license, or

identification card in order to renew a driver's license, commercial driver's license, or identification card under this section.

~~(E) The registrar may adopt rules in accordance with Chapter 119. of the Revised Code to implement and administer this section.~~

Sec. 4507.18. (A) The registrar of motor vehicles shall permit all of the following to renew a driver's license or motorcycle operator's endorsement issued by this state by electronic means:

(1) Any person who is on active duty in the armed forces of the United States who is stationed outside of this state;

(2) The spouse of a person described in division (A)(1) of this section who is also outside of this state;

(3) The dependents of a person described in division (A)(1) of this section who are also outside of this state.

(B) The registrar shall require all of the following:

(1) That the applicant provide a digital copy of the applicant's military identification card or military dependent identification card;

(2) That any spouse or dependent applicant provide a digital copy of a form provided by the registrar demonstrating that the applicant received and passed a vision examination in accordance with the vision requirements under section 4507.12 of the Revised Code;

(3) That the applicant provide a digital copy of a current two inch by two inch passport quality photograph with a white background to be used as the applicant's new driver's license or

motorcycle operator's endorsement photograph;

(4) That the applicant provide a digital copy of any identification documents and supporting documents as required by statute or administrative rule to comply with current state and federal requirements.

(C) The registrar shall make it possible for applicants to upload and send by electronic means all required copies of supporting documents and photographs for a driver's license or motorcycle operator's endorsement renewal under this section.

(D)(1) This section does not impact a person's ability to use the exemption from the license requirements available under division (B) of section 4507.03 of the Revised Code.

(2) This section does not prevent a person who is permitted to renew a driver's license or motorcycle operator's endorsement by electronic means under this section from making an application, as provided in section 4507.10 of the Revised Code, in person at a deputy registrar's office.

~~(E) The registrar shall adopt rules under Chapter 119. of the Revised Code to implement and administer this section.~~

Sec. 4507.21. (A) Except as provided in section 4507.061 of the Revised Code, each applicant for a driver's license shall file an application in the office of the registrar of motor vehicles or of a deputy registrar.

(B)(1) Except as provided in division (B)(4) of this section, each person under twenty-one years of age applying for a driver's license issued in this state and each person twenty-one years of age or older applying for an initial limited term license in this state shall present satisfactory evidence of having successfully completed one of the following:

(a) A driver training course approved by the director of public safety.

(b) A driver training course comparable to a driver training course described in division (B)(1)(a) of this section and administered by a branch of the armed forces of the United States and completed by the applicant while residing outside this state for the purpose of being with or near any person serving in the armed forces of the United States.

(2) Each person under twenty-one years of age applying for a driver's license also shall present, on a form prescribed by the registrar, an affidavit signed by an eligible adult attesting that the person has acquired at least fifty hours of actual driving experience, with at least ten of those hours being at night.

(3) Except as provided in division (B)(4) of this section, each person twenty-one years of age or older applying for an initial limited term license in this state also shall present, on a form prescribed by the registrar, an affidavit signed by an adult who holds a current valid driver's or commercial driver's license issued by this state that the applicant has acquired at least fifty hours of actual driving experience, with at least ten of those hours being at night, accompanied by the signing adult.

(4) Both of the following individuals are exempt from the requirements specified in divisions (B)(1) and (3) of this section:

(a) A person who receives a waiver of the examination by the registrar in accordance with section 4507.10 of the Revised Code;

(b) An initial limited term license applicant twenty-one years of age or older who is from a country with which the registrar has a reciprocal arrangement in accordance with section 4507.101 of the Revised Code.

(C)(1) An applicant for an initial driver's license shall present satisfactory evidence of successful completion of the abbreviated driver training course for adults, ~~approved by the director of public safety under section 4508.02 of the Revised Code,~~ if all of the following apply:

(a) The applicant is twenty-one years of age or older.

(b) The applicant failed the road or maneuverability test required under division (A)(2) of section 4507.11 of the Revised Code.

(c) In the twelve months immediately preceding the date of application, the applicant has not successfully completed a driver training course.

(2) An applicant shall present satisfactory evidence as required under division (C)(1) of this section prior to attempting the test a second or subsequent time.

(D) If the registrar or deputy registrar determines that the applicant is entitled to the driver's license, it shall be issued. If the application shows that the applicant's license has been previously canceled or suspended, the deputy registrar shall forward the application to the registrar, who shall determine whether the license shall be granted.

(E) An applicant shall file an application under this section in duplicate, and the deputy registrar issuing the license shall immediately forward to the office of the registrar the original copy of the application, together with the

duplicate copy of any certificate of completion if issued for purposes of division (B) of this section. The registrar shall prescribe rules as to the manner in which the deputy registrar files and maintains the applications and other records. The registrar shall file every application for a driver's or commercial driver's license and index them by name and number, and shall maintain a suitable record of all licenses issued, all convictions and bond forfeitures, all applications for licenses denied, and all licenses that have been suspended or canceled.

(F) For purposes of section 2313.06 of the Revised Code, the registrar shall maintain accurate and current lists of the residents of each county who are eighteen years of age or older, have been issued, on and after January 1, 1984, driver's or commercial driver's licenses that are valid and current, and would be electors if they were registered to vote, regardless of whether they actually are registered to vote. The lists shall contain the names, addresses, dates of birth, duration of residence in this state, citizenship status, and social security numbers, if the numbers are available, of the licensees, and may contain any other information that the registrar considers suitable.

(G) Each person under eighteen years of age applying for a motorcycle operator's endorsement or a restricted license enabling the applicant to operate a motorcycle shall present satisfactory evidence of having completed the courses of instruction in the motorcycle safety and education program described in section 4508.08 of the Revised Code or a comparable course of instruction administered by a branch of the armed forces of the United States and completed by the applicant while residing outside this state for the purpose of being with or near any person serving in the armed forces of the United

States. If the registrar or deputy registrar then determines that the applicant is entitled to the endorsement or restricted license, it shall be issued.

(H) No person shall knowingly make a false statement in an affidavit presented in accordance with division (B)(2) of this section.

(I) As used in this section, "eligible adult" means any of the following persons:

(1) A parent, guardian, or custodian of the applicant;

(2) A person over the age of twenty-one who acts in loco parentis of the applicant and who maintains proof of financial responsibility with respect to the operation of a motor vehicle owned by the applicant or with respect to the applicant's operation of any motor vehicle.

(J) Whoever violates division (H) of this section is guilty of a minor misdemeanor and shall be fined one hundred dollars.

Sec. 4507.233. (A) Notwithstanding sections 4506.08, 4507.23, 4507.24, 4507.50, and 4507.52 of the Revised Code, a person may apply for and obtain a replacement commercial driver's license, driver's license, or identification card without paying any fee, if all of the following apply:

(1) The license or card is valid and its expiration date is not within ninety days of the date for renewal.

(2) The license or card indicates the licensee or cardholder was a noncitizen.

(3) At the time of application, the applicant is a United States citizen.

(B) The applicant shall include any documentary evidence of United States citizenship with an application made under division (A) of this section as the registrar of motor vehicles may require by rule.

(C) A replacement commercial driver's license, driver's license, or identification card issued under this section shall be identical to the license or card replaced, except that it shall no longer indicate that the licensee or cardholder is a noncitizen.

~~(D) The registrar shall adopt rules in accordance with Chapter 119. of the Revised Code for purposes of implementing and administering this section. Notwithstanding any provision of section 121.95 of the Revised Code to the contrary, a regulatory restriction contained in a rule adopted under this section is not subject to sections 121.95 to 121.953 of the Revised Code.~~

Sec. 4507.49. (A)(1) On the last business day of every month or on a more frequent schedule as determined by the registrar of motor vehicles, each deputy registrar shall submit a verification form to the registrar that contains the following information:

(a) The number of identification cards and temporary identification cards issued or renewed under section 4507.50 of the Revised Code during the established schedule without payment of any fees;

(b) The number of replacement identification cards issued under section 4507.52 of the Revised Code during the established schedule without payment of any fees.

(2) The registrar shall establish the necessary verification form and the manner and frequency in which the form

shall be submitted.

(B) The registrar shall reimburse each deputy registrar for the deputy registrar's services in issuing identification cards, based on the information submitted in accordance with division (A) of this section, in the following amounts:

(1) The amount established under section 4503.038 of the Revised Code for each card issued under section 4507.50 of the Revised Code that will expire on the applicant's birthday four years after the date of issuance;

(2) Two times the amount established under section 4503.038 of the Revised Code for each card issued under section 4507.50 of the Revised Code that will expire on the applicant's birthday eight years after the date of issuance;

(3) One dollar and fifty cents for the authentication of documents for each card issued under section 4507.50 of the Revised Code that will expire on the applicant's birthday four years after the date of issuance;

(4) Three dollars for the authentication of documents for each card issued under section 4507.50 of the Revised Code that will expire on the applicant's birthday eight years after the date of issuance;

(5) The amount established under section 4503.038 of the Revised Code for each replacement card issued under section 4507.52 of the Revised Code.

~~(C) The registrar may adopt any rules necessary to implement and administer this section. Notwithstanding any provision of section 121.95 of the Revised Code to the contrary, a regulatory restriction contained in a rule adopted under this section is not subject to sections 121.95 to 121.953 of the~~

~~Revised Code.~~

Sec. 4508.01. As used in this chapter:

(A) "Beginning driver" means any person being trained to drive a particular motor vehicle who has not been previously licensed to drive that motor vehicle by any state or country.

(B) "Person with a disability" means a person who, in the opinion of the registrar of motor vehicles, has a physical or mental disability or disease that prevents the person, in the absence of special training or equipment, from exercising reasonable and ordinary control over a motor vehicle while operating the vehicle upon the highways. "Person with a disability" does not mean any person who is or has been subject to any condition resulting in episodic impairment of consciousness or loss of muscular control and whose condition, in the opinion of the registrar, is dormant or is sufficiently under medical control that the person is capable of exercising reasonable and ordinary control over a motor vehicle.

(C) "Driver training school" or "school" means any of the following:

(1) A private business enterprise conducted by an individual, association, partnership, or corporation for the education and training of persons to operate or drive motor vehicles, that does any of the following:

(a) Uses public streets or highways to provide training and charges a consideration or tuition for such services;

(b) Provides an online driver education course approved by the director of public safety pursuant to division (A)(2) of section 4508.02 of the Revised Code and charges a consideration or tuition for the course;

(c) Provides an abbreviated driver training course for adults ~~that is approved by the director pursuant to division (F) of section 4508.02 of the Revised Code~~ and charges a consideration or tuition for the course.

(2) A lead school district as provided in section 4508.09 of the Revised Code;

(3) A board of education of a city, exempted village, local, or joint vocational school district or the governing board of an educational service center that offers a driver education course for high school students enrolled in the district or in a district served by the educational service center.

(D) "Instructor" means any person, whether acting for self as operator of a driver training school or for such a school for compensation, who teaches, conducts classes of, gives demonstrations to, or supervises practice of, persons learning to operate or drive motor vehicles.

(E) "Lead school district" means a school district, including a joint vocational school district, designated by the department of education and workforce as either a vocational education planning district itself or as responsible for providing primary vocational education leadership within a vocational education planning district that is composed of a group of districts. A "vocational education planning district" is a school district or group of school districts designated by the department as responsible for planning and providing vocational education services to students within the district or group of districts.

Sec. 4508.02. (A)(1) The director of public safety,

subject to Chapter 119. of the Revised Code, shall adopt ~~and prescribe such~~ rules ~~concerning the administration and enforcement of this chapter as are necessary to protect the public. The rules shall require~~ requiring an assessment of the holder of a probationary instructor license. The director shall inspect the school facilities and equipment of applicants and licensees and examine applicants for instructor's licenses.

(2) The director shall adopt rules governing online driver education courses that may be completed via the internet to satisfy the classroom instruction under division (C) of this section. The rules shall do all of the following:

(a) Establish standards that an online driver training enterprise must satisfy to be licensed to offer an online driver education course via the internet, including, at a minimum, proven expertise in providing driver education and an acceptable infrastructure capable of providing secure online driver education in accord with advances in internet technology. The rules shall allow an online driver training enterprise to be affiliated with a licensed driver training school offering in-person classroom instruction, but shall not require such an affiliation.

(b) Establish content requirements that an online driver education course must satisfy to be approved as equivalent to twenty-four hours of in-person classroom instruction;

(c) Establish attendance standards, including a maximum number of course hours that may be completed in a twenty-four-hour period;

(d) Allow an enrolled applicant to begin the required eight hours of actual behind-the-wheel instruction upon

completing all twenty-four hours of course instruction~~;~~

~~(c) Establish any other requirements necessary to regulate online driver education~~.

(B) The director shall administer and enforce this chapter.

(C) The rules shall require twenty-four hours of completed in-person classroom instruction or the completion of an approved, equivalent online driver education course offered via the internet by a licensed online driver training enterprise, followed by eight hours of actual behind-the-wheel instruction conducted on public streets and highways of this state for all beginning drivers of noncommercial motor vehicles who are required to complete the training under section 4507.21 of the Revised Code. The rules shall allow beginning drivers of noncommercial motor vehicles to complete the driver education course at any point while holding a valid temporary instruction permit. The rules also shall require the classroom instruction or online driver education course for such drivers to include instruction on both of the following:

(1) The dangers of driving a motor vehicle while distracted, including while using an electronic wireless communications device, or engaging in any other activity that distracts a driver from the safe and effective operation of a motor vehicle;

(2) The dangers of driving a motor vehicle while under the influence of a controlled substance, prescription medication, or alcohol.

(D) The rules shall state the minimum hours for classroom and behind-the-wheel instruction required for beginning drivers

of commercial trucks, commercial cars, buses, and commercial tractors, trailers, and semitrailers.

(E)(1) The department of public safety may charge a fee to each online driver training enterprise in an amount sufficient to pay the actual expenses the department incurs in the regulation of online driver education courses.

(2) The department shall supply to each licensed online driver training enterprise certificates to be used for certifying an applicant's enrollment in an approved online driver education course and a separate certificate to be issued upon successful completion of an approved online driver education course. The certificates shall be numbered serially. The department may charge a fee to each online driver training enterprise per certificate supplied to pay the actual expenses the department incurs in supplying the certificates.

~~(F) The director shall adopt rules in accordance with Chapter 119. of the Revised Code governing an abbreviated driver training course for adults.~~

Sec. 4509.03. (A) The registrar of motor vehicles shall administer and enforce sections 4509.01 to 4509.78 of the Revised Code. ~~He may make rules necessary for such administration and~~ The registrar shall provide for hearings upon request of persons aggrieved by ~~his~~the registrar's orders or acts in accordance with sections 119.01 to 119.13 of the Revised Code except as otherwise provided under section 4509.101 or any other section of the Revised Code.

(B) The registrar, with the approval of the director of public safety, shall provide suitable forms for the purposes of sections 4509.01 to 4509.78 of ~~of~~ the Revised Code.

Sec. 4509.101. (A)(1) No person shall operate, or permit the operation of, a motor vehicle in this state, unless proof of financial responsibility is maintained continuously throughout the registration period with respect to that vehicle, or, in the case of a driver who is not the owner, with respect to that driver's operation of that vehicle.

(2) Whoever violates division (A)(1) of this section shall be subject to the following civil penalties:

(a) Subject to divisions (A)(2)(b) and (c) of this section, a class (F) suspension of the person's driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege for the period of time specified in division (B)(6) of section 4510.02 of the Revised Code and impoundment of the person's license. The court may grant limited driving privileges to the person, but only if the person presents proof of financial responsibility and is enrolled in a reinstatement fee payment plan pursuant to section 4510.10 of the Revised Code.

(b) If, within one year of the violation, the person's operating privileges are again suspended and the person's license again is impounded for a violation of division (A)(1) of this section, a class C suspension of the person's driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege for the period of time specified in division (B)(3) of section 4510.02 of the Revised Code. The court may grant limited driving privileges to the person only if the person presents proof of financial responsibility and has complied with division (A)(5) of this section, and no court may grant limited driving privileges for the first fifteen days of the suspension.

(c) If, within one year of the violation, the person's operating privileges are suspended and the person's license is impounded two or more times for a violation of division (A)(1) of this section, a class B suspension of the person's driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege for the period of time specified in division (B)(2) of section 4510.02 of the Revised Code. The court may grant limited driving privileges to the person only if the person presents proof of financial responsibility and has complied with division (A)(5) of this section, except that no court may grant limited driving privileges for the first thirty days of the suspension.

The clerk of court shall waive the cost of filing a petition for limited driving privileges if, pursuant to section 2323.311 of the Revised Code, the petitioner applies to be qualified as an indigent litigant and the court approves the application.

(3) A person to whom this state has issued a certificate of registration for a motor vehicle or a license to operate a motor vehicle or who is determined to have operated any motor vehicle or permitted the operation in this state of a motor vehicle owned by the person shall be required to verify the existence of proof of financial responsibility covering the operation of the motor vehicle or the person's operation of the motor vehicle under either of the following circumstances:

(a) The person or a motor vehicle owned by the person is involved in a traffic accident that requires the filing of an accident report under section 4509.06 of the Revised Code.

(b) The person receives a traffic ticket indicating that proof of the maintenance of financial responsibility was not

produced upon the request of a peace officer or state highway patrol trooper made in accordance with division (D)(2) of this section.

(4) An order of the registrar that suspends a license shall state the date on or before which the person is required to surrender the person's license. The person is deemed to have surrendered the license, in compliance with the order, if the person does either of the following:

(a) On or before the date specified in the order, delivers the license to the registrar;

(b) Mails the license to the registrar in an envelope or container bearing a postmark showing a date no later than the date specified in the order.

(5) Except as provided in division (L) of this section, the registrar shall not restore any operating privileges suspended under this section, return any license surrendered under this section, or reissue a license under section 4510.52 of the Revised Code, if the registrar destroyed the suspended license under that section, unless the rights are not subject to suspension or revocation under any other law and unless the person, in addition to complying with all other conditions required by law for reinstatement of the operating privileges, complies with all of the following:

(a) Pays to the registrar or an eligible deputy registrar a financial responsibility reinstatement fee of forty dollars for the first violation of division (A)(1) of this section, three hundred dollars for a second violation of that division, and six hundred dollars for a third or subsequent violation of that division;

(b) Files and continuously maintains proof of financial responsibility in accordance with sections 4509.44 to 4509.65 of the Revised Code;

(c) Pays a deputy registrar a service fee of ten dollars to compensate the deputy registrar for services performed under this section. The deputy registrar shall retain eight dollars of the service fee and shall transmit the reinstatement fee and two dollars of the service fee to the registrar in the manner the registrar shall determine.

(B)(1) Every party required to file an accident report under section 4509.06 of the Revised Code also shall include with the report a document described in division (G)(1)(a) of this section or shall present proof of financial responsibility through use of an electronic wireless communications device as permitted by division (G)(1)(b) of this section.

If the registrar determines, within forty-five days after the report is filed, that an operator or owner has violated division (A)(1) of this section, the registrar shall do all of the following:

(a) Order the suspension required under division (A)(2)(a), (b), or (c) of this section of the license of any operator or owner who has violated division (A)(1) of this section;

(b) Record the name and address of the person whose license has been suspended or is under an order of suspension, the serial number of the person's license, and the person's social security account number, if assigned, or, where the motor vehicle that is the subject of the violation is used for hire or principally in connection with any established business, the person's federal taxpayer identification number. The information

shall be recorded in such a manner that it becomes a part of the person's permanent record, and assists the registrar in monitoring compliance with the orders of suspension.

(c) Send written notification to every person to whom the order pertains, at the person's last known address as shown on the records of the bureau. The person, within ten days after the date of the mailing of the notification, shall surrender to the registrar, in a manner set forth in division (A)(4) of this section, any license under an order of suspension.

(2) The registrar shall issue any order under division (B)(1) of this section without a hearing. Any person adversely affected by the order, within fifteen days after the issuance of the order, may request an administrative hearing before the registrar, who shall provide the person with an opportunity for a hearing in accordance with this paragraph. A request for a hearing does not operate as a suspension of the order. The scope of the hearing shall be limited to whether the person in fact demonstrated to the registrar proof of financial responsibility in accordance with this section. The registrar shall determine the date, time, and place of any hearing, provided that the hearing shall be held, and an order issued or findings made, within thirty days after the registrar receives a request for a hearing. If requested by the person in writing, the registrar may designate as the place of hearing the county seat of the county in which the person resides or a place within fifty miles of the person's residence. The person shall pay the cost of the hearing before the registrar, if the registrar's order of suspension is upheld.

(C) Any order of suspension issued under this section or division (B) of section 4509.37 of the Revised Code may be

terminated at any time if the registrar determines upon a showing of proof of financial responsibility that the operator or owner of the motor vehicle was in compliance with division (A)(1) of this section at the time of the traffic offense, motor vehicle inspection, or accident that resulted in the order against the person. A determination may be made without a hearing. This division does not apply unless the person shows good cause for the person's failure to present satisfactory proof of financial responsibility to the registrar prior to the issuance of the order.

(D)(1)(a) For the purpose of enforcing this section, every peace officer is deemed an agent of the registrar.

(b) Any peace officer who, in the performance of the peace officer's duties as authorized by law, becomes aware of a person whose license is under an order of suspension, pursuant to this section, may confiscate the license and return it to the registrar.

(2) A peace officer shall request the owner or operator of a motor vehicle to produce proof of financial responsibility in a manner described in division (G) of this section at the time the peace officer acts to enforce the traffic laws of this state and during motor vehicle inspections conducted pursuant to section 4513.02 of the Revised Code.

(3) A peace officer shall indicate on every traffic ticket whether the person receiving the traffic ticket produced proof of the maintenance of financial responsibility in response to the officer's request under division (D)(2) of this section. The peace officer shall inform every person who receives a traffic ticket and who has failed to produce proof of the maintenance of financial responsibility that the person must submit proof to

the traffic violations bureau with any payment of a fine and costs for the ticketed violation or, if the person is to appear in court for the violation, the person must submit proof to the court.

(4)(a) If a person who has failed to produce proof of the maintenance of financial responsibility appears in court for a ticketed violation, the court may permit the defendant to present evidence of proof of financial responsibility to the court at such time and in such manner as the court determines to be necessary or appropriate. In a manner prescribed by the registrar, the clerk of courts shall provide the registrar with the identity of any person who fails to submit proof of the maintenance of financial responsibility pursuant to division (D)(3) of this section.

(b) If a person who has failed to produce proof of the maintenance of financial responsibility also fails to submit that proof to the traffic violations bureau with payment of a fine and costs for the ticketed violation, the traffic violations bureau, in a manner prescribed by the registrar, shall notify the registrar of the identity of that person.

(5)(a) Upon receiving notice from a clerk of courts or traffic violations bureau pursuant to division (D)(4) of this section, the registrar shall order the suspension of the license of the person required under division (A)(2)(a), (b), or (c) of this section, effective forty-five days after the date of the mailing of notification. The registrar also shall notify the person that the person must present the registrar with proof of financial responsibility in accordance with this section, surrender to the registrar the person's license, or submit a statement subject to section 2921.13 of the Revised Code that

the person did not operate or permit the operation of the motor vehicle at the time of the offense. Notification shall be in writing and shall be sent to the person at the person's last known address as shown on the records of the bureau of motor vehicles. The person, within forty-five days after the date of the mailing of notification, shall present proof of financial responsibility, surrender the license to the registrar in a manner set forth in division (A)(4) of this section, or submit the statement required under this section together with other information the person considers appropriate.

If the registrar does not receive proof or the person does not surrender the license, in accordance with this division, the registrar shall permit the order for the suspension of the license of the person to take effect.

(b) In the case of a person who presents, within the forty-five-day period, proof of financial responsibility, the registrar shall terminate the order of suspension and shall send written notification to the person, at the person's last known address as shown on the records of the bureau.

(c) Any person adversely affected by the order of the registrar under division (D)(5)(a) or (b) of this section, within fifteen days after the issuance of the order, may request an administrative hearing before the registrar, who shall provide the person with an opportunity for a hearing in accordance with this paragraph. A request for a hearing does not operate as a suspension of the order. The scope of the hearing shall be limited to whether, at the time of the hearing, the person presents proof of financial responsibility covering the vehicle and whether the person is eligible for an exemption in accordance with this section or any rule adopted under it. The

registrar shall determine the date, time, and place of any hearing; provided, that the hearing shall be held, and an order issued or findings made, within thirty days after the registrar receives a request for a hearing. If requested by the person, the hearing may be held remotely by electronic means. If requested by the person in writing, the registrar may designate as the place of hearing the county seat of the county in which the person resides or a place within fifty miles of the person's residence. Such person shall pay the cost of the hearing before the registrar, if the registrar's order of suspension under division (D)(5)(a) or (b) of this section is upheld.

(6) Any forms used by law enforcement agencies in administering this section shall be prescribed, supplied, and paid for by the registrar.

(7) No peace officer, law enforcement agency employing a peace officer, or political subdivision or governmental agency that employs a peace officer shall be liable in a civil action for damages or loss to persons arising out of the performance of any duty required or authorized by this section.

(8) As used in this section, "peace officer" has the meaning set forth in section 2935.01 of the Revised Code.

(E) All fees, except court costs, fees paid to a deputy registrar, and those portions of the financial responsibility reinstatement fees as otherwise specified in this division, collected under this section shall be paid into the state treasury to the credit of the public safety - highway purposes fund established in section 4501.06 of the Revised Code and used to cover costs incurred by the bureau in the administration of this section and sections 4503.20, 4507.212, and 4509.81 of the Revised Code, and by any law enforcement agency employing any

peace officer who returns any license to the registrar pursuant to division (C) of this section.

Of each financial responsibility reinstatement fee the registrar collects pursuant to division (A)(5)(a) of this section or receives from a deputy registrar under division (A)(5)(c) of this section, the registrar shall deposit ten dollars of each forty-dollar reinstatement fee, fifty dollars of each three-hundred-dollar reinstatement fee, and one hundred dollars of each six-hundred-dollar reinstatement fee into the state treasury to the credit of the indigent defense support fund created by section 120.08 of the Revised Code.

(F) Chapter 119. of the Revised Code applies to this section only to the extent that any provision in that chapter is not clearly inconsistent with this section.

(G)(1)(a) The registrar, court, traffic violations bureau, or peace officer may require proof of financial responsibility to be demonstrated by use of a standard form prescribed by the registrar. If the use of a standard form is not required, a person may demonstrate proof of financial responsibility under this section by presenting to the traffic violations bureau, court, registrar, or peace officer any of the following documents or a copy of the documents:

(i) A financial responsibility identification card as provided in section 4509.103 of the Revised Code;

(ii) A certificate of proof of financial responsibility on a form provided and approved by the registrar for the filing of an accident report required to be filed under section 4509.06 of the Revised Code;

(iii) A policy of liability insurance, a declaration page

of a policy of liability insurance, or liability bond, if the policy or bond complies with section 4509.20 or sections 4509.49 to 4509.61 of the Revised Code;

(iv) A bond or certification of the issuance of a bond as provided in section 4509.59 of the Revised Code;

(v) A certificate of deposit of money or securities as provided in section 4509.62 of the Revised Code;

(vi) A certificate of self-insurance as provided in section 4509.72 of the Revised Code.

(b) A person also may present proof of financial responsibility under this section to the traffic violations bureau, court, registrar, or peace officer through use of an electronic wireless communications device as specified under section 4509.103 of the Revised Code.

(2) If a person fails to demonstrate proof of financial responsibility in a manner described in division (G)(1) of this section, the person may demonstrate proof of financial responsibility under this section by any other method that the court or the bureau, by reason of circumstances in a particular case, may consider appropriate.

(3) A motor carrier certificated by the interstate commerce commission or by the public utilities commission may demonstrate proof of financial responsibility by providing a statement designating the motor carrier's operating authority and averring that the insurance coverage required by the certificating authority is in full force and effect.

(4)(a) A finding by the registrar or court that a person is covered by proof of financial responsibility in the form of an insurance policy or surety bond is not binding upon the named

insurer or surety or any of its officers, employees, agents, or representatives and has no legal effect except for the purpose of administering this section.

(b) The preparation and delivery of a financial responsibility identification card or any other document authorized to be used as proof of financial responsibility and the generation and delivery of proof of financial responsibility to an electronic wireless communications device that is displayed on the device as text or images does not do any of the following:

(i) Create any liability or estoppel against an insurer or surety, or any of its officers, employees, agents, or representatives;

(ii) Constitute an admission of the existence of, or of any liability or coverage under, any policy or bond;

(iii) Waive any defenses or counterclaims available to an insurer, surety, agent, employee, or representative in an action commenced by an insured or third-party claimant upon a cause of action alleged to have arisen under an insurance policy or surety bond or by reason of the preparation and delivery of a document for use as proof of financial responsibility or the generation and delivery of proof of financial responsibility to an electronic wireless communications device.

(c) Whenever it is determined by a final judgment in a judicial proceeding that an insurer or surety, which has been named on a document or displayed on an electronic wireless communications device accepted by a court or the registrar as proof of financial responsibility covering the operation of a motor vehicle at the time of an accident or offense, is not

liable to pay a judgment for injuries or damages resulting from such operation, the registrar, notwithstanding any previous contrary finding, shall forthwith suspend the operating privileges and registration rights of the person against whom the judgment was rendered as provided in division (A)(2) of this section.

(H) In order for any document or display of text or images on an electronic wireless communications device described in division (G)(1) of this section to be used for the demonstration of proof of financial responsibility under this section, the document or words or images shall state the name of the insured or obligor, the name of the insurer or surety company, and the effective and expiration dates of the financial responsibility, and designate by explicit description or by appropriate reference all motor vehicles covered which may include a reference to fleet insurance coverage.

(I) For purposes of this section, "owner" does not include a licensed motor vehicle leasing dealer as defined in section 4517.01 of the Revised Code, but does include a motor vehicle renting dealer as defined in section 4549.65 of the Revised Code. Nothing in this section or in section 4509.51 of the Revised Code shall be construed to prohibit a motor vehicle renting dealer from entering into a contractual agreement with a person whereby the person renting the motor vehicle agrees to be solely responsible for maintaining proof of financial responsibility, in accordance with this section, with respect to the operation, maintenance, or use of the motor vehicle during the period of the motor vehicle's rental.

(J) The purpose of this section is to require the maintenance of proof of financial responsibility with respect to

the operation of motor vehicles on the highways of this state, so as to minimize those situations in which persons are not compensated for injuries and damages sustained in motor vehicle accidents. The general assembly finds that this section contains reasonable civil penalties and procedures for achieving this purpose.

(K) Nothing in this section shall be construed to be subject to section 4509.78 of the Revised Code.

(L)(1) The registrar may terminate any suspension imposed under this section and not require the owner to comply with division (A)(5) of this section if the registrar with or without a hearing determines that the owner of the vehicle has established by clear and convincing evidence that all of the following apply:

(a) The owner customarily maintains proof of financial responsibility.

(b) Proof of financial responsibility was not in effect for the vehicle on the date in question for one of the following reasons:

(i) The vehicle was inoperable.

(ii) The vehicle is operated only seasonally, and the date in question was outside the season of operation.

(iii) A person other than the vehicle owner or driver was at fault for the lapse of proof of financial responsibility through no fault of the owner or driver.

(iv) The lapse of proof of financial responsibility was caused by excusable neglect under circumstances that are not likely to recur and do not suggest a purpose to evade the

requirements of this chapter.

(2) The registrar may grant an owner or driver relief for a reason specified in division (L)(1)(b)(iii) or (iv) of this section only if the owner or driver has not previously been granted relief under division (L)(1)(b)(iii) or (iv) of this section.

(M) The registrar shall adopt rules in accordance with Chapter 119. of the Revised Code that ~~are necessary to administer and enforce this section. The rules shall~~ include provisions relating to acceptable forms of proof of financial responsibility, the use of an electronic wireless communications device to present proof of financial responsibility, and verification of the existence of financial responsibility during the period of registration.

(N)(1) When a person utilizes an electronic wireless communications device to present proof of financial responsibility, only the evidence of financial responsibility displayed on the device shall be viewed by the registrar, peace officer, employee or official of the traffic violations bureau, or the court. No other content of the device shall be viewed for purposes of obtaining proof of financial responsibility.

(2) When a person provides an electronic wireless communications device to the registrar, a peace officer, an employee or official of a traffic violations bureau, or the court, the person assumes the risk of any resulting damage to the device unless the registrar, peace officer, employee, or official, or court personnel purposely, knowingly, or recklessly commits an action that results in damage to the device.

Sec. 4510.10. (A) As used in this section:

(1) "Reinstatement fees" means the fees that are required under section 4507.1612, 4507.45, 4509.101, 4509.81, 4511.191, 4511.951, or any other provision of the Revised Code, or under a schedule established by the bureau of motor vehicles, in order to reinstate a driver's or commercial driver's license or permit or nonresident operating privilege of an offender under a suspension.

(2) "Indigent" means a person who is a participant in any of the following programs:

(a) The supplemental nutrition assistance program administered by the department of job and family services pursuant to section 5101.54 of the Revised Code;

(b) The medicaid program pursuant to Chapter 5163. of the Revised Code;

(c) The Ohio works first program administered by the department of job and family services pursuant to section 5107.10 of the Revised Code;

(d) The supplemental security income program pursuant to 20 C.F.R. 416.1100;

(e) The United States department of veterans affairs pension benefit program pursuant to 38 U.S.C. 1521.

(B) Reinstatement fees are those fees that compensate the bureau of motor vehicles for suspensions, cancellations, or disqualifications of a person's driving privileges and to compensate the bureau and other agencies in their administration of programs intended to reduce and eliminate threats to public safety through education, treatment, and other activities. The registrar of motor vehicles shall not reinstate a driver's or commercial driver's license or permit or nonresident operating

privilege of a person until the person has paid all reinstatement fees and has complied with all conditions for each suspension, cancellation, or disqualification incurred by that person.

(C) When a municipal court or county court determines in a pending case involving an offender that the offender cannot reasonably pay reinstatement fees due and owing by the offender relative to one or more suspensions that have been or will be imposed by the bureau of motor vehicles or by a court of this state, the court, by order, may do either of the following:

(1) Undertake an installment payment plan or a payment extension plan for the payment of reinstatement fees due and owing to the bureau in that pending case. The court shall establish an installment payment plan or a payment extension plan in accordance with the requirements of divisions (D)(1) and (2) of this section.

(2) Authorize the offender to perform community service in lieu of payment of the reinstatement fees.

A court that authorizes an offender to perform community service in lieu of paying reinstatement fees under this division shall provide the offender with documentation indicating completion of the court-ordered community service when the offender has completed that community service. In addition to complying with all other applicable requirements for reinstatement, other than payment of reinstatement fees, the offender shall provide the documentation of completion to the registrar when seeking reinstatement.

(D) Independent of the provisions of division (C) of this section, an offender who cannot reasonably pay reinstatement

fees due and owing by the offender relative to a suspension that has been imposed on the offender may file a petition in the municipal court, county court, or, if the person is under the age of eighteen, the juvenile division of the court of common pleas in whose jurisdiction the person resides or, if the person is not a resident of this state, in the Franklin county municipal court or juvenile division of the Franklin county court of common pleas for an order that does either of the following, in order of preference:

(1) Establishes a reasonable payment plan of not less than fifty dollars per month, to be paid by the offender to the registrar of motor vehicles or an eligible deputy registrar, in all succeeding months until all reinstatement fees required of the offender are paid in full. If the person is making payments to a deputy registrar, the deputy registrar shall collect a service fee of ten dollars each time the deputy registrar collects a payment to compensate the deputy registrar for services performed under this section. The deputy registrar shall retain eight dollars of the service fee and shall transmit the reinstatement payments, plus two dollars of each service fee, to the registrar in the manner the registrar shall determine.

(2) If the offender, but for the payment of the reinstatement fees, otherwise would be entitled to operate a vehicle in this state or to obtain reinstatement of the offender's operating privileges, permits the offender to operate a motor vehicle, as authorized by the court, until a future date upon which date all reinstatement fees must be paid in full. A payment extension granted under this division shall not exceed one hundred eighty days, and any operating privileges granted under this division shall be solely for the purpose of

permitting the offender occupational or "family necessity" privileges in order to enable the offender to reasonably acquire the delinquent reinstatement fees due and owing.

(E) If a municipal court, county court, or juvenile division enters an order of the type described in division (C) or division (D)(1) or (2) of this section, the court, at any time after the issuance of the order, may determine that a change of circumstances has occurred and may amend the order as justice requires, provided that the amended order also shall be an order that is permitted under division (C) or division (D)(1) or (2) of this section.

(F) If a court enters an order of the type described in division (C), (D)(1), (D)(2), or (E) of this section, during the pendency of the order, the offender in relation to whom it applies is not subject to prosecution for failing to pay the reinstatement fees covered by the order.

(G)(1) In addition to divisions (A) to (F) of this section, the registrar, with the approval of the director of public safety and in accordance with Chapter 119. of the Revised Code, may adopt rules that do both of the following:

(a) Permit a person to pay reinstatement fees in installments in accordance with division (G)(2) of this section;

(b) Permit a person who is indigent to apply for and receive a waiver of all reinstatement fees in accordance with division (G)(3) of this section.

(2) The rules governing the bureau of motor vehicles installment plan may contain any of the following provisions:

(a) A schedule establishing a minimum monthly payment amount;

(b) If the person otherwise would have valid driving privileges but for the payment of the reinstatement fees, the registrar may record the person's driving privileges as "valid" so long as the person's installments are current.

(c) If the person's installments are not current, the registrar may record the person's driving privileges as "suspended" or "failure to reinstate," as appropriate.

~~(d) Any other provision the registrar reasonably may prescribe.~~

(3) The rules governing the bureau of motor vehicles waiver plan may establish any of the following:

(a) The form of the application;

(b) The documentation required of a person to prove that the person is indigent;

(c) A process for recording the person's driving privileges as "valid" after the waiver of the reinstatement fees~~;~~

~~(d) Any other requirements or procedures the registrar determines are necessary for implementation of the waiver plan~~.

(H) Reinstatement fees are debts that may be discharged in bankruptcy.

Sec. 4510.108. (A) The director of public safety shall conduct public service announcements regarding the permanent driver's license reinstatement fee debt reduction and amnesty program that includes a description of the program and its requirements. In addition, the director shall make such information available on the department of public safety's and the bureau of motor vehicle's web sites.

(B) The director shall establish a toll-free telephone number by which a person may receive information about the program and the person's eligibility for the program. The toll-free telephone number shall be listed as part of the public service announcements and on the department and bureau web sites.

~~(C) The director shall adopt rules in accordance with Chapter 119. of the Revised Code in order to establish any requirements and procedures necessary to administer and implement the program.~~

Sec. 4510.45. (A)(1) A manufacturer of ignition interlock devices that desires for its devices to be certified under section 4510.43 of the Revised Code and then to be included on the list of certified devices that the department of public safety compiles and makes available to courts pursuant to that section first shall obtain a license from the department under this section. ~~The department, in accordance with Chapter 119. of the Revised Code, shall adopt any rules that are necessary to implement this licensing requirement.~~

(2) A manufacturer shall apply to the department for the license and shall include all information the department may require ~~by rule~~. Each application, including an application for license renewal, shall be accompanied by an application fee of one hundred dollars, which the department shall deposit into the state treasury to the credit of the indigent drivers alcohol treatment fund created by section 4511.191 of the Revised Code. Each application also shall be accompanied by a signed agreement, in a form established by the director, affirming that the manufacturer agrees to install and monitor all devices produced by that manufacturer and affirming that the

manufacturer agrees to charge a reduced fee, established by the department, for the installation and monitoring of a device used by a person who is deemed to be an indigent offender by the court that granted limited or unlimited driving privileges to the offender subject to the condition that the offender use a certified ignition interlock device.

(3) Upon receipt of a completed application, if the department finds that a manufacturer has complied with all application requirements, the department shall issue a license to the manufacturer. A manufacturer that has been issued a license under this section is eligible immediately to have the models of ignition interlock devices it produces certified under section 4510.43 of the Revised Code and then included on the list of certified devices that the department compiles and makes available to courts pursuant to that section.

(4)(a) A license issued under this section shall expire annually on a date selected by the department. The department shall reject the license application of a manufacturer if any of the following apply:

(i) The application is not accompanied by the application fee or the required agreement.

(ii) The department finds that the manufacturer has not complied with all application requirements.

(iii) The license application is a renewal application and the manufacturer failed to file the annual report or failed to pay the fee as required by division (B) of this section.

(iv) The license application is a renewal application and the manufacturer failed to monitor or report violations as required under section 4510.46 of the Revised Code.

(b) The department may reject the license application of a manufacturer if the manufacturer has a history of failing to properly install immobilizing or disabling devices.

(c) A manufacturer whose license application is rejected by the department may appeal the decision to the director of public safety. The director or the director's designee shall hold a hearing on the matter not more than thirty days from the date of the manufacturer's appeal. If the director or the director's designee upholds the denial of the manufacturer's application for a license, the manufacturer may appeal the decision to the Franklin county court of common pleas. If the director or the director's designee reverses the denial of the manufacturer's application for a license, the director or the director's designee shall issue a written order directing that the department issue a license to the manufacturer.

(B) Every manufacturer of ignition interlock devices that is issued a license under this section shall file an annual report with the department on a form the department prescribes on or before a date the department prescribes. The annual report shall state the amount of net profit the manufacturer earned during a twelve-month period specified by the department that is attributable to the sales of that manufacturer's certified ignition interlock devices to purchasers in this state. Each manufacturer shall pay a fee equal to five per cent of the amount of the net profit described in this division.

The department may permit annual reports to be filed via electronic means.

(C) The department shall deposit all fees it receives from manufacturers under this section into the state treasury to the credit of the indigent drivers alcohol treatment fund created by

section 4511.191 of the Revised Code. All money so deposited into that fund that is paid by the department of mental health and addiction services to county indigent drivers alcohol treatment funds, county juvenile indigent drivers alcohol treatment funds, and municipal indigent drivers alcohol treatment funds shall be used only as described in division (H)(3) of section 4511.191 of the Revised Code.

(D)(1) The director may make an assessment, based on any information in the director's possession, against any manufacturer that fails to file an annual report or pay the fee required by division (B) of this section. The director, in accordance with Chapter 119. of the Revised Code, shall adopt rules governing assessments and assessment procedures and related provisions. In adopting these rules, the director shall incorporate the provisions of section 5751.09 of the Revised Code to the greatest extent possible, except that the director is not required to incorporate any provisions of that section that by their nature are not applicable, appropriate, or necessary to assessments made by the director under this section.

(2) A manufacturer may appeal the final determination of the director regarding an assessment made by the director under this section. The director, in accordance with Chapter 119. of the Revised Code, shall adopt rules governing such appeals. In adopting these rules, the director shall incorporate the provisions of section 5717.02 of the Revised Code to the greatest extent possible, except that the director is not required to incorporate any provisions of that section that by their nature are not applicable, appropriate, or necessary to appeals of assessments made by the director under this section.

(E) The director, in accordance with Chapter 119. of the Revised Code, shall adopt a penalty schedule setting forth the monetary penalties to be imposed upon a manufacturer that is issued a license under this section and fails to file an annual report or pay the fee required by division (B) of this section in a timely manner. The penalty amounts shall not exceed the maximum penalty amounts established in section 5751.06 of the Revised Code for similar or equivalent facts or circumstances.

(F)(1) No manufacturer of ignition interlock devices that is required by division (B) of this section to file an annual report with the department or to pay a fee shall fail to do so as required by that division.

(2) No manufacturer of ignition interlock devices that is required by division (B) of this section to file an annual report with the department shall file a report that contains incorrect or erroneous information.

(G) Whoever violates division (F)(2) of this section is guilty of a misdemeanor of the first degree. The department shall remove from the list of certified devices described in division (A)(1) of this section the ignition interlock devices manufactured by a manufacturer that violates division (F)(1) or (2) of this section.

Sec. 4511.76. (A) The department of public safety, by and with the advice of the department of education and workforce, shall adopt and enforce rules relating to the operation, construction, design, and equipment, including lighting equipment, ~~required by section 4511.771 of the Revised Code,~~ of all school buses both publicly and privately owned and operated in this state, in furtherance of sections 4511.761, 4511.762, 4511.763, 4511.764, 4511.765, 4511.77, 4511.771, and 4511.772 of

the Revised Code.

(B) ~~The department of education and workforce, by and with the advice of the director of public safety, shall adopt and enforce rules relating to the operation of all vehicles used for pupil transportation.~~

~~(C)~~ No person shall operate a vehicle used for pupil transportation within this state in violation of the rules of the department of education and workforce or the department of public safety. No person, being the owner thereof or having the supervisory responsibility therefor, shall permit the operation of a vehicle used for pupil transportation within this state in violation of the rules of the department of education and workforce or the department of public safety.

~~(D)~~ (C) The department of public safety shall adopt and enforce rules relating to the issuance of a license under section 4511.763 of the Revised Code~~. The rules may relate~~ relating to the condition of the equipment to be operated; the liability and property damage insurance carried by the applicant; and the posting of satisfactory and sufficient bond~~; and such other rules as the director of public safety determines reasonably necessary for the safety of the pupils to be transported~~.

~~(E)~~ (D) A chartered nonpublic school or a community school may own and operate, or contract with a vendor that supplies, alternative vehicles to transport students to and from regularly scheduled school sessions, school-related activities, and school-sanctioned events when one of the following applies:

(1) A student's school district of residence has declared the transportation of the student impractical pursuant to

section 3327.02 of the Revised Code;

(2) A student does not live within thirty minutes of the chartered nonpublic school or the community school, as applicable, and the student's school district is not required to transport the student under section 3327.01 of the Revised Code;

(3) The governing authority of the chartered nonpublic school or the community school has offered to provide the transportation for its students in lieu of the students being transported by their school district of residence.

~~(F)~~ (E) A school district may own and operate, or contract with a vendor that supplies, alternative vehicles to transport students to and from regularly scheduled school sessions, school-related activities, and school-sanctioned events.

~~(G)~~ (F) A school district or the governing authority of a chartered nonpublic school or community school that uses an alternative vehicle in accordance with division (D) or (E) ~~or (F)~~ of this section, shall ensure that all of the following apply to the operation of that vehicle:

(1) A qualified mechanic inspects the vehicle not fewer than two times each year and determines that it is safe for pupil transportation;

(2) The driver of the vehicle does not stop on the roadway to load or unload passengers;

(3) The driver of the vehicle meets the requirements specified for a driver of a school bus or motor van under section 3327.10 of the Revised Code~~ and any corresponding rules adopted by the department of education and workforce~~. Notwithstanding that section~~ or any department rules to the contrary~~, the driver is not required to have a commercial

driver's license but shall have a current, valid driver's license, and shall be accustomed to operating the vehicle used to transport the students.

(4) The driver and all passengers in the vehicle comply with the requirements of sections 4511.81 and 4513.263 of the Revised Code, as applicable.

~~(H)(1)~~ (G)(1) A school district, a chartered nonpublic school, or a community school may own and operate, or contract with a vendor that supplies, a multifunction school activity bus to transport students between school and school functions or activities.

(2) A multifunction school activity bus shall not be used to transport students between school and home or between school and designated school bus stops.

~~(I)~~ (H) As used in this section:

(1) "Alternative vehicle" means a motor vehicle originally manufactured and designed for not more than twelve passengers, not including the driver.

(2) "Vehicle used for pupil transportation" means any vehicle that is identified as such by the department of education and workforce ~~by rule and~~ that is subject to Chapter 3301-83 of the Administrative Code.

~~(J)~~ (I) Except as otherwise provided in this division, whoever violates this section is guilty of a minor misdemeanor. If the offender previously has been convicted of or pleaded guilty to one or more violations of this section or section 4511.63, 4511.761, 4511.762, 4511.764, 4511.77, or 4511.79 of the Revised Code or a municipal ordinance that is substantially similar to any of those sections, whoever violates this section

is guilty of a misdemeanor of the fourth degree.

Sec. 4511.81. (A) When any child who is in either or both of the following categories is being transported in a motor vehicle, other than a taxicab or public safety vehicle as defined in section 4511.01 of the Revised Code, that is required by the United States department of transportation to be equipped with seat belts at the time of manufacture or assembly, the operator of the motor vehicle shall have the child properly secured in accordance with the manufacturer's instructions in a child restraint system that meets federal motor vehicle safety standards:

(1) A child who is less than four years of age;

(2) A child who weighs less than forty pounds.

(B) When any child who is in either or both of the following categories is being transported in a motor vehicle, other than a taxicab, that is owned, leased, or otherwise under the control of a nursery school or child care center, the operator of the motor vehicle shall have the child properly secured in accordance with the manufacturer's instructions in a child restraint system that meets federal motor vehicle safety standards:

(1) A child who is less than four years of age;

(2) A child who weighs less than forty pounds.

(C) When any child who is less than eight years of age and less than four feet nine inches in height, who is not required by division (A) or (B) of this section to be secured in a child restraint system, is being transported in a motor vehicle, other than a taxicab or public safety vehicle as defined in section 4511.01 of the Revised Code or a vehicle that is regulated under

section 5104.015 of the Revised Code, that is required by the United States department of transportation to be equipped with seat belts at the time of manufacture or assembly, the operator of the motor vehicle shall have the child properly secured in accordance with the manufacturer's instructions on a booster seat that meets federal motor vehicle safety standards.

(D) When any child who is at least eight years of age but not older than fifteen years of age, and who is not otherwise required by division (A), (B), or (C) of this section to be secured in a child restraint system or booster seat, is being transported in a motor vehicle, other than a taxicab or public safety vehicle as defined in section 4511.01 of the Revised Code, that is required by the United States department of transportation to be equipped with seat belts at the time of manufacture or assembly, the operator of the motor vehicle shall have the child properly restrained either in accordance with the manufacturer's instructions in a child restraint system that meets federal motor vehicle safety standards or in an occupant restraining device as defined in section 4513.263 of the Revised Code.

(E) Notwithstanding any provision of law to the contrary, no law enforcement officer shall cause an operator of a motor vehicle being operated on any street or highway to stop the motor vehicle for the sole purpose of determining whether a violation of division (C) or (D) of this section has been or is being committed or for the sole purpose of issuing a ticket, citation, or summons for a violation of division (C) or (D) of this section or causing the arrest of or commencing a prosecution of a person for a violation of division (C) or (D) of this section, and absent another violation of law, a law enforcement officer's view of the interior or visual inspection

of a motor vehicle being operated on any street or highway may not be used for the purpose of determining whether a violation of division (C) or (D) of this section has been or is being committed.

(F) ~~The director of public safety shall adopt such rules as are necessary to carry out this section.~~

~~(G)~~ The failure of an operator of a motor vehicle to secure a child in a child restraint system, a booster seat, or an occupant restraining device as required by this section is not negligence imputable to the child, is not admissible as evidence in any civil action involving the rights of the child against any other person allegedly liable for injuries to the child, is not to be used as a basis for a criminal prosecution of the operator of the motor vehicle other than a prosecution for a violation of this section, and is not admissible as evidence in any criminal action involving the operator of the motor vehicle other than a prosecution for a violation of this section.

~~(H)~~ (G) This section does not apply when an emergency exists that threatens the life of any person operating or occupying a motor vehicle that is being used to transport a child who otherwise would be required to be restrained under this section. This section does not apply to a person operating a motor vehicle who has an affidavit signed by a physician licensed to practice in this state under Chapter 4731. of the Revised Code, a clinical nurse specialist or certified nurse practitioner licensed to practice in this state under Chapter 4723. of the Revised Code, or a chiropractor licensed to practice in this state under Chapter 4734. of the Revised Code that states that the child who otherwise would be required to be

restrained under this section has a physical impairment that makes use of a child restraint system, booster seat, or an occupant restraining device impossible or impractical, provided that the person operating the vehicle has safely and appropriately restrained the child in accordance with any recommendations of the physician, nurse, or chiropractor as noted on the affidavit.

~~(I)~~ (H) There is hereby created in the state treasury the child highway safety fund, consisting of fines imposed pursuant to division ~~(L)(1)~~ (K)(1) of this section for violations of divisions (A), (B), (C), and (D) of this section. The money in the fund shall be used by the department of health only to defray the cost of designating hospitals as pediatric trauma centers under section 3727.081 of the Revised Code and to establish and administer a child highway safety program. The purpose of the program shall be to educate the public about child restraint systems and booster seats and the importance of their proper use. The program also shall include a process for providing child restraint systems and booster seats to persons who meet the eligibility criteria established by the department, and a toll-free telephone number the public may utilize to obtain information about child restraint systems and booster seats, and their proper use.

~~(J)~~ (I) The director of health, in accordance with Chapter 119. of the Revised Code, shall adopt ~~any rules necessary to carry out this section, including~~ rules establishing the criteria a person must meet in order to receive a child restraint system or booster seat under the department's child highway safety program~~; provided that rules relating to the verification of pediatric trauma centers shall not be adopted under this section~~.

~~(K)~~ (J) Nothing in this section shall be construed to require any person to carry with the person the birth certificate of a child to prove the age of the child, but the production of a valid birth certificate for a child showing that the child was not of an age to which this section applies is a defense against any ticket, citation, or summons issued for violating this section.

~~(L)(1)~~ (K)(1) Whoever violates division (A), (B), (C), or (D) of this section shall be punished as follows, provided that the failure of an operator of a motor vehicle to secure more than one child in a child restraint system, booster seat, or occupant restraining device as required by this section that occurred at the same time, on the same day, and at the same location is deemed to be a single violation of this section:

(a) Except as otherwise provided in division ~~(L)(1)(b)~~ (K)(1)(b) of this section, the offender is guilty of a minor misdemeanor and shall be fined not less than twenty-five dollars nor more than seventy-five dollars.

(b) If the offender previously has been convicted of or pleaded guilty to a violation of division (A), (B), (C), or (D) of this section or of a municipal ordinance that is substantially similar to any of those divisions, the offender is guilty of a misdemeanor of the fourth degree.

(2) All fines imposed pursuant to division ~~(L)(1)~~ (K)(1) of this section shall be forwarded to the treasurer of state for deposit in the child highway safety fund created by division ~~(I)~~ (H) of this section.

Sec. 4513.52. (A) The department of public safety, with the advice of the public utilities commission, shall adopt and

enforce rules relating to the inspection of buses ~~to determine whether a bus is safe and lawful, including whether its equipment is in proper adjustment or repair.~~

~~(B) The rules shall~~ that determine the safety features, items of equipment, and other safety-related conditions subject to inspection. The rules may authorize the state highway patrol to operate safety inspection sites, or to enter in or upon the property of any bus operator to conduct the safety inspections, or both. The rules also shall establish a fee, not to exceed two hundred dollars, for each bus inspected.

~~(C)~~ (B) The state highway patrol shall conduct the bus safety inspections at least on an annual basis. An inspection conducted under this section is valid for twelve months unless, prior to that time, the bus fails a subsequent inspection or ownership of the bus is transferred.

~~(D)~~ (C) The state highway patrol shall collect a fee for each bus inspected.

~~(E)~~ (D) Upon determining that a bus is in safe operating condition, that its equipment is in proper adjustment and repair, and that it is otherwise lawful, the inspecting officer shall do both of the following:

(1) Affix an official safety inspection decal to the outside surface of each side of the bus;

(2) Issue the owner or operator of the bus a safety inspection report, to be presented to the registrar or a deputy registrar upon application for registration of the bus.

Sec. 4517.17. (A) Each person applying for a construction equipment auction license shall make out and deliver an application to the registrar of motor vehicles, upon a form

furnished by the registrar for that purpose. The application shall be signed and sworn to by the applicant and shall include such information as the registrar may require by rule.

(B) The registrar shall issue a construction equipment auction license to any applicant who meets the requirements of this section and section 4517.16 of the Revised Code and pays the fee required by this section.

(C) A construction equipment auction license shall expire five years after the date of issuance unless sooner revoked. The fee for a construction equipment auction license shall be seven thousand five hundred dollars and shall accompany the application. The registrar shall deposit all fees received under this section into the state treasury to the credit of the public safety - highway purposes fund established by section 4501.06 of the Revised Code.

(D) ~~In accordance with Chapter 119. of the Revised Code, the registrar shall adopt rules necessary for the regulation of construction equipment auction sales and licensees, which rules shall be specific to construction equipment auction sales and licensees, separate and distinct from any other rules adopted under this chapter.~~

~~(E)~~ At the time the registrar grants the application of any person for a construction equipment auction license, the registrar shall issue to the person a license, which shall include the name and post-office address of the person licensed.

~~(F)~~ (E) The business records of a construction equipment auction licensee shall be open for reasonable inspection by the registrar or the registrar's authorized agent.

~~(G)~~ (F) Each construction equipment auction licensee shall

keep the license, or a certified copy of the license, posted in a conspicuous place in each place of its business.

Sec. 4517.22. (A) As used in this section:

(1) "General market area" means the contiguous geographical area established by a motor vehicle show sponsor that is based upon the size of the show and that does not unreasonably exclude any licensed new motor vehicle dealer.

(2) "Gross vehicle weight rating" means the maximum weight while loaded at which a motor vehicle can safely operate as rated by its manufacturer.

(3) "Livestock trailer" means a new or used trailer designed by its manufacturer to be used to transport horses or to transport animals generally used for food or in the production of food, including cattle, sheep, goats, rabbits, poultry, swine, alpacas, and ~~any other animals included by the director of agriculture in rules adopted under section 901.72 of the Revised Code~~llamas.

(4) "Major livestock show" means any show of livestock that is held at the Ohio state fairgrounds, is national in scope, and that continues for more than ten consecutive days.

(5) "Motor vehicle show" means a display of new motor vehicles that lasts not more than ten days by more than one new motor vehicle dealer dealing in competitive types of motor vehicles and that is authorized by the registrar of motor vehicles primarily to allow the general public an opportunity to compare and inspect a variety of makes and models simultaneously, test drive vehicles, and gain an understanding of new technology and available features.

(B) Any group of licensed new motor vehicle dealers may

display motor vehicles at a motor vehicle show within the general market area assigned by the sponsor if, not less than thirty days before the planned opening date of the motor vehicle show, the sponsor executes and files with the registrar an affidavit, in a form prescribed by the registrar, that certifies that all requirements of this section have been or will be met, as applicable.

If the registrar approves the affidavit, the registrar shall grant the sponsor permission to conduct the motor vehicle show. If the registrar determines that there is a deficiency in the affidavit, the registrar shall inform the sponsor of the deficiency as soon as possible after the registrar receives the affidavit so that the sponsor has the opportunity to remedy the deficiency. The registrar also shall describe with specificity the measures the sponsor is required to take in order to cure the deficiency. The sponsor shall return the corrected affidavit to the registrar not later than before the planned opening date of the motor vehicle show in order for the sponsor to be eligible to hold the show. If the registrar finds that the deficiency has been cured in the corrected affidavit, the registrar shall grant the sponsor permission to conduct the motor vehicle show. If the registrar finds that the deficiency has not been cured, the registrar shall deny the sponsor permission to conduct the motor vehicle show.

(C) No contracts shall be signed, deposits taken, or sales consummated at the location of a motor vehicle show.

(D) Any sponsor of a motor vehicle show or the sponsor's representative shall offer by mail an invitation to all new motor vehicle dealers dealing in competitive types of motor vehicles in the general market area to participate and display

motor vehicles in the show. The sponsor or representative may offer a similar invitation to manufacturers or distributors. A copy of each invitation shall be retained by the sponsor for one year after the show.

(E) A manufacturer or distributor may hold in any public place a motor vehicle show at which only one motor vehicle is displayed, but no such single unit show shall be held unless the manufacturer or distributor executes and files with the registrar not less than thirty days before the show an affidavit, in a form prescribed by the registrar, that certifies that all requirements of this section have been or will be met, as applicable, and subsequently receives approval of that affidavit from the registrar.

(F) The registrar shall not grant permission for any motor vehicle show to be held, unless it is proven to the registrar's satisfaction that no attempt is being made to circumvent the provisions of sections 4517.01 to 4517.45 of the Revised Code.

(G) Nothing contained in this section shall be construed as prohibiting the taking of orders for nonmotorized recreational vehicles as defined in section 4501.01 of the Revised Code at sports or camping shows.

(H) No motor vehicle dealer, motor vehicle leasing dealer, motor vehicle auction owner, or distributor licensed under sections 4517.01 to 4517.45 of the Revised Code shall display a motor vehicle at any place except the dealer's, owner's, or distributor's licensed location, unless the dealer, owner, or distributor first obtains permission from the registrar and complies with the applicable rules of the motor vehicle dealers board or the display is authorized pursuant to section 4517.221 of the Revised Code.

(I) Nothing contained in this section shall be construed as prohibiting the display of, the taking of orders for, or the sale of, livestock trailers at livestock and agricultural shows, including county fairs. Notwithstanding section 4517.03 of the Revised Code, livestock trailers may be sold at livestock and agricultural shows, including county fairs, as permitted by this division.

(J) Notwithstanding any provision of this section to the contrary, for a period not to exceed thirty days, contracts may be signed, deposits taken, and sales consummated at the location of a motor vehicle show if all of the following apply:

(1) The motor vehicles involved are horse trailers or motor vehicles that have a gross vehicle weight rating of six thousand eight hundred pounds or more.

(2) The motor vehicle show is being held as part of or in connection with a major livestock show.

(3) The licensed new motor vehicle dealers involved have complied with the applicable requirements of this section.

(4) The registrar has granted permission for the motor vehicle show in accordance with division (F) of this section.

(K)(1) Notwithstanding division (H) of this section, if, pursuant to division (B) of this section, the registrar has granted a show representative permission to hold a motor vehicle show at the annual fair of a county or independent agricultural society and if the society files a certification under division (K)(2) of this section, a new motor vehicle dealer may display motor vehicles at that annual fair even if no other new motor vehicle dealer displays competitive makes and models at the fair.

(2) To obtain a waiver under division (K)(1) of this section, a county or independent agricultural society shall certify all of the following:

(a) That an invitation was sent to all new motor vehicle dealers within the county where the fair is held;

(b) That the terms of the invitation were reasonable and nondiscriminatory;

(c) That only one new motor vehicle dealer accepted the invitation.

(L)(1) Until six months after March 23, 2015, whoever violates this section or section 4517.221 of the Revised Code is guilty of a misdemeanor of the fourth degree.

(2) The board shall adopt rules establishing the amount of a penalty for a violation of this section or section 4517.221 of the Revised Code, which shall not exceed one thousand dollars for each violation.

(3) Beginning six months after March 23, 2015, after finding, pursuant to adjudication conducted in accordance with Chapter 119. of the Revised Code, that a person has violated this section or section 4517.221 of the Revised Code, the board may order the person to pay an administrative penalty described in division (L)(2) of this section for each violation in accordance with the rule adopted by the board.

(4) For purposes of the administrative penalties described in divisions (L)(2) and (3) of this section, each sale that occurs in violation of this section or section 4517.221 of the Revised Code and each day that a violation occurs or continues to occur constitutes a separate violation.

(5) All penalties collected pursuant to division (L)(3) of this section shall be paid to the title defect rescission fund established in section 1345.52 of the Revised Code.

Sec. 4517.32. Subject to sections 119.01 to 119.12 and section 4517.35 of the Revised Code, the motor vehicle dealers board may make ~~such reasonable rules as are necessary to carry out and effect its duties under this chapter, including such~~ rules ~~as are necessary~~ relating to the time, place, and manner of conducting hearings on the issuance, suspension, or revocation of licenses, and on protests filed under sections 4517.50, 4517.52, 4517.53, 4517.54, and 4517.56 of the Revised Code. The board may hear testimony in matters relating to the duties imposed upon it and the president and the secretary of the board may administer oaths. The board may require any proof it considers advisable and may require the attendance of such witnesses and the production of such books, records, and papers as it desires at any hearing before it or relating to any matter that it has authority to investigate. The board may, through its secretary, issue a subpoena for any witness, or a subpoena duces tecum for the production of any books, records, and papers, directed to the sheriff of the county where such witness resides or is found, which subpoena shall be served and returned in the same manner as a subpoena in a criminal case.

The fees of the sheriff shall be the same as that allowed in the court of common pleas in criminal cases. Witnesses shall be paid the fees and mileage provided for under section 119.094 of the Revised Code. The fees and mileage shall be paid in the same manner as other expenses of the board.

Depositions of witnesses residing within or without the state may be taken by the board in the manner prescribed for

like depositions in civil actions in the court of common pleas. In any case of disobedience to or neglect of any subpoena served on any person, or the refusal of any witness to testify to any matter regarding which the witness may lawfully be interrogated, the court of common pleas of any county where such disobedience, neglect, or refusal occurs, or any judge thereof on application of the secretary of the board, shall compel obedience by attachment proceedings for contempt as in the case of disobedience of a subpoena issued from such court or a refusal to testify therein.

Sec. 4519.20. (A) The director of public safety, pursuant to Chapter 119. of the Revised Code, shall adopt rules for the equipment of snowmobiles, off-highway motorcycles, and all-purpose vehicles~~. The rules may be revised from time to time as the director considers necessary, and shall~~ that include~~, but not necessarily be limited to,~~ requirements for the following items of equipment:

(1) At least one headlight having a minimum candlepower of sufficient intensity to reveal persons and objects at a distance of at least one hundred feet ahead under normal atmospheric conditions during hours of darkness;

(2) At least one red tail light having a minimum candlepower of sufficient intensity to be plainly visible from a distance of five hundred feet to the rear under normal atmospheric conditions during hours of darkness;

(3) Adequate brakes. Every snowmobile, while traveling on packed snow, shall be capable of carrying a driver who weighs one hundred seventy-five pounds or more, and, while carrying such driver, be capable of stopping in not more than forty feet from an initial steady speed of twenty miles per hour, or

locking its traction belt.

(4) A muffler system capable of precluding the emission of excessive smoke or exhaust fumes, and of limiting the engine noise of vehicles. On snowmobiles manufactured after January 1, 1973, such requirement shall include sound dampening equipment such that noise does not exceed eighty-two decibels on the "A" scale at fifty feet as measured according to SAE J192 (September 1970).

(B) No person shall operate any snowmobile, off-highway motorcycle, or all-purpose vehicle in violation of division (A)(1), (2), (3), or (4) of this section, except that equipment specified in divisions (A)(1) and (2) of this section shall not be required on snowmobiles, off-highway motorcycles, or all-purpose vehicles operated during the daylight hours.

(C) Except as otherwise provided in this division, whoever violates division (B) of this section shall be fined not more than fifty dollars. If the offender within the preceding year previously has committed a violation of division (B) of this section, whoever violates division (B) of this section shall be fined not less than fifteen nor more than one hundred dollars, imprisoned not more than three days, or both.

Sec. 4519.51. The registrar of motor vehicles shall ~~adopt rules the registrar considers necessary to~~ ensure uniform and orderly operation of sections 4519.51 to 4519.70 of the Revised Code~~, and the clerks of the courts of common pleas shall conform to those rules~~. The registrar shall receive and file in the registrar's office all information forwarded to the registrar by the clerks of the courts of common pleas under ~~those~~ sections 4519.51 to 4519.70 of the Revised Code, and the clerks shall maintain in their offices indexes for the certificates of title.

The registrar shall check with the registrar's records all certificates of title received in the registrar's office from the clerks.

If it appears that any certificate of title has been issued improperly, the registrar shall cancel the certificate. Upon the cancellation of any certificate of title, the registrar shall notify the clerk who issued it, and the clerk shall enter the cancellation in the clerk's records. The registrar also shall notify the person to whom the certificate of title was issued, as well as any lienholders appearing on it, of the cancellation and, if it is a physical certificate of title, shall demand surrender of the certificate of title, but the cancellation shall not affect the validity of any lien noted on it. The holder of a physical certificate of title shall return it immediately to the registrar.

The clerks shall keep on hand a sufficient supply of blank forms, which, except for the certificate of title and memorandum certificate forms, shall be furnished and distributed without charge to registered manufacturers or dealers, or other persons residing within the county.

Sec. 4521.10. (A)(1) If a judgment or default judgment is entered against a person pursuant to section 4521.08 of the Revised Code for a violation of an ordinance, resolution, or regulation that regulates the standing or parking of a vehicle in an accessible parking space and the person has not paid the judgment or default judgment within ten days of the date of entry of the judgment, the parking violations bureau, joint parking violations bureau, or traffic violations bureau in which the judgment was entered may give notice of that fact to the registrar of motor vehicles. The notice, if given, shall be

given not earlier than sixteen days nor later than three years after the date of entry of the judgment, and shall be in a form and manner, and contain such information, as the registrar prescribes.

(2) If three or more judgments or default judgments have been entered against a person pursuant to section 4521.08 of the Revised Code and the person has not paid the judgments or default judgments within ten days of the date of entry of the third judgment, the parking violations bureau, joint parking violations bureau, or traffic violations bureau in which the judgments were entered may give notice of that fact to the registrar. The notice, if given, shall be given not earlier than sixteen days nor later than three years after the date of entry of the third judgment, and shall be in a form and manner, and contain such information, as the registrar prescribes.

(B)(1) Upon receipt of a notice as provided in division (A) of this section, neither the registrar nor any deputy registrar shall accept any application for the registration or transfer of registration of any motor vehicle owned or leased by the person named in the notice unless the person presents a release as provided in division (C) of this section or unless the registrar is properly notified by the parking violations bureau, joint parking violations bureau, or traffic violations bureau that the judgment or default judgment described in division (A)(1) of this section or the judgments or default judgments described in division (A)(2) of this section have been paid, dismissed, or reversed on appeal, or that the initial notice was given in error and is therefore canceled.

(2) The registrar shall not be required to give effect to any notice provided by a parking violations bureau, joint

parking violations bureau, or traffic violations bureau under division (A) of this section unless the information contained in the "Ohio uniform traffic tickets" described in Traffic Rule 3 (A) and (B) that the bureau processes is transmitted to the registrar by means of an electronic transfer system.

(C) When a notice as provided in division (A) of this section is given to the registrar and the judgments or default judgments are subsequently paid, dismissed, or reversed on appeal, or it is discovered that the notice was given in error and is therefore canceled, the parking violations bureau, joint parking violations bureau, or traffic violations bureau giving the initial notice shall immediately notify the registrar of such payment, dismissal, reversal, or cancellation. The notification shall be in a form and manner, and contain such information, as the registrar prescribes. If the initial notice was not given in error, the parking violations bureau, joint parking violations bureau, or traffic violations bureau shall charge the person a five dollar processing fee for each judgment or default judgment to cover the costs of the bureau of motor vehicles in administering this section. Upon payment of the fee, the parking violations bureau, joint parking violations bureau, or traffic violations bureau shall give to the person a release to be presented at the time of registering or transferring the registration of a motor vehicle owned or leased by the person. All fees collected under this division shall be transmitted monthly to the registrar for deposit in the public safety - highway purposes fund established by section 4501.06 of the Revised Code.

(D) The registrar shall cause the information contained in each notice received pursuant to division (A) of this section to be removed from the records of the bureau of motor vehicles and

of the deputy registrars thirteen months after the date the information was entered into the records, unless the registrar receives a further notice from the parking violations bureau, joint parking violations bureau, or traffic violations bureau submitting the initial notice that the judgments or default judgments are still outstanding.

(E) When any application for the registration or transfer of registration of a motor vehicle is refused as provided in division (B) of this section, the registrar or deputy registrar to whom application is made shall inform the person that no such application may be accepted unless the person presents a release as provided in division (C) of this section or the records of the bureau of motor vehicles and of the deputy registrar indicate that each judgment and default judgment against the person is paid, dismissed, reversed on appeal, or canceled.

(F) When any person named in a notice as provided in division (A) of this section applies for the registration or transfer of registration of any motor vehicle owned or leased by the person and presents a release as provided in division (C) of this section or the records of the bureau of motor vehicles and of any deputy registrar to whom the application is made indicate that each judgment and default judgment against the person has been paid, dismissed, or reversed on appeal, the registrar or deputy registrar shall accept the application for registration or transfer of registration and may issue a certificate of registration or amended certificate of registration for the motor vehicle.

(G) In determining whether the judgments or default judgments that have been entered against a person as provided in division (A)(2) of this section total three or more, the parking

violations bureau, joint parking violations bureau, or traffic violations bureau may apply to that total any violation the person committed during the relevant time period by illegally standing or parking a vehicle in an accessible parking space, irrespective of the amount of the fine imposed for such violation.

~~(H) The registrar shall adopt such rules as the registrar considers necessary to ensure the orderly operation of sections 4521.09 and 4521.10 of the Revised Code, and any parking violations bureau, joint parking violations bureau, or traffic violations bureau shall conform to those rules.~~

Sec. 4561.05. The department of transportation shall administer Chapter 4561. of the Revised Code. ~~The department may adopt and promulgate such rules as it determines necessary to carry out this chapter.~~

The department may issue and amend orders~~, and make, promulgate, and amend, reasonable general and special rules and procedure,~~ and establish minimum standards.

The department may establish safety rules governing air navigation hazards, and the location, size, use, and equipment of airports and landing areas, and rules governing air marking, the use of signs or lights designed to be visible from the air, and other air navigation facilities.

All rules and amendments thereto, prescribed by the department, shall conform to and coincide with, so far as possible, the "Civil Aeronautics Act of 1938," 52 Stat. 973, 49 U.S.C. 401, as amended, passed by the congress of the United States, and the air commerce regulations issued pursuant thereto.

All acts of the department authorized under this section shall be carried on in conformity with Chapter 119. of the Revised Code.

Sec. 4561.32. (A) In accordance with Chapter 119. of the Revised Code, the department of transportation shall adopt, and may amend and rescind, ~~any rules necessary to administer sections 4561.30 to 4561.39 of the Revised Code and shall adopt~~ rules based in whole upon the obstruction standards set forth in 14 C.F.R. ~~77.21 to 77.29~~Part 77, as amended, to uniformly regulate the height and location of structures and objects of natural growth in any airport's clear zone surface, horizontal surface, conical surface, primary surface, approach surface, or transitional surface. The rules shall provide that the department may grant a permit under section 4561.34 of the Revised Code that includes a waiver from full compliance with the obstruction standards. The rules shall also provide that the department shall base its decision on whether to grant such a waiver on sound aeronautic principles, as set out in F.A.A. technical manuals, as amended, including advisory circular 150/5300-13, "airport design standards"; 7400.2c, "airspace procedures handbook,"; and the U.S. terminal procedures handbook.

(B) The department may conduct any studies or investigations it considers necessary to carry out sections 4561.30 to 4561.39 of the Revised Code.

Sec. 4701.03. (A) The accountancy board annually shall elect a president, secretary, and treasurer from its members. ~~The board may adopt and amend rules for the orderly conduct of its affairs and for the administration of this chapter.~~ The board may adopt and amend rules defining the practice of public

accounting, rules of professional conduct appropriate to establish and maintain a high standard of integrity and dignity in registrants and certificate holders under this chapter, and rules regulating the sole proprietorship, partnership, limited liability company, professional association, corporation-for-profit, or other legal entity practice of public accounting. A majority of the board shall constitute a quorum for the transaction of business.

(B) The board shall keep and hold open for public inspection all records of its proceedings.

(C) The board may employ any clerks that are necessary to assist it in the performance of its duties and the keeping of its records. If the board employs an executive director, the board shall pay the executive director in accordance with section 124.152 of the Revised Code.

Sec. 4703.02. The architects board shall organize by electing from its membership a president and a secretary, and also a vice-president and an assistant secretary, who shall act during absence or disability of the president or secretary respectively.

The board shall adopt ~~all necessary~~ rules, regulations, and bylaws, not inconsistent with sections 4703.01 to 4703.19 of the Revised Code and the constitutions and laws of this state or of the United States, to govern its times and places of meeting for organization and reorganization, for the holding of examinations, and for fixing the length of the term of its officers. The board, under Chapter 119. of the Revised Code, may adopt, promulgate, and enforce rules governing the standards of education, service, conduct, and practice to be followed in the practice of the profession of architecture in the state~~,~~

~~including rules for the enforcement of sections 4703.01 to 4703.19 of the Revised Code~~. The board shall include among the rules adopted governing the standards of practice, requirements regarding financial responsibility and professional liability insurance. The board may adopt rules pertaining to the satisfactory completion of continuing education requirements.

If the board adopts rules pertaining to continuing education requirements, the board shall, in general, follow model continuing education recommendations established by the national council of architectural registration boards or a similar successor organization.

The board shall issue to each successful examination applicant a certificate of qualification to practice architecture and shall impress on each certificate issued the seal of the board.

The secretary of the board shall be responsible for keeping a true and complete record of all proceedings of the board. The board may employ an executive secretary, investigators, and clerical assistance it determines necessary.

Sec. 4703.06. (A) Any person shall, before engaging in the practice of architecture or before being styled or known as an architect, secure from the architects board a certificate of the person's qualifications to practice under the title of "architect," and be registered with the board.

Any person holding such certificate and being registered pursuant to sections 4703.01 to 4703.19 of the Revised Code may be styled or known as an architect or as a registered architect.

No other person shall assume such title or use any abbreviation, or any words, letters, or figures, to indicate or

imply that the person is an architect or registered architect, except that persons may be authorized by the board to use the specific title "intern architect," "architectural intern," or "emeritus architect" as described in division (B) of this section.

(B) The board may authorize by rule any person to use the title "intern architect," "architectural intern," or "emeritus architect." The board may adopt any rules ~~the board deems necessary pertaining to intern architects, architectural interns, and emeritus architects, including, but not limited to, rules~~ pertaining to registration, registration fees, and renewal fees for intern architects, architectural interns, and emeritus architects.

Sec. 4707.19. (A) The director of agriculture ~~may adopt reasonable rules necessary for the implementation of this chapter in accordance with Chapter 119. of the Revised Code. In addition, the director~~ shall adopt rules in accordance with Chapter 119. of the Revised Code that establish the portion of license fees collected under this chapter that are to be deposited into the auction recovery fund under section 4707.25 of the Revised Code.

No person shall fail to comply with a rule adopted under this chapter.

(B) The director shall adopt rules that establish a schedule of civil penalties for violations of this chapter, rules adopted under it, or orders issued under it. The rules shall provide that the civil penalty for the first violation of this chapter, rule, or order shall not exceed five thousand dollars and the civil penalty for each subsequent offense shall not exceed ten thousand dollars. In addition, the director, in

establishing the schedule of civil penalties in the rules, shall consider past violations of this chapter and rules adopted under it, the severity of a violation, and the amount of actual or potential damage to the public or the auction profession.

(C) The department of agriculture may hear testimony in matters relating to the duties imposed on it, and any person authorized by the director may administer oaths. The department may require other proof of the honesty and truthfulness of any person named in the application for an auction firm's or auctioneer's license before admitting the applicant to an examination or issuing a license.

Sec. 4709.05. (A) In addition to any other duty imposed on the state cosmetology and barber board under this chapter or Chapter 4713. of the Revised Code, the board shall do all of the following:

(1) Regulate the practice of barbering in this state;

(2) Conduct or have conducted the examination for applicants to practice as licensed barbers;

(3) Prescribe and make available application forms to be used by individuals seeking admission to an examination conducted under section 4709.07 of the Revised Code or a license or permit issued under this chapter;

(4) Prescribe and make available application forms to be used by individuals seeking renewal of a license or permit issued under this chapter;

(5) Furnish a copy of the infection control standards adopted pursuant to division (A)(8)(a) of this section to both of the following:

(a) Each individual or person to whom the board issues a barber license or license to operate a barber shop;

(b) Each individual providing cosmetic therapy, massage therapy, or other professional service in a barber shop under section 4709.091 of the Revised Code.

(6) Supply a copy of the poster created pursuant to division (B) of section 5502.63 of the Revised Code to each person authorized to operate a barber shop under this chapter;

(7) Comply with sections 4713.641 and 4713.66 of the Revised Code regarding investigations and inspections;

(8) Adopt rules, in accordance with Chapter 119. of the Revised Code~~, to administer and enforce this chapter and~~ that cover all of the following:

(a) Infection control standards for the practice of barbering and the operation of barber shops;

(b) The content of the examination required of an applicant for a barber license under section 4709.07 of the Revised Code and the passing score required for the examination;

(c) Conditions an individual must satisfy to qualify for a temporary pre-examination work permit under section 4709.071 of the Revised Code and the conditions and method of renewing a temporary pre-examination work permit under that section;

(d) Requirements for the licensure of barber instructors and assistant barber instructors that are in addition to the requirements specified in section 4709.072 of the Revised Code;

(e) Conditions under which the board will take into account, under section 4709.073 of the Revised Code, instruction an applicant for a license under section 4709.07 or 4709.072 of

the Revised Code received more than five years before the date of application for the license;

(f) Conditions an applicant must satisfy for the board to issue the applicant a license under section 4709.08 of the Revised Code without the applicant taking an examination conducted under section 4709.07 of the Revised Code;

(g) Conditions an applicant must satisfy for the board to issue the applicant an independent contractor license under section 4709.09 of the Revised Code and the fee for the issuance and renewal of the license;

(h) Specify which professions regulated by a professional regulatory board of this state may be practiced in a barber shop under section 4709.091 of the Revised Code, including whether cosmetic therapy may be practiced in a barber shop;

(i) Establish standards for the provision of cosmetic therapy, massage therapy, or other professional service in a barber shop pursuant to section 4709.091 of the Revised Code;

(j) If the board, under section 4709.111 of the Revised Code, develops a procedure for classifying licenses inactive, do both of the following:

(i) Establish a fee for having a license classified inactive that reflects the cost to the board of providing the inactive license service;

(ii) Specify the continuing education that an individual whose license has been classified inactive must complete to have the license restored.

~~(k) Any other area the board determines appropriate to administer or enforce this chapter.~~

(B) The infection control standards established under division (A)(8)(a) of this section shall focus in particular on precautions to be employed to prevent infectious or contagious diseases being created or spread.

(C) The content of the examination specified in rules adopted under division (A)(8)(b) of this section shall include a practical demonstration and a written test, shall relate only to the practice of barbering, and shall require the applicant to demonstrate that the applicant has a thorough knowledge of and competence in the proper techniques in the safe use of chemicals used in the practice of barbering. The minimum passing score of the examination shall not exceed seventy-five per cent.

(D) The rules adopted under division (A)(8)(c) of this section may establish additional conditions for a temporary pre-examination work permit under section 4709.071 of the Revised Code that are applicable to individuals who are licensed to practice barbering in another state or country.

(E) The conditions specified in rules adopted under division (A)(8)(f) of this section may include that an applicant is applying for a barber license for which the board determines an examination is unnecessary.

(F) The rules adopted under division (A)(8)(h) of this section shall not include a profession if practice of the profession in a barber shop is a violation of a statute or rule governing the profession.

(G) If the board adopts a procedure for classifying licenses inactive, the continuing education specified under division (A)(8)(j)(ii) of this section shall be sufficient to ensure the minimum competency in the use or administration of a

new procedure or product required by a licensee necessary to protect public health and safety. The requirement shall not exceed the cumulative number of hours of continuing education that the individual would have been required to complete had the individual retained an active license.

Sec. 4713.08. (A) The state cosmetology and barber board shall adopt rules in accordance with Chapter 119. of the Revised Code ~~as necessary to implement this chapter. The rules shall~~ that do all of the following:

(1) Govern the practice of the branches of cosmetology;

(2) Specify conditions an individual must satisfy to qualify for a temporary pre-examination work permit under section 4713.22 of the Revised Code and the conditions and method of renewing a temporary pre-examination work permit under that section;

(3) Provide for the conduct of examinations under section 4713.24 of the Revised Code;

(4) Specify conditions under which the board will take into account, under section 4713.32 of the Revised Code, instruction an applicant for a license under section 4713.28, 4713.30, or 4713.31 of the Revised Code received more than five years before the date of application for the license;

(5) Provide for the granting of waivers under section 4713.29 of the Revised Code;

(6) Specify conditions an applicant must satisfy for the board to issue the applicant a license under section 4713.34 of the Revised Code without the applicant taking an examination conducted under section 4713.24 of the Revised Code;

(7) Specify locations in which glamour photography services in which a branch of cosmetology is practiced may be provided;

(8) Establish conditions and the fee for a temporary special occasion work permit under section 4713.37 of the Revised Code and specify the amount of time such a permit is valid;

(9) Specify conditions an applicant must satisfy for the board to issue the applicant an independent contractor license under section 4713.39 of the Revised Code and the fee for issuance and renewal of the license;

(10) Establish conditions under which food may be sold at a salon;

(11) Specify which professions regulated by a professional regulatory board of this state may be practiced in a salon under section 4713.42 of the Revised Code, including whether cosmetic therapy may be practiced in a salon;

(12) Establish standards for the provision of cosmetic therapy, massage therapy, or other professional service in a salon pursuant to section 4713.42 of the Revised Code;

(13) Establish standards for board approval of, and the granting of credits for, training in branches of cosmetology or barbering at schools licensed in this state;

(14) Establish the manner in which a school licensed under section 4713.44 of the Revised Code may offer post-secondary and advanced practice programs;

(15) Establish infection control standards for the practice of the branches of cosmetology and the operation of

salons and schools;

(16) Establish the application process for obtaining a tanning facility permit under section 4713.48 of the Revised Code, including the amount of the fee for an initial or renewed permit;

(17) Establish standards for installing and operating a tanning facility in a manner that ensures the health and safety of consumers, including infection control standards and standards that do all of the following:

(a) Establish a maximum safe time of exposure to radiation and a maximum safe temperature at which sun lamps may be operated;

(b) Require consumers to wear protective eyeglasses;

(c) Require consumers to be supervised as to the length of time consumers use the facility's sun lamps;

(d) Require the operator to prohibit consumers from standing too close to sun lamps and to post signs warning consumers of the potential effects of radiation on individuals taking certain medications and of the possible relationship of the radiation to skin cancer;

(e) Require the installation of protective shielding for sun lamps and handrails for consumers;

(f) Require floors to be dry during operation of lamps;

(g) Establish procedures an operator must follow in making reasonable efforts in compliance with section 4713.50 of the Revised Code to determine the age of an individual seeking to use sun lamp tanning services.

(18) If the board, under section 4713.61 of the Revised Code, develops a procedure for classifying licenses inactive, do both of the following:

(a) Establish a fee for having a license classified inactive that reflects the cost to the board of providing the inactive license service;

(b) Specify the continuing education that an individual whose license has been classified inactive must complete to have the license restored. The continuing education shall be sufficient to ensure the minimum competency in the use or administration of a new procedure or product required by a licensee necessary to protect public health and safety. The requirement shall not exceed the cumulative number of hours of continuing education that the individual would have been required to complete had the individual retained an active license.

(19) Establish a fee for approval of a continuing education program under section 4713.62 of the Revised Code that is adequate to cover any expense the board incurs in the approval process;

(20) Establish requirements for students of schools who are engaged in learning the theory and practice of barbering;

(21) Establish the minimum student-instructor ratio that a school offering instruction in the theory and practice of barbering must meet~~;~~

~~(22) Anything else necessary to implement this chapter~~.

(B) The rules adopted under division (A)(2) of this section may establish additional conditions for a temporary pre-examination work permit under section 4713.22 of the Revised

Code that are applicable to individuals who practice a branch of cosmetology in another state or country.

(C) The conditions specified in rules adopted under division (A)(6) of this section may include that an applicant is applying for a license to practice a branch of cosmetology for which the board determines an examination is unnecessary.

(D) The rules adopted under division (A)(11) of this section shall not include a profession if practice of the profession in a salon is a violation of a statute or rule governing the profession.

(E) The infection control standards established under division (A)(15) of this section shall focus in particular on precautions to be employed to prevent infectious or contagious diseases being created or spread.

(F) The fee established by rules adopted under division (A)(16) of this section shall cover the cost the board incurs in inspecting tanning facilities and enforcing the board's rules but may not exceed one hundred dollars per location of such facilities.

Sec. 4715.03. (A) The state dental board shall organize by electing from its members a president, vice-president, secretary, and vice-secretary. The secretary and vice-secretary shall be elected from the members of the board who are dentists. It shall hold meetings monthly at least eight months a year at such times and places as the board designates. A majority of the members of the board shall constitute a quorum. ~~The board shall make such reasonable rules as it determines necessary pursuant to Chapter 119. of the Revised Code.~~

(B) A concurrence of a majority of the members of the

board shall be required to do any of the following:

(1) Grant, refuse, suspend, place on probationary status, revoke, refuse to renew, or refuse to reinstate a license or censure a license holder or take any other action authorized under section 4715.30 of the Revised Code;

(2) Seek an injunction under section 4715.05 of the Revised Code;

(3) Enter into a consent agreement with a license holder;

(4) If the board develops and implements the quality intervention program under section 4715.031 of the Revised Code, refer a license holder to the program;

(5) Terminate an investigation conducted under division (D) of this section;

(6) Dismiss any complaint filed with the board.

(C)(1) The board shall adopt rules in accordance with Chapter 119. of the Revised Code to do both of the following:

(a) Establish standards for the safe practice of dentistry and dental hygiene by qualified practitioners and shall, through its policies and activities, promote such practice;

(b) Establish universal blood and body fluid precautions that shall be used by each person licensed under this chapter who performs exposure prone invasive procedures.

(2) The rules adopted under division (C)(1)(b) of this section shall define and establish requirements for universal blood and body fluid precautions that include the following:

(a) Appropriate use of hand washing;

(b) Disinfection and sterilization of equipment;

(c) Handling and disposal of needles and other sharp instruments;

(d) Wearing and disposal of gloves and other protective garments and devices.

(D) ~~The board shall administer and enforce the provisions of this chapter.~~ The board shall, in accordance with sections 4715.032 to 4715.035 of the Revised Code, investigate evidence which appears to show that any person has violated any provision of this chapter. Any person may report to the board under oath any information such person may have appearing to show a violation of any provision of this chapter. In the absence of bad faith, any person who reports such information or who testifies before the board in any disciplinary proceeding conducted pursuant to Chapter 119. of the Revised Code is not liable for civil damages as a result of making the report or providing testimony. If after investigation and reviewing the recommendation of the secretary and vice-secretary issued pursuant to section 4715.034 of the Revised Code the board determines that there are reasonable grounds to believe that a violation of this chapter has occurred, the board shall, except as provided in this chapter, conduct disciplinary proceedings pursuant to Chapter 119. of the Revised Code, seek an injunction under section 4715.05 of the Revised Code, enter into a consent agreement with a license holder, or provide for a license holder to participate in the quality intervention program established under section 4715.031 of the Revised Code if the board develops and implements that program.

For the purpose of any disciplinary proceeding or any investigation conducted under this division, the board may administer oaths, order the taking of depositions, issue

subpoenas in accordance with section 4715.033 of the Revised Code, compel the attendance and testimony of persons at depositions, and compel the production of books, accounts, papers, documents, or other tangible things. The hearings and investigations of the board shall be considered civil actions for the purposes of section 2305.252 of the Revised Code. Notwithstanding section 121.22 of the Revised Code and except as provided in section 4715.036 of the Revised Code, proceedings of the board relative to the investigation of a complaint or the determination whether there are reasonable grounds to believe that a violation of this chapter has occurred are confidential and are not subject to discovery in any civil action.

(E)(1) The board shall examine or cause to be examined eligible applicants to practice dental hygiene. The board may distinguish by rule different classes of qualified personnel according to skill levels and require all or only certain of these classes of qualified personnel to be examined and certified by the board.

(2) The board shall administer a written jurisprudence examination to each applicant for a license to practice dentistry. The examination shall cover only the statutes and administrative rules governing the practice of dentistry in this state.

(F)(1) In accordance with Chapter 119. of the Revised Code, subject to division (F)(2) of this section the board shall adopt, and may amend or rescind, rules establishing the eligibility criteria, the application and permit renewal procedures, and safety standards applicable to a dentist licensed under this chapter who applies for a permit to employ or use conscious sedation. These rules shall include all of the

following:

(a) The eligibility requirements and application procedures for an eligible dentist to obtain a conscious sedation permit;

(b) The minimum educational and clinical training standards required of applicants, which shall include satisfactory completion of an advanced cardiac life support course;

(c) The facility equipment and inspection requirements;

(d) Safety standards;

(e) Requirements for reporting adverse occurrences.

(2) The board shall issue a permit to employ or use conscious sedation in accordance with Chapter 4796. of the Revised Code to a dentist licensed under this chapter if either of the following applies:

(a) The dentist holds a license or permit to employ or use conscious sedation in another state.

(b) The dentist has satisfactory work experience, a government certification, or a private certification as described in Chapter 4796. of the Revised Code in employing or using conscious sedation in a state that does not issue that license.

(G)(1) In accordance with Chapter 119. of the Revised Code, subject to division (G)(2) of this section the board shall adopt rules establishing eligibility criteria, application and permit renewal procedures, and safety standards applicable to a dentist licensed under this chapter who applies for a general anesthesia permit.

(2) The board shall issue a general anesthesia permit in accordance with Chapter 4796. of the Revised Code to a dentist licensed under this chapter if either of the following applies:

(a) The dentist holds a general anesthesia license or permit in another state.

(b) The dentist has satisfactory work experience, a government certification, or a private certification as described in Chapter 4796. of the Revised Code utilizing general anesthesia in a state that does not issue that license or permit.

Sec. 4715.031. (A) The state dental board may develop and implement a quality intervention program. The board may propose that the holder of a license issued by the board participate in the program if the board determines pursuant to an investigation conducted under section 4715.03 of the Revised Code that there are reasonable grounds to believe the license holder has violated a provision of this chapter due to a clinical or communication problem that could be improved through participation in the program and determines that the license holder's participation in the program is appropriate. The board shall refer a license holder who agrees to participate in the program to an educational and assessment service provider selected by the board.

(B) If the board develops and implements a quality intervention program, all of the following apply:

(1) The board shall select, by a concurrence of a majority of the board's members, educational and assessment service providers, which may include quality intervention program panels of case reviewers. A provider selected by the board to provide

services to a license holder shall recommend to the board the educational and assessment services the license holder should receive under the program. The license holder may begin participation in the program if the board approves the services the provider recommends. The license holder shall not be required to participate in the program beyond one hundred eighty days from the date the license holder agrees to participate in the program under this division. The license holder shall pay the amounts charged by the provider for the services.

(2) The board shall monitor a license holder's progress in the program and determine whether the license holder has successfully completed the program. If the board determines that the license holder has successfully completed the program, it may continue to monitor the license holder, take other action it considers appropriate, or both. The additional monitoring, other action taken by the board, or both, shall not continue beyond one year from the date the license holder agrees to participate in the program under this division. If the board determines that the license holder has not successfully completed the program, it shall, as soon as possible thereafter, commence disciplinary proceedings against the license holder under section 4715.03 of the Revised Code.

(3) The board shall elect, from the board's members who are dentists, a coordinator to administer and provide oversight of the quality intervention program. The coordinator may delegate to the board's members or employees those duties that the coordinator considers appropriate.

~~(C) The board may adopt rules in accordance with Chapter 119. of the Revised Code to further implement the quality intervention program.~~

Sec. 4715.372. (A) The state dental board shall adopt rules in accordance with Chapter 119. of the Revised Code ~~as necessary to implement the oral health access supervision program, including rules~~ that do all of the following:

(1) For the purpose of division (G)(19) of section 4715.36 of the Revised Code, designate additional facilities at which a dental hygienist may be authorized to perform dental hygiene services under the oral health access supervision program;

(2) For the purpose of section 4715.362 of the Revised Code, prescribe the application form and requirements for obtaining an oral health access supervision permit;

(3) For the purpose of section 4715.363 of the Revised Code, prescribe the application form for a permit to practice as a dental hygienist under the oral health access supervision of a dentist;

(4) For the purpose of division (B)(3) of section 4715.363 of the Revised Code and subject to division (B) of this section, establish standards for the course in the practice of dental hygiene under oral health access supervision;

(5) For the purpose of section 4715.369 of the Revised Code, prescribe the form for renewal of an oral health access supervision permit;

(6) For the purpose of section 4715.37 of the Revised Code, prescribe the form for renewal of a permit to practice as a dental hygienist under the oral health access supervision of a dentist.

(B) The course in the practice of dental hygiene under oral health access supervision for which the board establishes standards under division (A)(4) of this section shall meet all

of the following requirements:

(1) Be eight hours in length;

(2) Include, at a minimum, instruction in both of the following:

(a) The treatment of geriatric patients, medically compromised patients, developmentally disabled patients, and pediatric patients;

(b) Recordkeeping practices.

(3) Be developed and offered by an institution accredited by the American dental association commission on dental accreditation or a program provided by a sponsor of continuing education approved by the board;

(4) Include content that is separate and independent from the course content required for the completion of dental hygiene education from an accredited dental hygiene school.

Sec. 4715.42. (A)(1) As used in this section:

(a) "Free clinic" has the same meaning as in section 3701.071 of the Revised Code.

(b) "Indigent and uninsured person" and "operation" have the same meanings as in section 2305.234 of the Revised Code.

(2) For the purposes of this section, a person shall be considered retired from practice if the person's license has been surrendered or allowed to expire with the intention of ceasing to practice as a dentist or dental hygienist for remuneration.

(B) Within thirty days after receiving an application for a volunteer's certificate that includes all of the items listed

in divisions (C)(1), (2), and (3) of this section, the state dental board shall issue, without examination, a volunteer's certificate to a person who is retired from practice so that the person may provide dental services to indigent and uninsured persons at any location, including a free clinic.

(C) An application for a volunteer's certificate shall include all of the following:

(1) A copy of the applicant's degree from dental college or dental hygiene school.

(2) One of the following, as applicable:

(a) A copy of the applicant's most recent license to practice dentistry or dental hygiene issued by a jurisdiction in the United States that licenses persons to practice dentistry or dental hygiene.

(b) A copy of the applicant's most recent license equivalent to a license to practice dentistry or dental hygiene in one or more branches of the United States armed services that the United States government issued.

(3) Evidence of one of the following, as applicable:

(a) The applicant has maintained for at least ten years prior to retirement full licensure in good standing in any jurisdiction in the United States that licenses persons to practice dentistry or dental hygiene.

(b) The applicant has practiced as a dentist or dental hygienist in good standing for at least ten years prior to retirement in one or more branches of the United States armed services.

(D) The holder of a volunteer's certificate may provide

dental services only to indigent and uninsured persons, but may do so at any location, including a free clinic. The holder shall not accept any form of remuneration for providing dental services while in possession of the certificate. Except in a dental emergency, the holder shall not perform any operation. The board may revoke a volunteer's certificate on receiving proof satisfactory to the board that the holder has engaged in practice in this state outside the scope of the holder's certificate or that there are grounds for action against the person under section 4715.30 of the Revised Code.

(E)(1) A volunteer's certificate shall be valid for a period of three years, and may be renewed upon the application of the holder, unless the certificate was previously revoked under division (D) of this section. The board shall maintain a register of all persons who hold volunteer's certificates. The board shall not charge a fee for issuing or renewing a certificate pursuant to this section.

(2) To be eligible for renewal of a volunteer's certificate, the holder of the certificate shall certify to the board completion of sixty hours of continuing dental education that meets the requirements of section 4715.141 of the Revised Code and the rules adopted under that section, or completion of eighteen hours of continuing dental hygiene education that meets the requirements of section 4715.25 of the Revised Code and the rules adopted under that section, as the case may be. The board may not renew a certificate if the holder has not complied with the appropriate continuing education requirements. Any entity for which the holder provides dental services may pay for or reimburse the holder for any costs incurred in obtaining the required continuing education credits.

(3) The board shall issue to each person who qualifies under this section for a volunteer's certificate a wallet certificate and a wall certificate that state that the certificate holder is authorized to provide dental services pursuant to the laws of this state. The holder shall keep the wallet certificate on the holder's person while providing dental services and shall display the wall certificate prominently at the location where the holder primarily practices.

(4) The holder of a volunteer's certificate issued pursuant to this section is subject to the immunity provisions regarding the provision of services to indigent and uninsured persons in section 2305.234 of the Revised Code.

(F) ~~The board shall adopt rules in accordance with Chapter 119. of the Revised Code to administer and enforce this section.~~

~~(G)~~ The state dental board shall make available through the board's web site the application form for a volunteer's certificate under this section, a description of the application process, and a list of all items that are required by division (C) of this section to be submitted with the application.

~~(H)~~ (G) Chapter 4796. of the Revised Code does not apply to a license issued under this section.

Sec. 4715.436. The state dental board shall adopt rules in accordance with Chapter 119. of the Revised Code ~~as it considers necessary to implement sections 4715.43 to 4715.435 of the Revised Code. The rules shall~~ that include all of the following:

(A) Requirements that must be met for issuance of a teledentistry permit under section 4715.43 of the Revised Code;

(B) Approval of courses on the proper placement of interim therapeutic restorations and the application of silver diamine

fluoride, as authorized under section 4715.431 of the Revised Code.

(C) Requirements for obtaining informed consent for the placement of interim therapeutic restorations or the application of silver diamine fluoride when the patient is not examined in person by a dentist and the services are provided under a teledentistry permit, as described in section 4715.431 of the Revised Code.

The rules may specify procedures a dental hygienist is not permitted to perform when practicing in the absence of the authorizing dentist pursuant to section 4715.431 of the Revised Code.

Sec. 4715.57. (A) Each person seeking approval for an educational program in dental x-ray machine operation shall apply to the state dental board on a form the board shall prescribe and provide. The application shall be accompanied by the fee established in rules adopted under division (C) of this section.

(B) The board shall approve educational programs that meet the standards established in rules adopted under division (C) of this section. The approval shall be valid until surrendered by the program or suspended or revoked by the board. A program's approval may be suspended or revoked if the program does not comply with applicable requirements of this chapter or rules adopted under it.

(C) The board shall adopt rules ~~to implement and administer this section. The rules shall be adopted~~ in accordance with Chapter 119. of the Revised Code ~~and~~ that shall be no less stringent than any applicable standards specified in

42 C.F.R. 75. The rules shall do ~~at least~~ both of the following:

(1) Establish the fee that must accompany each application for approval of an educational program;

(2) Establish standards that an educational program must meet to be approved by the board.

Sec. 4715.66. (A) The state dental board shall adopt rules ~~as the board considers necessary to implement and administer sections 4715.61 to 4715.64 of the Revised Code. The rules shall be adopted~~ in accordance with Chapter 119. of the Revised Code~~.~~

~~(B) In adopting rules under this section, all of the following apply~~ as follows:

(1) The board shall adopt rules specifying the education or training necessary for an individual to register as an expanded function dental auxiliary under this chapter.

(2) The board shall adopt rules specifying the standards that must be met for an examination to be accepted by the board as an examination of competency to practice as an expanded function dental auxiliary. In specifying the standards, the board shall provide that an examination will be accepted only if the entity that administered the examination required an individual to be one of the following as a condition of admission to the examination:

(a) An unlicensed dentist who has graduated from an accredited dental college, as specified in section 4715.10 of the Revised Code, and does not have a dental license under suspension or revocation by the board;

(b) A dental student who is enrolled in an accredited dental college, as specified in section 4715.10 of the Revised

Code, and is considered by the dean of the college to be in good standing as a dental student;

(c) A graduate of a dental college located outside of the United States;

(d) A dental assistant who is certified by the dental assisting national board, the Ohio commission on dental assistant certification, or the American medical technologists;

(e) A dental hygienist licensed under this chapter whose license is in good standing;

(f) An unlicensed dental hygienist who has graduated from an accredited dental hygiene school, as specified in section 4715.21 of the Revised Code, and does not have a dental hygienist license under suspension or revocation by the board.

(3) The board may adopt rules specifying procedures an expanded function dental auxiliary may perform that are in addition to the procedures specified in divisions (A)(1) to (10) of section 4715.64 of the Revised Code.

Sec. 4717.04. (A) The board of embalmers and funeral directors shall adopt rules in accordance with Chapter 119. of the Revised Code for the government, transaction of the business, and the management of the affairs of the board of embalmers and funeral directors and the crematory review board~~, and for the administration and enforcement of this chapter. These rules shall~~ that include all of the following:

(1) The nature, scope, content, and form of the application that must be completed and license examination that must be passed in order to receive an embalmer's license or a funeral director's license under section 4717.05 of the Revised Code. The rules shall ensure both of the following:

(a) That the embalmer's license examination tests the applicant's knowledge through at least a comprehensive section and an Ohio laws section;

(b) That the funeral director's license examination tests the applicant's knowledge through at least a comprehensive section, an Ohio laws section, and a sanitation section.

(2) The minimum license examination score necessary to be licensed under section 4717.05 of the Revised Code as an embalmer or as a funeral director;

(3) Procedures for determining the dates of the embalmer's and funeral director's license examinations, which shall be administered at least once each year, the time and place of each examination, and the supervision required for each examination;

(4) Procedures for determining whether the board shall accept an applicant's compliance with the licensure, registration, or certification requirements of another state as grounds for granting the applicant a license under this chapter;

(5) A determination of whether completion of a nationally recognized embalmer's or funeral director's examination sufficiently meets the license requirements for the comprehensive section of either the embalmer's or the funeral director's license examination administered under this chapter;

(6) Continuing education requirements for licensed embalmers and funeral directors;

(7) Requirements for the licensing and operation of funeral homes;

(8) Requirements for the licensing and operation of embalming facilities;

(9) A schedule that lists, and specifies a forfeiture commensurate with, each of the following types of conduct which, for the purposes of division (A)(9) of this section and section 4717.15 of the Revised Code, are violations of this chapter:

(a) Obtaining a license under this chapter by fraud or misrepresentation either in the application or in passing the required examination for the license;

(b) Purposely violating any provision of sections 4717.01 to 4717.15 of the Revised Code or a rule adopted under any of those sections; division (A) or (B) of section 4717.23; division (B)(1) or (2), (C)(1) or (2), (D), (E), or (F)(1) or (2), or divisions (H) to (K) of section 4717.26; division (D)(1) of section 4717.27; or divisions (A) to (C) of section 4717.28 of the Revised Code;

(c) Committing unprofessional conduct;

(d) Knowingly permitting an unlicensed person, other than a person serving an apprenticeship, to engage in the profession or business of embalming or funeral directing under the licensee's supervision;

(e) Refusing to promptly submit the custody of a dead human body or cremated remains upon the express order of the person legally entitled to the body;

(f) Transferring a license to operate a funeral home, embalming facility, or crematory facility from one owner or operator to another, or from one location to another, without notifying the board and following the requirements of section 4717.11 of the Revised Code;

(g) Misleading the public using false or deceptive advertising;

(h) Failing to forward to the board on or before its due date the annual report of preneed funeral sales required by division (J) of section 4717.31 of the Revised Code. If the annual report is sent to the board by United States mail, it shall be postmarked on or before the due date for the submission of the annual report in order to be timely filed with the board. Mail that is not postmarked shall be considered filed on the date it is received by the board.

Each instance of the commission of any of the types of conduct described in division (A)(9) of this section is a separate violation. The rules adopted under division (A)(9) of this section shall establish the amount of the forfeiture for a violation of each of those divisions. The forfeiture for a first violation shall not exceed five thousand dollars, and the forfeiture for a second or subsequent violation shall not exceed ten thousand dollars. The amount of the forfeiture may differ among the types of violations according to what the board considers the seriousness of each violation.

(10) Requirements for the licensing and operation of crematory facilities;

(11) Procedures for the board to take possession of and to arrange the lawful disposition of unclaimed cremated remains that were held or stored at a funeral home or crematory that has been closed;

(12) Procedures for the issuance of duplicate licenses;

(13) Requirements for criminal records checks of applicants under section 4776.03 of the Revised Code;

(14) The amount and content of corrective action courses required by the board under section 4717.14 of the Revised Code.

(B) The board may adopt rules governing the educational standards for licensure as an embalmer or funeral director, or obtaining a permit to be a crematory operator, and the standards of service and practice to be followed in embalming, funeral directing, and cremation, and in the operation of funeral homes, embalming facilities, and crematory facilities in this state.

(C) Nothing in this chapter authorizes the board of embalmers and funeral directors to regulate cemeteries, except that the board shall license and regulate funeral homes, embalming facilities, and crematory facilities located at cemeteries in accordance with this chapter.

(D) If the executive director of the board has knowledge or notice of a violation of division (A)(1), (3), (5), or (6) of section 4717.13 of the Revised Code or that a person is engaging in the business or profession of funeral directing in violation of division (A)(14) of that section, the executive director shall notify the appropriate law enforcement authority for investigation.

Sec. 4723.07. In accordance with Chapter 119. of the Revised Code, the board of nursing shall adopt and may amend and rescind rules that establish all of the following:

(A) Provisions for the board's government and control of its actions and business affairs;

(B) Subject to section 4723.072 of the Revised Code, minimum standards for nursing education programs that prepare graduates to be licensed under this chapter and procedures for granting, renewing, and withdrawing approval of those programs;

(C) Criteria that applicants for licensure must meet to be eligible to take examinations for licensure;

(D) Standards and procedures for renewal of the licenses and certificates issued by the board;

(E) Standards for approval of continuing nursing education programs and courses for registered nurses, advanced practice registered nurses, and licensed practical nurses. The standards may provide for approval of continuing nursing education programs and courses that have been approved by other state boards of nursing or by national accreditation systems for nursing, including, but not limited to, the American nurses' credentialing center and the national association for practical nurse education and service.

(F) Standards that persons must meet to be authorized by the board to approve continuing education programs and courses and a schedule by which that authorization expires and may be renewed;

(G) Requirements, including continuing education requirements, for reactivating inactive licenses or certificates, and for reinstating licenses or certificates that have lapsed;

(H) Conditions that may be imposed for reinstatement of a license or certificate following action taken under section 3123.47, 4723.28, 4723.281, 4723.652, or 4723.86 of the Revised Code resulting in a license or certificate suspension;

(I) Criteria for evaluating the qualifications of an applicant for a license to practice nursing as a registered nurse, a license to practice nursing as an advanced practice registered nurse, or a license to practice nursing as a licensed practical nurse for the purpose of issuing the license by the board's endorsement of the applicant's authority to practice

issued by the licensing agency of another state;

(J) Universal and standard precautions that shall be used by each licensee or certificate holder. The rules shall define and establish requirements for universal and standard precautions that include the following:

(1) Appropriate use of hand washing;

(2) Disinfection and sterilization of equipment;

(3) Handling and disposal of needles and other sharp instruments;

(4) Wearing and disposal of gloves and other protective garments and devices.

(K) Quality assurance standards for advanced practice registered nurses;

(L) Additional criteria for the standard care arrangement required by section 4723.431 of the Revised Code entered into by a clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner and the nurse's collaborating physician or podiatrist;

(M) For purposes of division (B)(31) of section 4723.28 of the Revised Code, the actions, omissions, or other circumstances that constitute failure to establish and maintain professional boundaries with a patient;

(N) Standards and procedures for delegation under section 4723.48 of the Revised Code of the authority to administer drugs.

~~The board may adopt other rules necessary to carry out the provisions of this chapter. The rules shall be adopted in~~

~~accordance with Chapter 119. of the Revised Code.~~

Sec. 4723.114. (A) As used in this section, "person" has the same meaning as in section 1.59 of the Revised Code.

(B) A person or governmental entity that employs, or contracts directly or through another person or governmental entity for the provision of services by, a nurse holding a multistate license to practice registered or licensed practical nursing issued pursuant to section 4723.11 of the Revised Code shall do both of the following if the nurse's home state, as defined in that section, is not Ohio:

(1) Report to the board of nursing the number of nurses holding multistate licenses who are employed by, or providing services for, the person or governmental entity;

(2) Provide each nurse holding a multistate license a copy of board-developed information concerning laws and rules specific to the practice of nursing in Ohio.

(C) The board shall develop information concerning laws and rules specific to the practice of nursing in Ohio and make that information available on its internet web site.

(D) The board may display on its internet web site a list of the names of persons or governmental entities that have complied with the reporting requirement described in division (B)(1) of this section or any rule adopted by the board to implement that requirement. The board may update the list annually to reflect any changes in compliance with the requirement or rule.

~~(E) The board may adopt rules in accordance with Chapter 119. of the Revised Code to implement this section.~~

Sec. 4723.26. (A)(1) As used in this section:

(a) "Free clinic" has the same meaning as in section 3701.071 of the Revised Code.

(b) "Indigent and uninsured person" and "operation" have the same meanings as in section 2305.234 of the Revised Code.

(2) For the purposes of this section, a person shall be considered retired from practice if the person's license has expired with the intention of ceasing to practice nursing as a registered nurse, licensed practical nurse, or advanced practice registered nurse for remuneration.

(B) The board of nursing may issue, without examination, a volunteer's certificate to a qualified person who is retired from practice so that the person may provide nursing services to indigent and uninsured persons at any location, including a free clinic.

(C) Except as provided in division (D) of this section, an application for a volunteer's certificate shall include all of the following:

(1) A copy or other evidence of the applicant's degree from a school of registered nursing, practical nursing, or advanced practice registered nursing;

(2) One of the following, as applicable:

(a) A copy or other evidence of the applicant's most recent license to practice nursing as a registered nurse, licensed practical nurse, or advanced practice registered nurse issued by a jurisdiction in the United States that licenses persons to practice nursing as a registered nurse, licensed practical nurse, or advanced practice registered nurse;

(b) A copy or other evidence of the applicant's most recent license equivalent to a license to practice nursing as a registered nurse, licensed practical nurse, or advanced practice registered nurse in one or more branches of the United States armed services that the United States government issued.

(3) Evidence of one of the following, as applicable:

(a) The applicant has maintained for at least ten years prior to retirement a valid, unrestricted license in any jurisdiction in the United States that licenses persons to practice nursing as a registered nurse, licensed practical nurse, or advanced practice registered nurse.

(b) The applicant has practiced nursing as a registered nurse, licensed practical nurse, or advanced practice registered nurse under a valid, unrestricted license for at least ten years prior to retirement in one or more branches of the United States armed services.

(D) For an applicant retired from practice for at least ten years, the applicant shall do both of the following:

(1) Certify to the board completion of continuing nursing education that meets the requirements of section 4723.24 of the Revised Code and the rules adopted under that section;

(2) Submit a request to the bureau of criminal identification and investigation for a criminal records check and check of federal bureau of investigation records pursuant to section 4723.091 of the Revised Code.

(E) Chapter 4796. of the Revised Code does not apply to a certificate issued under this section.

(F) The holder of a volunteer's certificate may provide

nursing services only to indigent and uninsured persons, but may do so at any location, including a free clinic. The holder shall not accept any form of remuneration for providing nursing services while in possession of the certificate. The board may suspend or revoke a volunteer's certificate on receiving proof satisfactory to the board that the holder has engaged in practice in this state outside the scope of the holder's certificate or that there are grounds for action against the person under section 4723.28 of the Revised Code. In revoking a certificate, the board may specify that the revocation is permanent.

(G)(1) A volunteer's certificate shall be valid for a period of two years, and may be renewed upon the application of the holder, unless the certificate is suspended or revoked under division (F) of this section. The board shall maintain a record of all persons who hold volunteer's certificates. The board shall not charge a fee for issuing or renewing a certificate pursuant to this section.

(2) To be eligible for renewal of a volunteer's certificate, the holder of the certificate shall certify to the board completion of continuing nursing education that meets the requirements of section 4723.24 of the Revised Code and the rules adopted under that section. The board may not renew a certificate if the holder has not complied with the appropriate continuing education requirements. Any entity for which the holder provides nursing services may pay for or reimburse the holder for any costs incurred in obtaining the required continuing education hours.

(3) The holder of a volunteer's certificate issued pursuant to this section is subject to the immunity provisions

regarding the provision of services to indigent and uninsured persons in section 2305.234 of the Revised Code.

~~(H) The board shall adopt rules in accordance with Chapter 119. of the Revised Code to administer and enforce this section.~~

Sec. 4723.351. (A) To be qualified to contract with the board of nursing to conduct the safe haven program, an organization must meet all of the following requirements:

(1) Operate in this state as a professionals health program;

(2) Be organized as a not-for-profit entity and exempt from federal income taxation under subsection 501(c)(3) of the Internal Revenue Code;

(3) Contract with or employ to serve as the organization's medical director an individual who is authorized under Chapter 4731. of the Revised Code to practice medicine and surgery or osteopathic medicine and surgery and specializes or has training and expertise in addiction medicine or psychiatry;

(4) Contract with or employ one or more licensed health care professionals as necessary for the organization's operation.

(B) The monitoring organization shall do all of the following pursuant to the contract:

(1) Conduct a review of individuals and entities providing impairment evaluation and treatment services to determine which should be approved to serve as the program's evaluators and treatment providers;

(2) Grant or deny approval to evaluators and treatment providers and periodically review and update the program's list

of approved evaluators and providers, including by examining their outcomes and operations;

(3) Receive any report of applicant or practitioner impairment or suspected impairment from any source, including board referrals described in section 4723.35 of the Revised Code;

(4) Notify an applicant or practitioner who is the subject of a referral or report received under this section that the referral or report has been made and that the applicant or practitioner may be eligible to participate in the program conducted under this section;

(5) Determine whether an applicant or practitioner referred or reported to the monitoring organization is eligible to participate in the program, which may include evaluating records as described in division (D)(1)(c) of this section, and notify the practitioner or applicant of the determination;

(6) In the case of an applicant or practitioner reported by a treatment provider, notify the treatment provider of the eligibility determination;

(7) Report to the board any practitioner or applicant who is determined ineligible to participate in the program;

(8) Refer an eligible applicant or practitioner who chooses to participate in the program for evaluation by a treatment provider approved by the monitoring organization, unless the report received by the monitoring organization was made by an approved treatment provider and the applicant or practitioner has already been evaluated by the treatment provider;

(9) Monitor the evaluation of an eligible applicant or

practitioner;

(10) Refer an eligible applicant or practitioner who chooses to participate in the program to a treatment provider approved by the monitoring organization;

(11) Establish, in consultation with the treatment provider to which an applicant or practitioner is referred, the terms and conditions with which the applicant or practitioner must comply for continued participation in and successful completion of the program;

(12) Report to the board any applicant or practitioner who does not complete evaluation or treatment or does not comply with any of the terms and conditions established by the monitoring organization and the treatment provider;

(13) Perform any other activities specified in the contract with the board or that the monitoring organization considers necessary to comply with this section and section 4723.35 of the Revised Code.

(C) The monitoring organization shall not disclose to the board the name of an applicant or practitioner or any records relating to an applicant or practitioner, unless any of the following occurs:

(1) The applicant or practitioner is determined to be ineligible to participate in the program.

(2) The applicant or practitioner requests the disclosure.

(3) The applicant or practitioner is unwilling or unable to complete or comply with any part of the program, including evaluation, treatment, or monitoring.

(4) The applicant or practitioner presents an imminent

danger to the public or to the applicant or practitioner, as a result of the applicant's or practitioner's impairment.

(5) The applicant's or practitioner's impairment has not been substantially alleviated by participation in the program.

(D)(1) The monitoring organization shall develop procedures governing each of the following:

(a) Receiving referrals or reports of applicant or practitioner impairment or potential impairment;

(b) Notifying applicants or practitioners of referrals, reports, and eligibility determinations;

(c) Evaluating records of referred applicants and practitioners, in particular records from other jurisdictions regarding prior treatment for impairment or continued monitoring;

(d) Referring eligible applicants and practitioners for evaluation or treatment;

(e) Establishing individualized treatment plans for eligible applicants and practitioners, as recommended by treatment providers;

(f) Establishing individualized terms and conditions with which eligible applicants or practitioners must comply for continued participation in and successful completion of the program;

(g) Establishing criteria for the approval and periodic review of evaluators and treatment providers, including examinations of evaluator and provider outcomes and operations.

(2) The monitoring organization, in consultation with the

board, shall develop procedures governing each of the following:

(a) Providing reports to the board on a periodic basis on the total number of applicants and practitioners participating in the program, without disclosing the names or records of any program participants other than those about whom reports are required by this section;

(b) Reporting to the board any applicant or practitioner who due to impairment presents an imminent danger to the public or to the applicant or practitioner;

(c) Reporting to the board any applicant or practitioner who is unwilling or unable to complete or comply with any part of the program, including evaluation, treatment, or monitoring;

(d) Reporting to the board any applicant or practitioner whose impairment was not substantially alleviated by participation in the program.

(E) The board may adopt ~~any rules it considers necessary to implement this section and section 4723.35 of the Revised Code, including~~ rules regarding the monitoring organization and treatment providers that provide treatment to practitioners referred by the monitoring organization. Any such rules shall be adopted in accordance with Chapter 119. of the Revised Code.

Sec. 4723.50. (A) As used in this section:

(1) "Controlled substance" has the same meaning as in section 3719.01 of the Revised Code.

(2) "Medication-assisted treatment" has the same meaning as in section 340.01 of the Revised Code.

(B) In accordance with Chapter 119. of the Revised Code, the board of nursing shall adopt rules ~~as necessary to implement~~

~~the provisions of this chapter pertaining to the authority of advanced practice registered nurses who are designated as clinical nurse specialists, certified nurse-midwives, and certified nurse practitioners to prescribe and furnish drugs and therapeutic devices.~~

~~The board shall adopt rules~~ establishing an exclusionary formulary that lists the drugs and therapeutic devices a clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner is prohibited from prescribing or personally furnishing. ~~The~~

The exclusionary formulary shall permit, in a manner consistent with section 4723.481 of the Revised Code, the prescribing of controlled substances, including drugs that contain buprenorphine used in medication-assisted treatment and both oral and long-acting opioid antagonists. ~~The~~

The formulary shall not permit ~~the prescribing or furnishing of~~ such a nurse to prescribe or furnish any of the following:

(1) A drug or device to perform or induce an abortion;

(2) A drug or device prohibited by federal or state law.

(C) In addition to the rules described in division (B) of this section, the board shall adopt rules under this section that do the following:

(1) Establish standards for board approval of the course of study in advanced pharmacology and related topics required by section 4723.482 of the Revised Code;

(2) Establish requirements for board approval of the two-hour course of instruction in the laws of this state as required

under division (C)(1) of section 4723.482 of the Revised Code;

(3) Establish criteria for the components of the standard care arrangements described in section 4723.431 of the Revised Code that apply to the authority of a clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner to prescribe, including the components that apply to the authority to prescribe schedule II controlled substances. The rules shall be consistent with that section and include all of the following:

(a) Quality assurance standards;

(b) Standards for periodic review by a collaborating physician or podiatrist of the records of patients treated by the clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner;

(c) Acceptable travel time between the location at which the clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner is engaging in the prescribing components of the nurse's practice and the location of the nurse's collaborating physician or podiatrist.

Sec. 4723.69. ~~(A) The board of nursing may adopt rules to implement sections 4723.63 to 4723.68 of the Revised Code. All rules adopted under this section shall be adopted in~~ In accordance with Chapter 119. of the Revised Code~~.~~

~~(B) If the board adopts~~, the board of nursing may adopt rules under this section establishing standards governing approval of and participation in medication aide training programs~~,~~. In adopting those rules, both of the following apply:

~~(1)~~(A) With respect to supervised clinical practice components of training programs, when such training is provided

in a nursing home or residential care facility and the home or facility has been notified by the department of health of real and present danger related to its administration of medications or provision of skilled nursing care, the board shall prohibit the home or facility from commencing any further supervised clinical practice components until either of the following occurs:

~~(a)~~ (1) A plan of correction is approved.

~~(b)~~ (2) The home or facility resolves the danger.

The board shall allow a training program to continue any supervised clinical practice components that commenced prior to the department of health notifying the home or facility.

~~(2)~~ (B) If the rules establish a minimum or maximum number of days for participating in or completing a training program, the board shall base that number on calendar days rather than business days.

Sec. 4723.79. The board of nursing shall adopt rules ~~to administer and enforce sections 4723.71 to 4723.79 of the Revised Code. The board shall adopt the rules~~ in accordance with Chapter 119. of the Revised Code~~. The rules shall~~ to establish or specify all of the following:

(A) The application process, fee, and requirements for approval, reapproval, and withdrawing the approval of a dialysis training program under section 4723.74 of the Revised Code. The requirements shall include standards that must be satisfied regarding curriculum, length of training, and instructions in patient care.

(B) The application process, fee, and requirements for issuance of a dialysis technician certificate under section

4723.75 of the Revised Code, except that the amount of the fee shall be no greater than the fee charged under division (A)(1) of section 4723.08 of the Revised Code;

(C) The process for approval of testing organizations under section 4723.751 of the Revised Code;

(D) Subjects to be included in a certification examination pursuant to section 4723.751 of the Revised Code;

(E) The schedule, fees, and continuing education requirements for renewal of a dialysis technician certificate under section 4723.77 of the Revised Code, except that the amount of the fee for renewal shall be no greater than the fee charged under division (A)(9) of section 4723.08 of the Revised Code;

(F) Standards for approval of continuing education programs and courses for dialysis technicians;

(G) Standards for the administration of medication by dialysis technicians and dialysis technician interns under section 4723.72 of the Revised Code;

(H) Standards and procedures for the supervision of dialysis technicians who provide dialysis care in a patient's home, including monthly home visits by a registered nurse to monitor the quality of the dialysis care~~;~~

~~(I) Any other procedures or requirements necessary for the administration and enforcement of sections 4723.71 to 4723.79 of the Revised Code~~.

Sec. 4723.88. The board of nursing, in accordance with Chapter 119. of the Revised Code, shall adopt rules to ~~administer and enforce sections 4723.81 to 4723.87 of the~~

~~Revised Code. The rules shall~~ establish all of the following:

(A) Standards and procedures for issuance of community health worker certificates;

(B) Standards for evaluating the competency of an individual who applies to receive a certificate on the basis of having been employed in a capacity substantially the same as a community health worker before the board implemented the certification program;

(C) Standards and procedures for renewal of community health worker certificates, including the continuing education requirements that must be met for renewal;

(D) Standards governing the performance of activities related to nursing care that are delegated by a registered nurse to certified community health workers. In establishing the standards, the board shall specify limits on the number of certified community health workers a registered nurse may supervise at any one time.

(E) Standards and procedures for assessing the quality of the services that are provided by certified community health workers;

(F) Standards and procedures for denying, suspending, and revoking a community health worker certificate, including reasons for imposing the sanctions that are substantially similar to the reasons that sanctions are imposed under section 4723.28 of the Revised Code;

(G) Standards and procedures for approving and renewing the board's approval of training programs that prepare individuals to become certified community health workers. In establishing the standards, the board shall specify the minimum

components that must be included in a training program, shall require that all approved training programs offer the standardized curriculum, and shall ensure that the curriculum enables individuals to use the training as a basis for entering programs leading to other careers, including nursing education programs.

(H) Standards for approval of continuing education programs and courses for certified community health workers;

(I) Standards and procedures for withdrawing the board's approval of a training program, refusing to renew the approval of a training program, and placing a training program on provisional approval;

(J) Amounts for each fee that may be imposed under division (A)(17) of section 4723.08 of the Revised Code~~;~~

~~(K) Any other standards or procedures the board considers necessary and appropriate for the administration and enforcement of sections 4723.81 to 4723.87 of the Revised Code~~.

Sec. 4723.89. (A) As used in this section and section 4723.90 of the Revised Code:

(1) "Doula" means a trained, nonmedical professional who advocates for, and provides continuous physical, emotional, and informational support to, a pregnant woman through the delivery of a child and immediately after the delivery, including during any of the following periods:

(a) The antepartum period;

(b) The intrapartum period;

(c) The postpartum period.

(2) "Doula certification organization" means an organization that is recognized, at an international, national, state, or local level, for training and certifying doulas.

(B) A person shall not use or assume the title "state of Ohio certified doula" unless the person holds a certificate issued under this section by the board of nursing.

(C) The board of nursing shall seek and consider the opinion of the doula advisory group established in section 4723.90 of the Revised Code when an individual is seeking to be eligible for medicaid reimbursement as a state of Ohio certified doula.

(D) The board shall adopt rules in accordance with Chapter 119. of the Revised Code establishing standards and procedures for issuing certificates to doulas under this section. The rules shall include all of the following:

(1) Requirements for certification as a state of Ohio certified doula, including both of the following:

(a) A requirement that a doula either be certified by a doula certification organization or, if not certified, have education and experience considered by the board to be appropriate, as specified in the rules;

(b) A requirement that the results of a criminal records check conducted in accordance with section 4723.091 of the Revised Code demonstrate that the applicant is not ineligible for certification in accordance with section 4723.092 of the Revised Code.

(2) Requirements for renewal of a certificate and continuing education;

(3) Requirements for training on racial bias, health disparities, and cultural competency as a condition of initial certification and certificate renewal;

(4) Certificate application and renewal fees, as well as a waiver of those fees for applicants with a family income not exceeding three hundred per cent of the federal poverty line;

(5) Requirements and standards of practice for state of Ohio certified doulas;

(6) The amount of a fine to be imposed under division (F) of this section~~;~~

~~(7) Any other standards or procedures the board considers necessary to implement this section~~.

(E) The board of nursing shall develop and regularly update a registry of doulas who hold certificates issued under this section. The registry shall be made available to the public on a web site maintained by the board.

(F) In an adjudication under Chapter 119. of the Revised Code, the board of nursing may impose a fine against any person who violates division (B) of this section. On request of the board, the attorney general shall bring and prosecute to judgment a civil action to collect any fine imposed under this division that remains unpaid.

Sec. 4725.09. (A) ~~The state vision professionals board shall adopt rules as it considers necessary to govern the practice of optometry and to administer and enforce sections 4725.01 to 4725.34 of the Revised Code.~~ All rules adopted under ~~those sections~~ this section shall be adopted in accordance with Chapter 119. of the Revised Code.

(B) The state vision professionals board, in consultation with the state board of pharmacy, shall adopt rules specifying any oral drugs or dangerous drugs that are therapeutic pharmaceutical agents under division (C)(3) of section 4725.01 of the Revised Code.

(C) The board shall adopt rules that establish standards to be met and procedures to be followed with respect to the delegation by an optometrist of the performance of an optometric task to a person who is not licensed or otherwise specifically authorized by the Revised Code to perform the task. The rules shall permit an optometrist to delegate the administration of drugs included in the optometrist's scope of practice.

The rules adopted under this division shall provide for all of the following:

(1) On-site supervision when the delegation occurs in an institution or other facility that is used primarily for the purpose of providing health care, unless the board established a specific exception to the on-site supervision requirement with respect to routine administration of a topical drug;

(2) Evaluation of whether delegation is appropriate according to the acuity of the patient involved;

(3) Training and competency requirements that must be met by the person administering the drugs~~;~~

~~(4) Other standards and procedures the board considers relevant~~.

(D) The board shall adopt rules establishing criminal records checks requirements for applicants under section 4776.03 of the Revised Code.

Sec. 4725.16. (A)(1) Each certificate of licensure for the practice of optometry issued by the state vision professionals board shall expire on the last day of December of each even-numbered year, and may be renewed in accordance with this section and the standard renewal procedure established under Chapter 4745. of the Revised Code.

(2) An optometrist seeking to continue to practice optometry shall file with the board an application for license renewal. The application shall be in such form and require such pertinent professional biographical data as the board may require.

(3)(a) Except as provided in division (A)(3)(b) of this section, in the case of an optometrist seeking renewal who prescribes or personally furnishes analgesic controlled substances authorized pursuant to section 4725.091 of the Revised Code that are opioid analgesics, as defined in section 3719.01 of the Revised Code, the optometrist shall certify to the board whether the optometrist has been granted access to the drug database established and maintained by the state board of pharmacy pursuant to section 4729.75 of the Revised Code.

(b) The requirement in division (A)(3)(a) of this section does not apply if any of the following is the case:

(i) The state board of pharmacy notifies the state vision professionals board pursuant to section 4729.861 of the Revised Code that the license holder has been restricted from obtaining further information from the drug database.

(ii) The state board of pharmacy no longer maintains the drug database.

(iii) The license holder does not practice optometry in

this state.

(c) If an optometrist certifies to the state vision professionals board that the optometrist has been granted access to the drug database and the board finds through an audit or other means that the optometrist has not been granted access, the board may take action under section 4725.19 of the Revised Code.

(B) All licensed optometrists shall complete continuing education in subjects relating to the practice of optometry, to the end that the utilization and application of new techniques, scientific and clinical advances, and the achievements of research will assure comprehensive care to the public. The board shall ~~prescribe by rule~~ adopt rules in accordance with Chapter 119. of the Revised Code prescribing the continuing optometric education that licensed optometrists must complete. The length of study shall be fifty clock hours each biennial licensing period, including twenty clock hours of instruction in pharmacology to be completed by all licensed optometrists.

Unless the continuing education required under this division is waived or deferred under division (D) of this section, the continuing education must be completed during the biennial licensing period beginning on the first day of January of each odd-numbered year and ending on the last day of December of each even-numbered year. If the board receives notice from a continuing education program indicating that an optometrist completed the program after the last day of December of an even-numbered year, and the optometrist wants to use the continuing education completed after that day to renew the license, the optometrist shall pay the penalty specified under section 4725.34 of the Revised Code for late completion of continuing

education.

At least once annually, the board shall post on its web site and shall mail, or send by electronic mail, to each licensed optometrist a list of courses approved in accordance with standards prescribed by board rule adopted under this section. Upon the request of a licensed optometrist, the executive director of the board shall supply a list of additional courses that the board has approved subsequent to the most recent web site posting, electronic mail transmission, or mailing of the list of approved courses.

(C)(1) Not later than the first day of November of each even-numbered year, the board shall mail or send by electronic mail a notice regarding license renewal to each licensed optometrist who may be eligible for renewal. The notice shall be sent to the optometrist's most recent electronic mail or mailing address shown in the board's records. If the board knows that the optometrist has completed the required continuing optometric education for the biennium, the board may include with the notice an application for license renewal.

(2) Filing a license renewal application with the board shall serve as notice by the optometrist that the continuing optometric education requirement has been successfully completed. If the board finds that an optometrist has not completed the required continuing optometric education, the board shall disapprove the optometrist's application. The board's disapproval of renewal is effective without a hearing, unless a hearing is requested pursuant to Chapter 119. of the Revised Code.

(3) The board shall refuse to accept an application for renewal from any applicant whose license is not in good standing

or who is under disciplinary review pursuant to section 4725.19 of the Revised Code.

(4) Notice of an applicant's failure to qualify for renewal shall be served upon the applicant by mail to the applicant's last address shown in the board's records.

(D) In cases of certified illness or undue hardship, the board may waive or defer for up to twelve months the requirement of continuing optometric education, except that in such cases the board may not waive or defer the continuing education in pharmacology required to be completed by optometrists. The board shall waive the requirement of continuing optometric education for any optometrist who is serving on active duty in the armed forces of the United States or a reserve component of the armed forces of the United States, including the Ohio national guard or the national guard of any other state or who has received an initial certificate of licensure during the nine-month period which ended on the last day of December of an even-numbered year.

(E) An optometrist whose renewal application has been approved may renew the license held by paying to the treasurer of state the fee for renewal specified under section 4725.34 of the Revised Code. On payment of all applicable fees, the board shall issue a renewal of the optometrist's certificate of licensure.

(F) Not later than the fifteenth day of January of each odd-numbered year, the board shall mail or send by electronic mail a second notice regarding license renewal to each licensed optometrist who may be eligible for renewal but did not respond to the notice sent under division (C)(1) of this section. The notice shall be sent to the optometrist's most recent electronic

mail or mailing address shown in the board's records. If an optometrist fails to file a renewal application after the second notice is sent, the board shall send a third notice regarding license renewal prior to any action under division (I) of this section to classify the optometrist's license as expired.

(G) The failure of an optometrist to apply for license renewal or the failure to pay the applicable renewal fee on or before the date of expiration, shall automatically work a forfeiture of the optometrist's authority to practice optometry in this state.

(H) The board shall accept renewal applications and renewal fees that are submitted from the first day of January to the last day of January of the odd-numbered year next succeeding the date of expiration. An individual who submits such a late renewal application or fee shall pay the late renewal fee specified in section 4725.34 of the Revised Code.

(I)(1) If the date of expiration of a certificate of licensure issued by the board to an individual has passed and the individual has not filed a complete application during the late renewal period, the individual's certificate of licensure shall be classified in the board's records as expired.

(2) Any optometrist whose certificate of licensure has been classified as expired may submit an application to the board for reinstatement. For reinstatement to occur, the applicant must meet all of the following conditions:

(a) Submit to the board evidence of compliance with board rules requiring continuing optometric education in a sufficient number of hours to make up for any delinquent compliance;

(b) Pay the renewal fees for the biennium in which

application for reinstatement is made;

(c) Pass all or part of the licensing examination accepted by the board under section 4725.11 of the Revised Code as the board considers appropriate to determine whether the application for reinstatement should be approved;

(d) If the applicant has been practicing optometry in another state or country, submit evidence that the applicant's license to practice optometry in the other state or country is in good standing.

(3) The board shall approve an application for reinstatement if the conditions specified in division (I)(2) of this section are met. An optometrist who receives reinstatement is subject to the continuing education requirements specified under division (B) of this section for the year in which reinstatement occurs.

Sec. 4725.19. (A) In accordance with Chapter 119. of the Revised Code and by an affirmative vote of a majority of its members, the state vision professionals board, for any of the reasons specified in division (B) of this section, shall refuse to grant a certificate of licensure to practice optometry to an applicant and may, with respect to a licensed optometrist, do one or more of the following:

(1) Suspend the operation of any certificate of licensure granted by it to the optometrist;

(2) Permanently revoke the certificate of licensure;

(3) Limit or otherwise place restrictions on the certificate of licensure;

(4) Reprimand the optometrist;

(5) Impose a monetary penalty. If the reason for which the board is imposing the penalty involves a criminal offense that carries a fine under the Revised Code, the penalty shall not exceed the maximum fine that may be imposed for the criminal offense. In any other case, the penalty imposed by the board shall not exceed five hundred dollars.

(6) Require the optometrist to take corrective action courses.

The board shall adopt rules, in accordance with Chapter 119. of the Revised Code, establishing the amount and content of corrective action courses ~~shall be established by the board in rules adopted under section 4725.09 of the Revised Code~~.

(B) Except as provided in division (E) of this section, the sanctions specified in division (A) of this section may be taken by the board for any of the following reasons:

(1) Committing fraud in passing the licensing examination or making false or purposely misleading statements in an application for a certificate of licensure;

(2) Being at any time guilty of immorality, regardless of the jurisdiction in which the act was committed;

(3) Being guilty of dishonesty or unprofessional conduct in the practice of optometry;

(4) Being at any time guilty of a felony, regardless of the jurisdiction in which the act was committed;

(5) Being at any time guilty of a misdemeanor committed in the course of practice, regardless of the jurisdiction in which the act was committed;

(6) Violating the conditions of any limitation or other

restriction placed by the board on a certificate of licensure issued by the board;

(7) Engaging in the practice of optometry as provided in section 4725.01 of the Revised Code when the certificate of licensure authorizing that practice is under suspension, in which case the board shall permanently revoke the certificate of licensure;

(8) Being denied a license to practice optometry in another state or country or being subject to any other sanction by the optometric licensing authority of another state or country, other than sanctions imposed for the nonpayment of fees;

(9) Departing from or failing to conform to acceptable and prevailing standards of care in the practice of optometry as followed by similar practitioners under the same or similar circumstances, regardless of whether actual injury to a patient is established;

(10) Failing to maintain comprehensive patient records;

(11) Advertising a price of optical accessories, eye examinations, or other products or services by any means that would deceive or mislead the public;

(12) Being addicted to the use of alcohol, stimulants, narcotics, or any other substance which impairs the intellect and judgment to such an extent as to hinder or diminish the performance of the duties included in the person's practice of optometry;

(13) Engaging in the practice of optometry as provided in section 4725.01 of the Revised Code without authority to do so or, if authorized, in a manner inconsistent with the authority

granted;

(14) Failing to make a report to the board as required by division (A) of section 4725.21 or section 4725.31 of the Revised Code;

(15) Soliciting patients from door to door or establishing temporary offices, in which case the board shall suspend the certificate of licensure held by the optometrist;

(16) Except as provided in division (D) of this section:

(a) Waiving the payment of all or any part of a deductible or copayment that a patient, pursuant to a health insurance or health care policy, contract, or plan that covers optometric services, would otherwise be required to pay if the waiver is used as an enticement to a patient or group of patients to receive health care services from that optometrist.

(b) Advertising that the optometrist will waive the payment of all or any part of a deductible or copayment that a patient, pursuant to a health insurance or health care policy, contract, or plan that covers optometric services, would otherwise be required to pay.

(17) Failing to comply with the requirements in section 3719.061 of the Revised Code before issuing for a minor a prescription for an analgesic controlled substance authorized pursuant to section 4725.091 of the Revised Code that is an opioid analgesic, as defined in section 3719.01 of the Revised Code;

(18) Violating the rules adopted under section 4725.66 of the Revised Code;

(19) A pattern of continuous or repeated violations of

division (E)(2) or (3) of section 3963.02 of the Revised Code.

(C) Any person who is the holder of a certificate of licensure, or who is an applicant for a certificate of licensure against whom is preferred any charges, shall be furnished by the board with a copy of the complaint and shall have a hearing before the board in accordance with Chapter 119. of the Revised Code.

(D) Sanctions shall not be imposed under division (B)(16) of this section against any optometrist who waives deductibles and copayments:

(1) In compliance with the health benefit plan that expressly allows such a practice. Waiver of the deductibles or copayments shall be made only with the full knowledge and consent of the plan purchaser, payer, and third-party administrator. Documentation of the consent shall be made available to the board upon request.

(2) For professional services rendered to any other optometrist licensed by the board, to the extent allowed by sections 4725.01 to 4725.34 of the Revised Code~~ and the rules of the board~~.

(E) The board shall not refuse to grant a certificate of licensure to practice optometry to an applicant because of a conviction of or plea of guilty to an offense unless the refusal is in accordance with section 9.79 of the Revised Code.

(F) If a violation described in this section has caused, is causing, or is about to cause substantial and material harm, the board may issue an order requiring that person to cease and desist from engaging in the violation. Notice of the order shall be mailed by certified mail, return receipt requested,

immediately after its issuance to the person subject to the order and to all persons known to be involved in the violation. The board may thereafter publicize or otherwise make known to all interested parties that the order has been issued.

The notice shall specify the particular act, omission, practice, or transaction that is subject to the cease-and-desist order and shall set a date, not more than fifteen days after the date of the order, for a hearing on the continuation or revocation of the order. The person shall comply with the order immediately upon receipt of notice of the order.

The board may, on the application of a party and for good cause shown, continue the hearing. Chapter 119. of the Revised Code applies to the hearing to the extent that that chapter does not conflict with the procedures set forth in this section. The board shall, within fifteen days after objections are submitted to the hearing officer's report and recommendation, issue a final order either confirming or revoking the cease-and-desist order. The final order may be appealed as provided under section 119.12 of the Revised Code.

The remedy under this division is cumulative and concurrent with the other remedies available under this section.

Sec. 4725.33. (A) An individual whom the state vision professionals board licenses to engage in the practice of optometry may render the professional services of an optometrist within this state through a corporation formed under division (B) of section 1701.03 of the Revised Code, a limited liability company formed under former Chapter 1705. of the Revised Code as that chapter existed prior to February 11, 2022, or Chapter 1706. of the Revised Code, a partnership, or a professional association formed under Chapter 1785. of the Revised Code. This

division does not preclude an optometrist from rendering professional services as an optometrist through another form of business entity, including, but not limited to, a nonprofit corporation or foundation, or in another manner that is authorized by or in accordance with this chapter~~,~~ or another chapter of the Revised Code~~, or rules of the state vision professionals board adopted pursuant to this chapter~~.

(B) A corporation, limited liability company, partnership, or professional association described in division (A) of this section may be formed for the purpose of providing a combination of the professional services of the following individuals who are licensed, certificated, or otherwise legally authorized to practice their respective professions:

(1) Optometrists who are authorized to practice optometry under Chapter 4725. of the Revised Code;

(2) Chiropractors who are authorized to practice chiropractic or acupuncture under Chapter 4734. of the Revised Code;

(3) Psychologists who are authorized to practice psychology under Chapter 4732. of the Revised Code;

(4) Registered or licensed practical nurses who are authorized to practice nursing as registered nurses or as licensed practical nurses under Chapter 4723. of the Revised Code;

(5) Pharmacists who are authorized to practice pharmacy under Chapter 4729. of the Revised Code;

(6) Physical therapists who are authorized to practice physical therapy under sections 4755.40 to 4755.56 of the Revised Code;

(7) Occupational therapists who are authorized to practice occupational therapy under sections 4755.04 to 4755.13 of the Revised Code;

(8) Mechanotherapists who are authorized to practice mechanotherapy under section 4731.151 of the Revised Code;

(9) Doctors of medicine and surgery, osteopathic medicine and surgery, or podiatric medicine and surgery who are authorized for their respective practices under Chapter 4731. of the Revised Code;

(10) Licensed professional clinical counselors, licensed professional counselors, independent social workers, social workers, independent marriage and family therapists, marriage and family therapists, art therapists, or music therapists who are authorized for their respective practices under Chapter 4757. of the Revised Code.

This division shall apply notwithstanding a provision of a code of ethics applicable to an optometrist that prohibits an optometrist from engaging in the practice of optometry in combination with a person who is licensed, certificated, or otherwise legally authorized to practice chiropractic, acupuncture through the state chiropractic board, psychology, nursing, pharmacy, physical therapy, occupational therapy, mechanotherapy, medicine and surgery, osteopathic medicine and surgery, podiatric medicine and surgery, professional counseling, social work, marriage and family therapy, art therapy, or music therapy, but who is not also licensed, certificated, or otherwise legally authorized to engage in the practice of optometry.

Sec. 4725.44. (A) The state vision professionals board

shall be responsible for the administration of sections 4725.40 to 4725.59 of the Revised Code and, in particular, shall process applications for licensure as licensed dispensing opticians; schedule, administer, and supervise the qualifying examinations for licensure or contract with a testing service to schedule, administer, and supervise the qualifying examination for licensure; issue licenses to qualified individuals; and revoke and suspend licenses.

(B) The board shall adopt, amend, or rescind rules, pursuant to Chapter 119. of the Revised Code, ~~for the licensure of dispensing opticians, and such other rules as are required by or necessary to carry out the responsibilities imposed by sections 4725.40 to 4725.59 of the Revised Code, including rules establishing~~ that establish criminal records check requirements under section 4776.03 of the Revised Code and ~~rules establishing~~ disqualifying offenses for licensure as a dispensing optician or certification as an apprentice dispensing optician pursuant to sections 9.79, 4725.48, 4725.52, 4725.53, and 4776.10 of the Revised Code.

(C) The board shall have no authority to adopt rules governing the employment of dispensing opticians, the location or number of optical stores, advertising of optical products or services, or the manner in which optical products can be displayed.

Sec. 4725.51. (A)(1) Each license issued under sections 4725.40 to 4725.59 of the Revised Code shall expire on the last day of December of each odd-numbered year. Each person holding a valid, current license may apply to the state vision professionals board for the extension of the license under the standard renewal procedures of Chapter 4745. of the Revised

Code. Each application for renewal shall be accompanied by a renewal fee of one hundred ninety-five dollars. In addition, except as provided in division (A)(2) of this section, the application shall contain evidence that the applicant has completed continuing education within each biennial licensing period as follows:

(a) Licensed spectacle dispensing opticians shall have completed a length of study of twelve clock hours, approved by the board.

(b) Licensed spectacle-contact lens dispensing opticians shall have completed a length of study of twenty-four clock hours, approved by the board.

(2) An application for the initial renewal of a license issued under sections 4725.40 to 4725.55 of the Revised Code is not required to contain evidence that the applicant has completed the continuing education requirements of division (A)(1) of this section.

(B) No person who fails to renew the person's license under division (A) of this section shall be required to take a qualifying examination under section 4725.48 of the Revised Code as a condition of renewal, provided that the application for renewal and proof of the requisite continuing education hours are submitted within thirty days from the date the license expired and the applicant pays the renewal fee and a penalty of seventy-five dollars. The board may ~~provide, by rule,~~adopt rules in accordance with Chapter 119. of the Revised Code providing for an extension of the grace period for licensed dispensing opticians who are serving in the armed forces of the United States or a reserve component of the armed forces of the United States, including the Ohio national guard or the national guard

of any other state and for waiver of the continuing education requirements or the penalty in cases of hardship or illness.

(C) The board shall approve continuing education programs and shall adopt rules ~~as necessary~~ in accordance with Chapter 119. of the Revised Code establishing standards and procedures for approving the programs. The rules shall permit programs to be conducted either in person or through electronic or other self-study means. Approved programs shall be scheduled, sponsored, and conducted in accordance with the board's rules.

(D) Any license given a grandfathered issuance or renewal between March 22, 1979, and March 22, 1980, shall be renewed in accordance with this section.

Sec. 4727.13. (A) The superintendent of financial institutions shall ~~adopt rules in accordance with Chapter 119. of the Revised Code for the administration and enforcement of this chapter.~~

~~(B) The superintendent shall~~ enforce this chapter, make all reasonable effort to discover alleged violators, notify the proper prosecuting officer whenever the superintendent has reasonable grounds to believe that a violation has occurred, act as complainant in the prosecution thereof, and aid such officers to the best of the superintendent's ability in such prosecutions. The superintendent shall employ such deputies as may be necessary to make the investigations and inspections, and otherwise perform the duties imposed by such sections.

~~(C)~~ (B) The superintendent may issue a cease and desist order against any person the superintendent reasonably suspects has violated, is currently violating, or is about to violate this chapter. The superintendent may apply to a court of common

pleas for an order compelling a person to comply with any cease and desist order or any subpoena issued by the superintendent.

~~(D)~~ (C) The superintendent may obtain from the court of common pleas any form of injunctive relief against any person that has violated, is currently violating, or is about to violate this chapter.

~~(E)~~ (D) To enforce this chapter, the superintendent may issue a subpoena to any person to compel the production of any item, record, or writing, including an electronic writing, and may issue a subpoena to any person to compel the appearance and rendering of testimony.

~~(F)~~ (E) The superintendent may examine and investigate the business, including the business location and any books, records, writings, including electronic writings, safes, files, or storage areas located in or utilized by the business location, of any person the superintendent reasonably suspects to be advertising, transacting, or soliciting business as a pawnbroker. The superintendent may request the attendance and assistance of the appropriate chief of police of a municipal corporation or township, the county sheriff, or the state highway patrol during the examination and investigation of the business.

Sec. 4729.10. The state board of pharmacy may adopt rules ~~under section 4729.26 of the Revised Code~~ requiring a licensee or registrant under this chapter to report to the board a violation of state or federal law, including any rule adopted under this chapter.

In the absence of fraud or bad faith, a person who reports under this section or testifies in any adjudication conducted

under Chapter 119. of the Revised Code is not liable to any person for damages in a civil action as a result of the report or testimony.

Sec. 4729.12. A license issued by the state board of pharmacy under section 4729.08 or 4729.11 of the Revised Code entitles the individual to whom it is issued to practice as a pharmacist or as a pharmacy intern in this state until the next renewal date.

Licenses shall be renewed according to the standard renewal procedure of Chapter 4745. of the Revised Code and rules adopted by the board under this section ~~4729.26 of the Revised Code. Licenses are valid for the period specified in the rules, unless earlier revoked or suspended by the board~~. The board shall adopt rules specifying the period for which a license remains valid, which shall not exceed twenty-four months, unless the board extends the period in the rules to adjust license renewal schedules. The rules also shall specify that a license is valid for that time period, unless earlier revoked or suspended by the board. All rules adopted under this section shall be adopted in accordance with Chapter 119. of the Revised Code.

A pharmacist or pharmacy intern who desires to continue in the practice of pharmacy shall file with the board an application in such form and containing such data as the board may require for renewal of a license. In the case of a pharmacist who dispenses or plans to dispense controlled substances in this state, the pharmacist shall certify, as part of the application, that the pharmacist has been granted access to the drug database established and maintained by the board pursuant to section 4729.75 of the Revised Code, unless the

board has restricted the pharmacist from obtaining further information from the database or the board no longer maintains the database. If the pharmacist certifies to the board that the applicant has been granted access to the drug database and the board finds through an audit or other means that the pharmacist has not been granted access, the board may take action under section 4729.16 of the Revised Code.

An application filed under this section for renewal of a license may not be withdrawn without the approval of the board.

The board shall renew an applicant's license if the board finds all of the following:

(A) The applicant's license has not been revoked or placed under suspension.

(B) The applicant has paid the renewal fee.

(C) If the applicant is a pharmacist, the applicant has completed thirty hours of continued pharmacy education in the previous two years in accordance with any rules of the board.

(D) The applicant is entitled to continue in the practice of pharmacy.

When a license has expired but an application is made within three years after the expiration of the license, the applicant's license shall be renewed without further examination if the applicant meets the requirements of this section and pays the fee designated under division (A)(5) of section 4729.15 of the Revised Code.

A pharmacist or pharmacy intern who fails to renew the pharmacist's or intern's license by the renewal date prescribed by the board shall not engage in the practice of pharmacy until

a valid license is issued by the board.

Sec. 4729.16. (A)(1) The state board of pharmacy, after notice and hearing in accordance with Chapter 119. of the Revised Code, may impose any one or more of the following sanctions on a pharmacist or pharmacy intern if the board finds the individual engaged in any of the conduct set forth in division (A)(2) of this section:

(a) Revoke, suspend, restrict, limit, or refuse to grant or renew a license;

(b) Reprimand or place the license holder on probation;

(c) Impose a monetary penalty or forfeiture not to exceed in severity any fine designated under the Revised Code for a similar offense, or in the case of a violation of a section of the Revised Code that does not bear a penalty, a monetary penalty or forfeiture of not more than five hundred dollars.

(2) Except as provided in division (I) of this section, the board may impose the sanctions listed in division (A)(1) of this section if the board finds a pharmacist or pharmacy intern:

(a) Has been convicted of a felony, or a crime of moral turpitude, as defined in section 4776.10 of the Revised Code;

(b) Engaged in dishonesty or unprofessional conduct in the practice of pharmacy;

(c) Is addicted to or abusing alcohol or drugs or is impaired physically or mentally to such a degree as to render the pharmacist or pharmacy intern unfit to practice pharmacy;

(d) Has been convicted of a misdemeanor related to, or committed in, the practice of pharmacy;

(e) Violated, conspired to violate, attempted to violate, or aided and abetted the violation of any of the provisions of this chapter, sections 3715.52 to 3715.72 of the Revised Code, Chapter 2925. or 3719. of the Revised Code, or any rule adopted by the board under those provisions;

(f) Permitted someone other than a pharmacist or pharmacy intern to practice pharmacy;

(g) Knowingly lent the pharmacist's or pharmacy intern's name to an illegal practitioner of pharmacy or had a professional connection with an illegal practitioner of pharmacy;

(h) Divided or agreed to divide remuneration made in the practice of pharmacy with any other individual, including, but not limited to, any licensed health professional authorized to prescribe drugs or any owner, manager, or employee of a health care facility, residential care facility, or nursing home;

(i) Violated the terms of a consult agreement entered into pursuant to section 4729.39 of the Revised Code;

(j) Committed fraud, misrepresentation, or deception in applying for or securing a license issued by the board under this chapter or under Chapter 3715. or 3719. of the Revised Code;

(k) Failed to comply with an order of the board or a settlement agreement~~;~~

~~(l) Engaged in any other conduct for which the board may impose discipline as set forth in rules adopted under section 4729.26 of the Revised Code~~.

(B) Any individual whose license is revoked, suspended, or

refused, shall return the license to the offices of the state board of pharmacy within ten days after receipt of notice of such action.

(C) As used in this section:

"Unprofessional conduct in the practice of pharmacy" includes any of the following:

(1) Advertising or displaying signs that promote dangerous drugs to the public in a manner that is false or misleading;

(2) Except as provided in section 3715.50, 3715.502, 4729.281, or 4729.47 of the Revised Code, the dispensing or sale of any drug for which a prescription is required, without having received a prescription for the drug;

(3) Knowingly dispensing medication pursuant to false or forged prescriptions;

(4) Knowingly failing to maintain complete and accurate records of all dangerous drugs received or dispensed in compliance with federal laws and regulations and state laws and rules;

(5) Obtaining any remuneration by fraud, misrepresentation, or deception;

(6) Failing to conform to prevailing standards of care of similar pharmacists or pharmacy interns under the same or similar circumstances, whether or not actual injury to a patient is established~~;~~

~~(7) Engaging in any other conduct that the board specifies as unprofessional conduct in the practice of pharmacy in rules adopted under section 4729.26 of the Revised Code~~.

(D) The board may suspend a license under division (B) of section 3719.121 of the Revised Code by utilizing a telephone conference call to review the allegations and take a vote.

(E) For purposes of this division, an individual authorized to practice as a pharmacist or pharmacy intern accepts the privilege of practicing in this state subject to supervision by the board. By filing an application for or holding a license to practice as a pharmacist or pharmacy intern, an individual gives consent to submit to a mental or physical examination when ordered to do so by the board in writing and waives all objections to the admissibility of testimony or examination reports that constitute privileged communications.

If the board has reasonable cause to believe that an individual who is a pharmacist or pharmacy intern is physically or mentally impaired, the board may require the individual to submit to a physical or mental examination, or both. The expense of the examination is the responsibility of the individual required to be examined.

Failure of an individual who is a pharmacist or pharmacy intern to submit to a physical or mental examination ordered by the board, unless the failure is due to circumstances beyond the individual's control, constitutes an admission of the allegations and a suspension order shall be entered without the taking of testimony or presentation of evidence. Any subsequent adjudication hearing under Chapter 119. of the Revised Code concerning failure to submit to an examination is limited to consideration of whether the failure was beyond the individual's control.

If, based on the results of an examination ordered under

this division, the board determines that the individual's ability to practice is impaired, the board shall suspend the individual's license or deny the individual's application and shall require the individual, as a condition for an initial, continued, reinstated, or renewed license to practice, to submit to a physical or mental examination and treatment.

An order of suspension issued under this division shall not be subject to suspension by a court during pendency of any appeal filed under section 119.12 of the Revised Code.

(F) If the board is required under Chapter 119. of the Revised Code to give notice of an opportunity for a hearing and the applicant or licensee does not make a timely request for a hearing in accordance with section 119.07 of the Revised Code, the board is not required to hold a hearing, but may adopt a final order that contains the board's findings. In the final order, the board may impose any of the sanctions listed in division (A) of this section.

(G) Notwithstanding the provision of division (D)(2) of section 2953.32 or division (F)(1) of section 2953.39 of the Revised Code specifying that if records pertaining to a criminal case are sealed or expunged under that section the proceedings in the case must be deemed not to have occurred, sealing or expungement of the following records on which the board has based an action under this section shall have no effect on the board's action or any sanction imposed by the board under this section: records of any conviction, guilty plea, judicial finding of guilt resulting from a plea of no contest, or a judicial finding of eligibility for a pretrial diversion program or intervention in lieu of conviction. The board shall not be required to seal, destroy, redact, or otherwise modify its

records to reflect the court's sealing or expungement of conviction records.

(H) No pharmacist or pharmacy intern shall knowingly engage in any conduct described in divisions (A)(2)(b) or (A)(2)(e) to (l) of this section.

(I) The board shall not refuse to issue a license to an applicant for a conviction of an offense unless the refusal is in accordance with section 9.79 of the Revised Code.

Sec. 4729.28. (A) As used in this section, "dispense" has the meaning specified by the state board of pharmacy in rules adopted under this section ~~4729.26 of the Revised Code~~.

(B)(1) Except as provided in division (B)(2) of this section, no person who is not a pharmacist or a pharmacy intern under the personal supervision of a pharmacist shall compound or sell dangerous drugs or otherwise engage in the practice of pharmacy.

(2) Except as provided in section 3701.048 of the Revised Code with respect to other health care professionals, in sections 3715.512 and 4729.47 of the Revised Code with respect to pharmacy interns, or in rules adopted by the board under this section ~~4729.26 of the Revised Code~~, no person who is not a pharmacist shall dispense dangerous drugs.

(C) The board shall adopt rules in accordance with Chapter 119. of the Revised Code to implement divisions (A) and (B)(2) of this section.

Sec. 4729.382. (A) As used in this section, "epinephrine autoinjector" means a device used to administer epinephrine only in a manufactured dosage form.

(B) Subject to division (C) of this section, a pharmacist dispensing an epinephrine autoinjector pursuant to a prescription that identifies a specific type of epinephrine autoinjector may substitute the prescribed autoinjector with another epinephrine autoinjector, but only if the form of epinephrine contained in the autoinjector to be dispensed by substitution meets either of the following conditions:

(1) It is identical to the form of epinephrine in the type of autoinjector that was prescribed.

(2) It is a pharmaceutical equivalent of the form of epinephrine in the type of autoinjector that was prescribed in that it contains identical amounts of the identical active ingredients, but not necessarily the same inactive ingredients; it has been approved by the United States food and drug administration; and it has not been excluded from recognition as a pharmaceutical equivalent form of epinephrine by rules adopted under division (H) of this section.

(C) All of the following conditions apply with respect to a pharmacist's authority to dispense an epinephrine autoinjector by substitution:

(1) The pharmacist shall not make the substitution if the person receiving the autoinjector pursuant to the prescription instructs otherwise.

(2) The pharmacist shall not make the substitution if either of the following applies to the prescription:

(a) In the case of a written or electronic prescription, including a computer-generated prescription, the prescriber handwrites or actively causes to display on the prescription "dispense as written," "D.A.W.," "do not substitute," "medically

necessary as prescribed," or any other statement or numerical code that indicates the prescriber's intent to prevent substitution. Such a designation shall not be preprinted or stamped on the prescription, but a reminder to the prescriber of the designation procedure may be preprinted or displayed on the prescription form or electronic system the prescriber uses to issue the prescription.

(b) In the case of an oral prescription, the prescriber specifies that the epinephrine autoinjector as prescribed is medically necessary or otherwise indicates the prescriber's intent to prevent substitution.

(3) The pharmacist shall not make the substitution unless its price to the patient is less than or equal to the price of the prescribed epinephrine autoinjector, except that a pharmacist may substitute an epinephrine autoinjector with a price to the patient that is greater than the prescribed autoinjector if the patient specifically requests the more expensive autoinjector.

(4) The pharmacist, or a pharmacy intern or agent of the pharmacist, shall make a reasonable attempt to inform the patient or the patient's representative if a type of epinephrine autoinjector is available at a lower or equal cost.

(5) The pharmacist, or a pharmacy intern or agent of the pharmacist, shall inform the patient or the patient's representative of the person's right to refuse substitution of the prescribed epinephrine autoinjector.

(D)(1) Unless the prescriber instructs otherwise, the label for every epinephrine autoinjector dispensed shall include the epinephrine autoinjector's name, if any, and the distributor

of the autoinjector. Abbreviations may be used as necessary.

(2) When dispensing at retail an epinephrine autoinjector by substitution, the pharmacist shall indicate on the autoinjector's label or container that a substitution was made.

(3) The labeling requirements established by divisions (D)(1) and (2) of this section are in addition to all other labeling requirements as required in rules adopted by the state board of pharmacy.

(E) When a pharmacist dispenses an epinephrine autoinjector by substitution, the pharmacist or a pharmacy intern shall provide to the person receiving the device instruction on the proper method of administering epinephrine with the device, except that the instruction does not have to be provided if the person is receiving the same device that was dispensed when the person last received the device by having a prescription filled or refilled.

(F) A pharmacist who dispenses an epinephrine autoinjector pursuant to this section assumes no greater liability for dispensing the autoinjector by substitution than would be incurred for dispensing the autoinjector identified on the prescription.

(G) The failure of a prescriber to restrict a prescription by indicating an intent to prevent substitution pursuant to this section shall not constitute evidence of the prescriber's negligence unless the prescriber had reasonable cause to believe that the health condition of the patient for whom the epinephrine autoinjector was intended warranted the prescription of a specific type of epinephrine autoinjector and no other. No prescriber shall be liable for civil damages or in any criminal

prosecution arising from a pharmacist dispensing an epinephrine autoinjector by substitution, unless the type of autoinjector prescribed would have reasonably caused the same loss, damage, injury, or death.

(H) The state board of pharmacy may adopt rules in accordance with Chapter 119. of the Revised Code ~~to implement this section. The rules may specify~~ specifying the forms of epinephrine that are not to be recognized as pharmaceutical equivalents of other forms of epinephrine for purposes of this section.

(I) No pharmacist shall knowingly engage in conduct that is prohibited by division (C) or (D) of this section.

Sec. 4729.39. (A) As used in this section:

(1) "Certified nurse practitioner," "certified nurse-midwife," "clinical nurse specialist," and "standard care arrangement" have the same meanings as in section 4723.01 of the Revised Code.

(2) "Collaborating physician" means a physician who has entered into a standard care arrangement with a clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner.

(3) "Physician" means an individual authorized under Chapter 4731. of the Revised Code to practice medicine and surgery or osteopathic medicine and surgery.

(4) "Physician assistant" means an individual who is licensed to practice as a physician assistant under Chapter 4730. of the Revised Code, holds a valid prescriber number issued by the state medical board, and has been granted physician-delegated prescriptive authority.

(5) "Supervising physician" means a physician who has entered into a supervision agreement with a physician assistant under section 4730.19 of the Revised Code.

(B) Subject to division (C) of this section, one or more pharmacists may enter into a consult agreement with one or more of the following practitioners:

(1) Physicians;

(2) Physician assistants, if entering into a consult agreement is authorized by one or more supervising physicians;

(3) Clinical nurse specialists, certified nurse-midwives, or certified nurse practitioners, if entering into a consult agreement is authorized by one or more collaborating physicians.

(C) Before entering into a consult agreement, all of the following conditions must be met:

(1) Each practitioner must have an ongoing practitioner-patient relationship with each patient whose drug therapy is to be managed.

(2) The diagnosis for which each patient has been prescribed drug therapy must be within the scope of each practitioner's practice.

(3) Each pharmacist must have training and experience related to the particular diagnosis for which drug therapy is to be prescribed.

(D) With respect to consult agreements, all of the following apply:

(1) Under a consult agreement, a pharmacist is authorized to do both of the following, but only to the extent specified in

the agreement, this section, and the rules adopted under this section:

(a) Manage drug therapy for treatment of specified diagnoses or diseases for each patient who is subject to the agreement, including all of the following:

(i) Changing the duration of treatment for the current drug therapy;

(ii) Adjusting a drug's strength, dose, dosage form, frequency of administration, or route of administration;

(iii) Discontinuing the use of a drug;

(iv) Administering a drug;

(v) Notwithstanding the definition of "licensed health professional authorized to prescribe drugs" in section 4729.01 of the Revised Code, adding a drug to the patient's drug therapy.

(b)(i) Order laboratory and diagnostic tests, including blood and urine tests, that are related to the drug therapy being managed, and evaluate the results of the tests that are ordered.

(ii) A pharmacist's authority to evaluate test results under division (D)(1)(b)(i) of this section does not authorize the pharmacist to make a diagnosis.

(2)(a) A consult agreement, or the portion of the agreement that applies to a particular patient, may be terminated by any of the following:

(i) A pharmacist who entered into the agreement;

(ii) A practitioner who entered into the agreement;

(iii) A patient whose drug therapy is being managed;

(iv) An individual who consented to the treatment on behalf of a patient or an individual authorized to act on behalf of a patient.

(b) The pharmacist or practitioner who receives the notice of a patient's termination of the agreement shall provide written notice to every other pharmacist or practitioner who is a party to the agreement. A pharmacist or practitioner who terminates a consult agreement with regard to one or more patients shall provide written notice to all other pharmacists and practitioners who entered into the agreement and to each individual who consented to treatment under the agreement. The termination of a consult agreement with regard to one or more patients shall be recorded by the pharmacist and practitioner in the medical records of each patient to whom the termination applies.

(3) A consult agreement shall be made in writing and shall include all of the following:

(a) The diagnoses and diseases being managed under the agreement, including whether each disease is primary or comorbid;

(b) A description of the drugs or drug categories the agreement involves;

(c) A description of the procedures, decision criteria, and plan the pharmacist is to follow in acting under a consult agreement;

(d) A description of how the pharmacist is to comply with divisions (D)(5) and (6) of this section.

(4) The content of a consult agreement shall be communicated to each patient whose drug therapy is managed under the agreement.

(5) A pharmacist acting under a consult agreement shall maintain a record of each action taken for each patient whose drug therapy is managed under the agreement.

(6) Communication between a pharmacist and practitioner acting under a consult agreement shall take place at regular intervals specified by the primary practitioner acting under the agreement. The agreement may include a requirement that a pharmacist send a consult report to each consulting practitioner.

(7) A consult agreement is effective for two years and may be renewed if the conditions specified in division (C) of this section continue to be met.

(8) A consult agreement does not permit a pharmacist to manage drug therapy prescribed by a practitioner who has not entered into the agreement.

(E) The state board of pharmacy, state medical board, and board of nursing shall each adopt rules as follows for its license holders establishing standards and procedures for entering into a consult agreement and managing a patient's drug therapy under a consult agreement:

(1) The state board of pharmacy, in consultation with the state medical board and board of nursing, shall adopt rules to be followed by pharmacists.

(2) The state medical board, in consultation with the state board of pharmacy, shall adopt rules to be followed by physicians and rules to be followed by physician assistants.

(3) The board of nursing, in consultation with the state board of pharmacy and state medical board, shall adopt rules to be followed by clinical nurse specialists, certified nurse-midwives, and certified nurse practitioners.

The boards shall specify in the rules any categories of drugs or types of diseases for which a consult agreement may not be established. ~~Each board may adopt any other rules it considers necessary for the implementation and administration of this section.~~ All rules adopted under this section shall be adopted in accordance with Chapter 119. of the Revised Code.

(F)(1) Subject to division (F)(2) of this section, both of the following apply:

(a) A pharmacist acting in accordance with a consult agreement regarding a practitioner's change in a drug for a patient whose drug therapy the pharmacist is managing under the agreement is not liable in damages in a tort or other civil action for injury or loss to person or property allegedly arising from the change.

(b) A practitioner acting in accordance with a consult agreement regarding a pharmacist's change in a drug for a patient whose drug therapy the pharmacist is managing under a consult agreement is not liable in damages in a tort or other civil action for injury or loss to person or property allegedly arising from the change unless the practitioner authorized the specific change.

(2) Division (F)(1) of this section does not limit a practitioner's or pharmacist's liability in damages in a tort or other civil action for injury or loss to person or property allegedly arising from actions that are not related to the

practitioner's or pharmacist's change in a drug for a patient whose drug therapy is being managed under a consult agreement.

Sec. 4729.391. (A) A pharmacist may modify a drug's prescription to also include a drug delivery device, if the pharmacist determines that the device is necessary for the drug's administration.

(B) ~~The state board of pharmacy may adopt rules to implement this section. The rules shall be adopted in accordance with Chapter 119. of the Revised Code.~~

~~(C)~~ For purposes of reimbursement under the terms of a health benefit plan by a health care insurer, government health care program, pharmacy benefit manager, or other entity that offers health benefit plans, a prescription modified as described in this section, and in accordance with any rules adopted under it, shall be deemed a valid prescription for the drug delivery device.

Sec. 4729.41. (A)(1) A pharmacist licensed under this chapter who meets the requirements of division (B) of this section, a pharmacy intern licensed under this chapter who meets the requirements of division (B) of this section and is working under the direct supervision of a pharmacist who meets the requirements of that division, and a certified pharmacy technician or a registered pharmacy technician who meets the requirements of division (B) of this section and is working under the direct supervision of a pharmacist who meets the requirements of that division, may administer to an individual who is five years of age or older an immunization for any disease, including an immunization for influenza or COVID-19.

(2) As part of engaging in the administration of

immunizations or supervising a pharmacy intern's, certified pharmacy technician's, or registered pharmacy technician's administration of immunizations, a pharmacist may administer epinephrine or diphenhydramine, or both, to individuals in emergency situations resulting from adverse reactions to the immunizations administered by the pharmacist, pharmacy intern, certified pharmacy technician, or registered pharmacy technician.

(B) For a pharmacist, pharmacy intern, certified pharmacy technician, or registered pharmacy technician to be authorized to engage in the administration of immunizations, the pharmacist, pharmacy intern, certified pharmacy technician, or registered pharmacy technician shall do all of the following:

(1) Successfully complete a course in the administration of immunizations that meets the requirements established in rules adopted under this section for such courses;

(2) Receive and maintain certification to perform basic life-support procedures by successfully completing a basic life-support training course that is certified by the American red cross or American heart association or approved by the state board of pharmacy;

(3) Practice in accordance with a protocol that meets the requirements of division (C) of this section.

(C) All of the following apply with respect to the protocol required by division (B)(3) of this section:

(1) The protocol shall be established by a physician authorized under Chapter 4731. of the Revised Code to practice medicine and surgery or osteopathic medicine and surgery or a certified nurse-midwife, clinical nurse specialist, or certified

nurse practitioner licensed under Chapter 4723. of the Revised Code.

(2) The protocol shall specify a definitive set of treatment guidelines and the locations at which a pharmacist, pharmacy intern, certified pharmacy technician, or registered pharmacy technician may engage in the administration of immunizations.

(3) The protocol shall satisfy the requirements established in rules adopted under this section for protocols.

(4) The protocol shall include provisions for implementation of the following requirements:

(a) The pharmacist, pharmacy intern, certified pharmacy technician, or registered pharmacy technician who administers an immunization shall observe the individual who receives the immunization to determine whether the individual has an adverse reaction to the immunization. The length of time and location of the observation shall comply with the rules adopted under this section establishing requirements for protocols. The protocol shall specify procedures to be followed by a pharmacist when administering epinephrine or diphenhydramine, or both, to an individual who has an adverse reaction to an immunization administered by the pharmacist or by a pharmacy intern, certified pharmacy technician, or registered pharmacy technician.

(b) For each immunization administered to an individual by a pharmacist, pharmacy intern, certified pharmacy technician, or registered pharmacy technician, other than an immunization for influenza administered to an individual eighteen years of age or older, the pharmacist, pharmacy intern, certified pharmacy

technician, or registered pharmacy technician shall notify the individual's primary care provider or, if the individual has no primary care provider, the board of health of the health district in which the individual resides or the authority having the duties of a board of health for that district under section 3709.05 of the Revised Code. The notice shall be given not later than thirty days after the immunization is administered.

(c) For each immunization administered by a pharmacist, pharmacy intern, certified pharmacy technician, or registered pharmacy technician to an individual younger than eighteen years of age, the pharmacist, a pharmacy intern, certified pharmacy technician, or registered pharmacy technician shall obtain permission from the individual's parent or legal guardian in accordance with the procedures specified in rules adopted under this section.

(d) For each immunization administered by a pharmacist, pharmacy intern, certified pharmacy technician, or registered pharmacy technician to an individual who is younger than eighteen years of age, the pharmacist, pharmacy intern, certified pharmacy technician, or registered pharmacy technician shall inform the individual's parent or legal guardian of the importance of well child visits with a pediatrician or other primary care provider and shall refer patients when appropriate.

(D)(1) No pharmacist shall do either of the following:

(a) Engage in the administration of immunizations unless the requirements of division (B) of this section have been met;

(b) Delegate to any person the pharmacist's authority to engage in or supervise the administration of immunizations.

(2) No pharmacy intern shall engage in the administration

of immunizations unless the requirements of division (B) of this section have been met.

(3) No certified pharmacy technician or registered pharmacy technician shall engage in the administration of immunizations unless the requirements of division (B) of this section have been met.

(E)(1) The state board of pharmacy shall adopt rules ~~to implement this section. The rules shall be adopted~~ in accordance with Chapter 119. of the Revised Code ~~and shall include~~ to establish the following:

(a) Requirements for courses in administration of immunizations, including requirements that are consistent with any standards established for such courses by the centers for disease control and prevention;

(b) Requirements for protocols to be followed by pharmacists, pharmacy interns, certified pharmacy technicians, and registered pharmacy technicians in engaging in the administration of immunizations;

(c) Procedures to be followed by pharmacists, pharmacy interns, certified pharmacy technicians, and registered pharmacy technicians in obtaining from the individual's parent or legal guardian permission to administer immunizations to an individual younger than eighteen years of age.

(2) Prior to adopting rules regarding requirements for protocols to be followed by pharmacists, pharmacy interns, certified pharmacy technicians, and registered pharmacy technicians in engaging in the administration of immunizations, the state board of pharmacy shall consult with the state medical board and the board of nursing.

Sec. 4729.47. (A) As used in this section:

(1) "Board of health" means a board of health of a city or general health district or an authority having the duties of a board of health under section 3709.05 of the Revised Code.

(2) "Physician" means an individual authorized under Chapter 4731. of the Revised Code to practice medicine and surgery, osteopathic medicine and surgery, or podiatric medicine and surgery.

(B) If use of a protocol that has been developed pursuant to rules adopted under division (G) of this section has been authorized under section 3707.60, 4723.4812, or 4731.961 of the Revised Code, a pharmacist or pharmacy intern may dispense epinephrine without a prescription in accordance with that protocol to either of the following individuals so long as the individual is at least eighteen years of age:

(1) An individual who there is reason to believe is experiencing or at risk of experiencing anaphylaxis if the pharmacy affiliated with the pharmacist or intern has a record of previously dispensing epinephrine to the individual in accordance with a prescription issued by a licensed health professional authorized to prescribe drugs;

(2) An individual acting on behalf of a qualified entity, as defined in section 3728.01 of the Revised Code.

(C)(1) A pharmacist or pharmacy intern who dispenses epinephrine under this section shall instruct the individual to whom epinephrine is dispensed to summon emergency services as soon as practicable either before or after administering epinephrine.

(2) A pharmacist or pharmacy intern who dispenses

epinephrine to an individual identified in division (B)(1)(a) of this section shall provide notice of the dispensing to the individual's primary care provider, if known, or to the prescriber who issued the individual the initial prescription for epinephrine.

(D) A pharmacist may document the dispensing of epinephrine by the pharmacist or a pharmacy intern supervised by the pharmacist on a prescription form. The form may be assigned a number for record-keeping purposes.

(E) This section does not affect the authority of a pharmacist or pharmacy intern to fill or refill a prescription for epinephrine.

(F) A board of health that in good faith authorizes a pharmacist or pharmacy intern to dispense epinephrine without a prescription in accordance with a protocol developed pursuant to rules adopted under division (G) of this section is not liable for or subject to any of the following for any action or omission of the individual to whom the epinephrine is dispensed: damages in any civil action, prosecution in any criminal proceeding, or professional disciplinary action.

A physician, certified nurse-midwife, clinical nurse specialist, or certified nurse practitioner who in good faith authorizes a pharmacist or pharmacy intern to dispense epinephrine without a prescription in accordance with a protocol developed pursuant to rules adopted under division (G) of this section is not liable for or subject to any of the following for any action or omission of the individual to whom the epinephrine is dispensed: damages in any civil action, prosecution in any criminal proceeding, or professional disciplinary action.

A pharmacist or pharmacy intern authorized under this section to dispense epinephrine without a prescription who does so in good faith is not liable for or subject to any of the following for any action or omission of the individual to whom the epinephrine is dispensed: damages in any civil action, prosecution in any criminal proceeding, or professional disciplinary action.

(G) The state board of pharmacy shall, after consulting with the state medical board and board of nursing, adopt rules ~~to implement this section. The rules shall specify~~ specifying minimum requirements for protocols established by physicians, certified nurse-midwives, clinical nurse specialists, or certified nurse practitioners under which pharmacists or pharmacy interns may dispense epinephrine without a prescription.

All rules adopted under this section shall be adopted in accordance with Chapter 119. of the Revised Code.

Sec. 4729.51. (A) No person other than a licensed manufacturer of dangerous drugs, outsourcing facility, third-party logistics provider, repackager of dangerous drugs, or wholesale distributor of dangerous drugs shall possess for sale, sell, distribute, or deliver, at wholesale, dangerous drugs or investigational drugs or products, except as follows:

(1) A licensed terminal distributor of dangerous drugs that is a pharmacy may make occasional sales of dangerous drugs or investigational drugs or products at wholesale.

(2) A licensed terminal distributor of dangerous drugs having more than one licensed location may transfer or deliver dangerous drugs from one licensed location to another licensed

location owned by the terminal distributor if the license issued for each location is in effect at the time of the transfer or delivery.

(3) A licensed terminal distributor of dangerous drugs that is not a pharmacy may make occasional sales of the following at wholesale:

(a) Overdose reversal drugs;

(b) Dangerous drugs if the drugs being sold are in shortage, as defined in rules adopted under division (J) of this section ~~4729.26 of the Revised Code~~;

(c) Dangerous drugs other than those described in divisions (A)(3)(a) and (b) of this section or investigational drugs or products if authorized by rules adopted under division (J) of this section ~~4729.26 of the Revised Code~~.

(B) No licensed manufacturer, outsourcing facility, third-party logistics provider, repackager, or wholesale distributor shall possess for sale, sell, or distribute, at wholesale, dangerous drugs or investigational drugs or products to any person other than the following:

(1) Subject to division (D) of this section, a licensed terminal distributor of dangerous drugs;

(2) Subject to division (C) of this section, any person exempt from licensure as a terminal distributor of dangerous drugs under section 4729.541 of the Revised Code;

(3) A licensed manufacturer, outsourcing facility, third-party logistics provider, repackager, or wholesale distributor;

(4) A terminal distributor, manufacturer, outsourcing facility, third-party logistics provider, repackager, or

wholesale distributor that is located in another state, is not engaged in the sale of dangerous drugs within this state, and is actively licensed to engage in the sale of dangerous drugs by the state in which the distributor conducts business.

(C) No licensed manufacturer, outsourcing facility, third-party logistics provider, repackager, or wholesale distributor shall possess for sale, sell, or distribute, at wholesale, dangerous drugs or investigational drugs or products to either of the following:

(1) A prescriber who is employed by a pain management clinic that is not licensed as a terminal distributor of dangerous drugs with a pain management clinic classification issued under section 4729.552 of the Revised Code;

(2) A business entity described in division (A)(2) or (3) of section 4729.541 of the Revised Code that is, or is operating, a pain management clinic without a license as a terminal distributor of dangerous drugs with a pain management clinic classification issued under section 4729.552 of the Revised Code.

(D) No licensed manufacturer, outsourcing facility, third-party logistics provider, repackager, or wholesale distributor shall possess dangerous drugs or investigational drugs or products for sale at wholesale, or sell or distribute such drugs at wholesale, to a licensed terminal distributor of dangerous drugs, except as follows:

(1) In the case of a terminal distributor with a category II license, only dangerous drugs in category II, as defined in division (A)(1) of section 4729.54 of the Revised Code;

(2) In the case of a terminal distributor with a category

III license, dangerous drugs in category II and category III, as defined in divisions (A)(1) and (2) of section 4729.54 of the Revised Code;

(3) In the case of a terminal distributor with a limited category II or III license, only the dangerous drugs specified in the license.

(E)(1) Except as provided in division (E)(2) of this section, no person shall do any of the following:

(a) Sell or distribute, at retail, dangerous drugs;

(b) Possess for sale, at retail, dangerous drugs;

(c) Possess dangerous drugs.

(2)(a) Divisions (E)(1)(a), (b), and (c) of this section do not apply to any of the following:

(i) A licensed terminal distributor of dangerous drugs;

(ii) A person who possesses, or possesses for sale or sells, at retail, a dangerous drug in accordance with Chapters 3719., 4715., 4723., 4725., 4729., 4730., 4731., 4741., and 4772. of the Revised Code;

(iii) Any of the persons identified in divisions (A)(1) to (5) and (18) of section 4729.541 of the Revised Code, but only to the extent specified in that section.

(b) Division (E)(1)(c) of this section does not apply to any of the following:

(i) A licensed manufacturer, outsourcing facility, third-party logistics provider, repackager, or wholesale distributor;

(ii) Any of the persons identified in divisions (A)(6) to (16) of section 4729.541 of the Revised Code, but only to the

extent specified in that section.

(F) No licensed terminal distributor of dangerous drugs or person that is exempt from licensure under section 4729.541 of the Revised Code shall purchase dangerous drugs or investigational drugs or products from any person other than a licensed manufacturer, outsourcing facility, third-party logistics provider, repackager, or wholesale distributor, except as follows:

(1) A licensed terminal distributor of dangerous drugs or person that is exempt from licensure under section 4729.541 of the Revised Code may make occasional purchases of dangerous drugs or investigational drugs or products that are sold in accordance with division (A)(1) or (3) of this section.

(2) A licensed terminal distributor of dangerous drugs having more than one licensed location may transfer or deliver dangerous drugs or investigational drugs or products from one licensed location to another licensed location if the license issued for each location is in effect at the time of the transfer or delivery.

(G) No licensed terminal distributor of dangerous drugs shall engage in the retail sale or other distribution of dangerous drugs or investigational drugs or products or maintain possession, custody, or control of dangerous drugs or investigational drugs or products for any purpose other than the distributor's personal use or consumption, at any establishment or place other than that or those described in the license issued by the state board of pharmacy to such terminal distributor.

(H) Nothing in this section shall be construed to

interfere with the performance of official duties by any law enforcement official authorized by municipal, county, state, or federal law to collect samples of any drug, regardless of its nature or in whose possession it may be.

(I) Notwithstanding anything to the contrary in this section, the board of education of a city, local, exempted village, or joint vocational school district may distribute epinephrine autoinjectors for use in accordance with section 3313.7110 of the Revised Code, may distribute inhalers for use in accordance with section 3313.7113 of the Revised Code, and may distribute injectable or nasally administered glucagon for use in accordance with section 3313.7115 of the Revised Code.

(J) In accordance with Chapter 119. of the Revised Code, the board shall adopt rules to implement and administer division (A)(3)(b) of this section and may adopt rules to implement and administer division (A)(3)(c) of this section.

Sec. 4729.52. (A) As used in this section:

(1) "Category II" means any dangerous drug that is not included in category III.

(2) "Category III" means any controlled substance that is contained in schedule I, II, III, IV, or V.

(3) "Schedule I,""schedule II,""schedule III,""schedule IV," and "schedule V" have the same meanings as in section 3719.01 of the Revised Code.

(B)(1)(a) The state board of pharmacy shall license persons seeking to operate as any of the following, whether located within or outside this state:

(i) Wholesale distributors of dangerous drugs;

(ii) Manufacturers of dangerous drugs;

(iii) Outsourcing facilities;

(iv) Third-party logistics providers;

(v) Repackagers of dangerous drugs.

(b) When the board issues a license to a person identified in division (B)(1)(a) of this section, the license shall be issued according to one of the following categories, as the case may be for the person's business operations:

(i) Category II license. A category II license applies to a person whose business operations are located within this state. A person who obtains this license may possess, have custody or control of, and distribute only the dangerous drugs described in category II.

(ii) Category III license. A category III license applies to a person whose business operations are located within this state. A person who obtains this license may possess, have custody or control of, and distribute the dangerous drugs described in category II and the controlled substances described in category III.

(iii) Nonresident license. A nonresident license applies to a person whose business operations are located outside this state. One of the following subcategories shall be designated by the board on the license, based on the license holder's business operations: wholesale distributor of dangerous drugs, manufacturer of dangerous drugs, outsourcing facility, third-party logistics provider, or repackager of dangerous drugs. A person who obtains a nonresident license may possess, have custody or control of, and distribute the dangerous drugs described in category II and the controlled substances described

in category III.

(c) The board may adopt rules ~~under section 4729.26 of the Revised Code~~ in accordance with Chapter 119. of the Revised Code to create classification types of any license issued pursuant to this section. Persons who meet the definitions of the classification types shall comply with all requirements for the specific license classification specified in rule.

(C) A person seeking a license issued under this section shall file with the executive director of the board a verified application containing such information as the board requires of the applicant relative to the licensure qualifications set forth in section 4729.53 of the Revised Code and the rules adopted under that section.

(D)(1) The board shall issue a category II or category III license, designated for a manufacturer, outsourcing facility, third-party logistics provider, repackager, or wholesale distributor as the case may be, to each applicant whose business operations are located within this state, if the applicant pays the required license fee and the board determines that the applicant meets the licensure qualifications set forth in section 4729.53 of the Revised Code and the rules adopted under that section.

(2) The board shall issue a nonresident license with the appropriate subcategory designation to an applicant whose business operations are located outside this state, if the applicant pays the required license fee and the board determines either of the following:

(a) That the applicant possesses a current and valid manufacturer, outsourcing facility, third-party logistics

provider, repackager, or wholesale distributor license, or its equivalent, issued by another state in which that person's business operations are physically located, but only if that state has qualifications for licensure comparable to the licensure requirements in this state;

(b) That the applicant meets the requirements set forth by the board for issuance of a nonresident license, as verified by a state, federal, or other entity recognized by the board to perform such verification.

(E) All licenses issued or renewed pursuant to this section are effective for a period specified by the board in rules adopted under this section ~~4729.26 of the Revised Code~~. The effective period for an initial or renewed license shall not exceed twenty-four months unless the board extends the period in rules to adjust license renewal schedules. A license shall be renewed by the board pursuant to this section, the standard renewal procedure of Chapter 4745. of the Revised Code, and rules adopted by the board under this section ~~4729.26 of the Revised Code~~. A person seeking to renew a license shall submit an application for renewal and pay the required renewal fee before the date specified in the rules adopted by the board.

(F) Each license issued under this section shall describe not more than one establishment or place where the license holder may engage in the activities authorized by the license. No license shall authorize or permit the person named therein to engage in the sale or distribution of drugs at wholesale or to maintain possession, custody, or control of dangerous drugs for any purpose other than for the licensee's own use and consumption at any establishment or place other than that described in the license.

(G)(1) The category II license fee is one thousand nine hundred dollars and shall accompany each application for licensure. The license renewal fee is one thousand nine hundred dollars and shall accompany each renewal application.

(2) The category III license fee is two thousand dollars and shall accompany each application for licensure. The license renewal fee is two thousand dollars and shall accompany each renewal application.

(3) The nonresident license fee is two thousand dollars and shall accompany each application for licensure. The license renewal fee is two thousand dollars and shall accompany each renewal application.

(H)(1) Subject to division (H)(2) of this section, a license issued pursuant to this section that has not been renewed by the date specified in rules adopted by the board may be reinstated upon payment of the renewal fee and a penalty of three hundred dollars.

(2) If a complete application for renewal has not been submitted by the sixty-first day after the renewal date specified in rules adopted by the board, the license is considered void and cannot be renewed, but the license holder may reapply for licensure.

(I) Renewal fees and penalties assessed under division (G) or (H) of this section shall not be returned if the applicant fails to qualify for renewal.

(J) A person licensed pursuant to this section that fails to renew licensure in accordance with this section and rules adopted by the board is prohibited from engaging in manufacturing, repackaging, or compounding drugs, or

distributing drugs as a third-party logistics provider or wholesale distributor, until a valid license is issued by the board.

(K) Holding a license issued pursuant to this section subjects the holder and the holder's agents and employees to the jurisdiction of the board and to the laws of this state for the purpose of the enforcement of this chapter and the rules of the board. However, the filing of an application for licensure under this section by or on behalf of any person, or the issuance of a license pursuant to this section to or on behalf of any person, shall not of itself constitute evidence that the person is doing business within this state.

(L) A person holding a license issued under this section shall designate, and shall have available at all times, a person to serve for the licensed location in a position to be known as "responsible person." A person may be designated and serve as a responsible person only if the person meets the requirements established in rules the board shall adopt under this section ~~4729.26 of the Revised Code~~. Along with the license holder, a responsible person shall accept responsibility for the operation of the licensed location in accordance with all applicable state and federal laws and rules.

A license holder shall notify the board of the person who is designated to serve as the responsible person and, thereafter, shall notify the board each time a change is made in the designation. Notice to the board shall be provided in accordance with procedures established in rules that the board shall adopt under this section ~~4729.26 of the Revised Code~~. For any change of responsible person, the board shall assess a fee of fifteen dollars.

(M) The board may enter into agreements with other states, federal agencies, and other entities to exchange information concerning licensing and inspection of any manufacturer, outsourcing facility, third-party logistics provider, repackager, or wholesale distributor located within or outside this state and to investigate alleged violations of the laws and rules governing distribution of drugs by such persons. Any information received pursuant to such an agreement is subject to the same confidentiality requirements applicable to the agency or entity from which it was received and shall not be released without prior authorization from that agency or entity. Any information received is also subject to section 4729.23 of the Revised Code.

(N) In accordance with Chapter 119. of the Revised Code, the board shall adopt rules to implement and administer divisions (E) and (L) of this section.

Sec. 4729.53. (A) The state board of pharmacy shall not license any person as a manufacturer of dangerous drugs, outsourcing facility, third-party logistics provider, repackager of dangerous drugs, or wholesale distributor of dangerous drugs unless the applicant for licensure furnishes satisfactory proof to the board that all of the following conditions are met:

(1) If the applicant has committed acts that the board finds violate any federal, state, or local law, regulation, or rule relating to drug samples, manufacturing, compounding, repackaging, wholesale or retail drug distribution, or distribution of dangerous drugs, including controlled substances, or if the applicant has committed acts that the board finds constitute a felony, or if a federal, state, or local governmental entity has suspended or revoked any current

or prior license of the applicant for the manufacture, compounding, repackaging, distribution, or sale of any dangerous drugs, including controlled substances, the applicant, to the satisfaction of the board, assures that the applicant has in place adequate safeguards to prevent the recurrence of any such violations, felonies, or license suspensions or revocations.

(2) The applicant's past experience in the manufacture, compounding, repackaging, or distribution of dangerous drugs, including controlled substances, is acceptable to the board.

(3) The applicant is properly equipped as to land, buildings, equipment, and personnel to properly carry on its business, including providing adequate security for and proper storage conditions and handling for dangerous drugs, and is complying with the requirements under this chapter and the rules adopted pursuant thereto for maintaining and making available records to properly identified board officials and federal, state, and local law enforcement agencies.

(4) Personnel employed by the applicant have the appropriate education or experience, as determined by the board, to assume responsibility for positions related to compliance with this chapter and the rules adopted pursuant thereto.

(5) The applicant has designated the name and address of a person to whom communications from the board may be directed and upon whom the notices and citations provided for in section 4729.56 of the Revised Code may be served.

(6) Adequate safeguards are assured to prevent the sale of dangerous drugs other than in accordance with section 4729.51 of the Revised Code.

(7) With respect to criminal records checks, the applicant

has done both of the following, and the board has decided that the results of the criminal records checks do not make the applicant ineligible for a license issued pursuant to section 4729.52 of the Revised Code:

(a) The applicant has complied with sections 4776.01 to 4776.04 of the Revised Code.

(b) The applicant has required each of the following to submit to a criminal records check in accordance with section 4776.02 of the Revised Code and send the results of the criminal records check directly to the board:

(i) Any person who is seeking to serve as the responsible person on the license, as required by section 4729.52 of the Revised Code;

~~(2)~~ (ii) Any person who has an ownership interest or who is a corporate officer, as set forth in rules adopted under division (C) of this section.

(8) The applicant meets any other requirement or qualification the board, by rule adopted under division (C) of this section, considers relevant to and consistent with the public safety and health.

(B) In addition to the causes described in section 4729.56 of the Revised Code for refusing to grant or renew a license, the board may refuse to grant or renew a license if the board determines that the granting of the license or its renewal is not in the public interest.

(C) The board shall adopt rules in accordance with Chapter 119. of the Revised Code that do ~~all~~ both of the following:

(1) For purposes of division (A)(7)(b) of this section,

specify the persons with ownership interests and the corporate officers who are required to submit to criminal records checks;

(2) For purposes of division (A)(8) of this section, specify other requirements or qualifications, if any, that an applicant must meet to receive a license~~;~~

~~(3) Address any other matter the board considers appropriate to implement this section~~.

Sec. 4729.531. (A) The state board of pharmacy may issue a limited license to an animal shelter or county dog warden solely for the purpose of purchasing, possessing, and administering drugs that are distributed in a manufactured dosage form as described in section 4729.532 of the Revised Code. Unless otherwise approved by the board, no such license shall authorize or permit the distribution of these drugs to any person other than the originating wholesale distributor of the drugs. An application for licensure shall include the information the board requires by rule under this section. If the application meets the requirements of the rules adopted under this section, the board shall issue the license.

(B) The board, in accordance with Chapter 119. of the Revised Code, shall adopt ~~any~~ rules ~~necessary to administer and enforce this section. The rules shall~~ that do ~~all~~ both of the following:

(1) Require as a condition of licensure that an agent or employee of an animal shelter or an agent or employee of a county dog warden, other than a registered veterinary technician as defined in section 4741.01 of the Revised Code, has successfully completed a euthanasia technician certification course described in section 4729.532 of the Revised Code;

(2) Specify the information the animal shelter or county dog warden must provide the board for issuance or renewal of a license~~;~~

~~(3) Address any other matters the board considers necessary or appropriate for the administration and enforcement of this section~~.

Sec. 4729.54. (A) As used in this section:

(1) "Category II" means any dangerous drug that is not included in category III.

(2) "Category III" means any controlled substance that is contained in schedule I, II, III, IV, or V.

(3) "Emergency medical service organization" has the same meaning as in section 4765.01 of the Revised Code.

(4) "Emergency medical service organization satellite" means a location where dangerous drugs are stored that is separate from, but associated with, the headquarters of an emergency medical service organization. "Emergency medical service organization satellite" does not include the units under the control of the emergency medical service organization.

(5) "Person" includes an emergency medical service organization or an emergency medical service organization satellite.

(6) "Schedule I," "schedule II," "schedule III," "schedule IV," and "schedule V" have the same meanings as in section 3719.01 of the Revised Code.

(B)(1) The state board of pharmacy shall license persons seeking to operate as terminal distributors of dangerous drugs, whether located within or outside this state.

A person seeking to be licensed as a terminal distributor of dangerous drugs shall file with the executive director of the board a verified application. After it is filed, the application may not be withdrawn without approval of the board.

(2) An application shall contain all the following that apply in the applicant's case:

(a) Information that the board requires relative to the qualifications of a terminal distributor of dangerous drugs set forth in section 4729.55 of the Revised Code;

(b) A statement as to the category of licensure, identified under division (E) of this section, that the person is seeking;

(c) If the person is seeking to be licensed as a limited category II or limited category III terminal distributor of dangerous drugs, a list of the dangerous drugs described in category II or the controlled substances described in category III that the person is seeking to possess, have custody or control of, and distribute, which list shall also specify the purpose for which those drugs will be used and their source;

(d) If the person is an emergency medical service organization, the information that is specified in divisions (C)(1) and (2) of this section, and if the person is an emergency medical service organization satellite, the information required under division (D) of this section;

(e) Except with respect to the units under the control of an emergency medical service organization, the identity of the one establishment or place at which the person intends to engage in the sale or other distribution of dangerous drugs at retail, and maintain possession, custody, or control of dangerous drugs

for purposes other than the person's own use or consumption;

(f) If the application pertains to a pain management clinic, information that demonstrates, to the satisfaction of the board, compliance with division (A) of section 4729.552 of the Revised Code.

(C)(1) Each emergency medical service organization that applies for a terminal distributor of dangerous drugs license shall submit with its application all of the following:

(a) A copy of its standing orders or protocol, which orders or protocol shall be signed by a physician;

(b) A list of the dangerous drugs that the units under its control may carry, expressed in standard dose units, which shall be signed by a physician;

(c) A list of the personnel employed or used by the organization to provide emergency medical services in accordance with Chapter 4765. of the Revised Code.

In accordance with Chapter 119. of the Revised Code, the board shall adopt rules specifying when an emergency medical service organization that is licensed as a terminal distributor must notify the board of any changes in its documentation submitted pursuant to division (C)(1) of this section.

(2) An emergency medical service organization seeking to be licensed as a terminal distributor of dangerous drugs shall list in its application for licensure the following additional information:

(a) The units under its control that the organization determines will possess dangerous drugs for the purpose of administering emergency medical services in accordance with

Chapter 4765. of the Revised Code;

(b) With respect to each such unit, whether the dangerous drugs that the organization determines the unit will possess are in category II or III.

(3) An emergency medical service organization that is licensed as a terminal distributor of dangerous drugs shall file a new application for such licensure if there is any change in the number or location of any of its units or if there is any change in the category of the dangerous drugs that any unit will possess.

(4) A unit listed in an application for licensure pursuant to division (C)(2) of this section may obtain the dangerous drugs it is authorized to possess from its emergency medical service organization or, on a replacement basis, from a hospital pharmacy. If units will obtain dangerous drugs from a hospital pharmacy, the organization shall file, and maintain in current form, the following items with the pharmacist who is responsible for the hospital's terminal distributor of dangerous drugs license:

(a) A copy of its standing orders or protocol;

(b) A list of the personnel employed or used by the organization to provide emergency medical services in accordance with Chapter 4765. of the Revised Code, who are authorized to possess the drugs, which list also shall indicate the personnel who are authorized to administer the drugs.

(D) Each emergency medical service organization satellite that applies for a terminal distributor of dangerous drugs license shall submit with its application all of the information that the board requires to be submitted with the application, as

specified in rules the board shall adopt in accordance with Chapter 119. of the Revised Code.

(E) When the board issues a license to a person seeking to operate as a terminal distributor of dangerous drugs, the board shall issue the license according to one of the following categories, as the case may be for the person's business operations:

(1) Category II license. A category II license applies to a person whose business operations are located within this state. A person who obtains this license may possess, have custody or control of, and distribute only the dangerous drugs described in category II.

(2) Limited category II license. A limited category II license applies to a person whose business operations are located within this state. A person who obtains this license may possess, have custody or control of, and distribute only the dangerous drugs described in category II that were listed in the application for licensure.

(3) Category III license, which may include a pain management clinic classification issued under section 4729.552 of the Revised Code. A category III license applies to a person whose business operations are located within this state. A person who obtains this license may possess, have custody or control of, and distribute the dangerous drugs described in category II and category III. If the license includes a pain management clinic classification, the person may operate a pain management clinic.

(4) Limited category III license. A limited category III license applies to a person whose business operations are

located within this state. A person who obtains this license may possess, have custody or control of, and distribute only the dangerous drugs described in category II or the controlled substances described in category III that were listed in the application for licensure.

(5) Nonresident license. A nonresident license applies to a person whose business operations are located outside this state. A person who obtains a nonresident license may possess, have custody or control of, and distribute the dangerous drugs described in category II and the controlled substances described in category III.

(F) Except for an application made by a county dog warden or on behalf of an animal shelter, if an applicant for a limited category II license or limited category III license intends to administer dangerous drugs to a person or animal, the applicant shall submit, with the application, a copy of its protocol or standing orders. The protocol or orders shall be signed by a licensed health professional authorized to prescribe drugs, specify the dangerous drugs to be administered, and list personnel who are authorized to administer the dangerous drugs in accordance with federal law or the law of this state.

An application made by a county dog warden or on behalf of an animal shelter shall include a list of the dangerous drugs to be administered to animals and the personnel who are authorized to administer the drugs to animals in accordance with section 4729.532 of the Revised Code.

In accordance with Chapter 119. of the Revised Code, the board shall adopt rules specifying when a licensee must notify the board of any changes in its documentation submitted pursuant to this division.

(G)(1) Except as provided in division (G)(3) of this section, each applicant for licensure as a terminal distributor of dangerous drugs shall submit, with the application, a license fee in the amount that applies to the category of licensure being sought. The amount assessed shall not be returned to the applicant if the applicant fails to qualify for the license.

(2) The following fees apply under division (G)(1) of this section:

(a) Except as provided in division (G)(2)(b) of this section:

(i) Three hundred sixty dollars for a category II or limited category II license;

(ii) Four hundred sixty dollars for a category III license, including a license with a pain management clinic classification issued under section 4729.552 of the Revised Code, or a limited category III license;

(iii) Five hundred dollars for a nonresident license.

(b) One hundred sixty dollars for all of the following whose business operations are located within this state:

(i) A person who is required to hold a license as a terminal distributor of dangerous drugs pursuant to division (C) of section 4729.541 of the Revised Code;

(ii) A professional association, corporation, partnership, or limited liability company organized for the purpose of practicing veterinary medicine that is not included in division (G)(2)(b)(i) of this section;

(iii) An emergency medical service organization satellite.

(3) No fee applies for a license issued to a charitable pharmacy, as defined in section 3719.811 of the Revised Code, if the charitable pharmacy is participating in the drug repository program established under section 3715.87 of the Revised Code.

(H)(1) The board shall issue a terminal distributor of dangerous drugs license, in the appropriate category, to each person who submits an application for such licensure in accordance with this section, pays the required license fee, is determined by the board to meet the requirements set forth in section 4729.55 of the Revised Code, and satisfies any other applicable requirements of this section.

(2) Except for the license of a county dog warden, the license shall describe the one establishment or place at which the licensee may engage in the sale or other distribution of dangerous drugs at retail and maintain possession, custody, or control of dangerous drugs for purposes other than the licensee's own use or consumption. The one establishment or place shall be that which is identified in the application for licensure.

No such license shall authorize or permit the terminal distributor of dangerous drugs named in it to engage in the sale or other distribution of dangerous drugs at retail or to maintain possession, custody, or control of dangerous drugs for any purpose other than the distributor's own use or consumption, at any establishment or place other than that described in the license, except that an agent or employee of an animal shelter or county dog warden may possess and use dangerous drugs in the course of business as provided in section 4729.532 of the Revised Code.

(3) The license of an emergency medical service

organization shall cover the organization's headquarters and, in addition, shall cover and describe all the units of the organization listed in its application for licensure.

(I)(1) All licenses issued or renewed pursuant to this section shall be effective for a period specified by the board in rules adopted under this section ~~4729.26 of the Revised Code~~. The effective period for an initial or renewed license shall not exceed twenty-four months unless the board extends the period in rules to adjust license renewal schedules. A license shall be renewed by the board according to the provisions of this section, the standard renewal procedure of Chapter 4745. of the Revised Code, and rules adopted by the board under this section ~~4729.26 of the Revised Code~~. A person seeking to renew a license shall submit an application for renewal and pay the required fee on or before the date specified in the rules adopted by the board. The fee required for the renewal of a license shall be the same as the license fee that applies under division (G)(2) of this section.

(2)(a) Subject to division (I)(2)(b) of this section, a license that has not been renewed by the date specified in rules adopted by the board may be reinstated only upon payment of the required renewal fee and a penalty fee of one hundred ten dollars.

(b) If an application for renewal has not been submitted by the sixty-first day after the renewal date specified in rules adopted by the board, the license is considered void and cannot be renewed, but the license holder may reapply for licensure.

(3) A terminal distributor of dangerous drugs that fails to renew licensure in accordance with this section and rules adopted by the board is prohibited from engaging in the retail

sale, possession, or distribution of dangerous drugs until a valid license is issued by the board.

(J)(1) No emergency medical service organization that is licensed as a terminal distributor of dangerous drugs shall fail to comply with division (C)(1), (3), or (4) of this section.

(2) No licensed terminal distributor of dangerous drugs shall possess, have custody or control of, or distribute dangerous drugs that the terminal distributor is not entitled to possess, have custody or control of, or distribute by virtue of its category of licensure.

(3) No licensee that is required by division (F) of this section to notify the board of changes in its protocol or standing orders, or in personnel, shall fail to comply with that division.

(K) A person holding a license issued under this section shall designate, and shall have available at all times, a person to serve for the licensed location in a position to be known as "responsible person." A person may be designated and serve as a responsible person only if the person meets the requirements established in rules that the board shall adopt under this section ~~4729.26 of the Revised Code~~. Along with the license holder, a responsible person shall accept responsibility for the operation of the licensed location in accordance with all applicable state and federal laws and rules.

A license holder shall notify the board of the person who is designated to serve as the responsible person and, thereafter, shall notify the board each time a change is made in the designation. Notice to the board shall be provided in accordance with procedures established in rules that the board

shall adopt under this section ~~4729.26 of the Revised Code~~. For any change of responsible person, the board shall assess a fee of fifteen dollars.

(L) The board may enter into agreements with other states, federal agencies, and other entities to exchange information concerning licensing and inspection of terminal distributors of dangerous drugs located within or outside this state and to investigate alleged violations of the laws and rules governing distribution of drugs by terminal distributors. Any information received pursuant to such an agreement is subject to the same confidentiality requirements applicable to the agency or entity from which it was received and shall not be released without prior authorization from that agency or entity. Any information received is also subject to section 4729.23 of the Revised Code.

(M) In accordance with Chapter 119. of the Revised Code, the board shall adopt rules to implement and administer divisions (I)(1) and (K) of this section.

Sec. 4729.552. (A) To be eligible to receive a license as a category III terminal distributor of dangerous drugs with a pain management clinic classification, an applicant shall submit evidence satisfactory to the state board of pharmacy that the applicant's pain management clinic will be operated in accordance with the requirements specified in division (B) of this section and that the applicant meets any other applicable requirements of this chapter.

If the board determines that an applicant meets all of the requirements, the board shall issue to the applicant a license as a category III terminal distributor of dangerous drugs and specify on the license that the terminal distributor is classified as a pain management clinic.

(B) The holder of a terminal distributor license with a pain management clinic classification shall do all of the following:

(1) Be in control of a facility that is owned and operated solely by one or more physicians authorized under Chapter 4731. of the Revised Code to practice medicine and surgery or osteopathic medicine and surgery;

(2) Comply with the requirements for the operation of a pain management clinic, as established by the state medical board in rules adopted under section 4731.054 of the Revised Code;

(3) Ensure that any person employed by the facility complies with the requirements for the operation of a pain management clinic established by the state medical board in rules adopted under section 4731.054 of the Revised Code;

(4) Require any person with ownership of the facility to submit to a criminal records check in accordance with section 4776.02 of the Revised Code and send the results of the criminal records check directly to the state board of pharmacy for review and decision under section 4729.071 of the Revised Code;

(5) Require all employees of the facility to submit to a criminal records check in accordance with section 4776.02 of the Revised Code and ensure that no person is employed who has previously been convicted of, or pleaded guilty to, either of the following:

(a) A theft offense, described in division (K)(3) of section 2913.01 of the Revised Code, that would constitute a felony under the laws of this state, any other state, or the United States;

(b) A felony drug abuse offense, as defined in section 2925.01 of the Revised Code.

(6) Maintain a list of each person with ownership of the facility and notify the state board of pharmacy of any change to that list.

(C) No person shall operate a facility that under this chapter is subject to licensure as a category III terminal distributor of dangerous drugs with a pain management clinic classification without obtaining and maintaining the license with the classification.

No person who holds a category III license with a pain management clinic classification shall fail to remain in compliance with the requirements of division (B) of this section and any other applicable requirements of this chapter.

(D) The state board of pharmacy may impose a fine of not more than five thousand dollars on a person who violates division (C) of this section. A separate fine may be imposed for each day the violation continues. In imposing the fine, the board's actions shall be taken in accordance with Chapter 119. of the Revised Code.

~~(E) The state board of pharmacy shall adopt rules as it considers necessary to implement and administer this section. The rules shall be adopted in accordance with Chapter 119. of the Revised Code.~~

Sec. 4729.554. (A) As used in this section:

(1) "Remote dispensing pharmacy" means a pharmacy where the dispensing of drugs, patient counseling, and other pharmacist care is provided through a telepharmacy system. The dispensing of drugs at a remote dispensing pharmacy may include

the dispensing of drug therapy related devices.

(2) "Telepharmacy system" means a system that monitors the dispensing of drugs and provides for related drug utilization review and patient counseling services by an electronic method.

(B) The state board of pharmacy shall regulate remote dispensing pharmacies in accordance with this section. A remote dispensing pharmacy may operate only by using a telepharmacy system that meets standards established in rules adopted under this section and by complying with all other requirements of this section and the rules adopted under it for operating a remote dispensing pharmacy.

(C)(1) To be eligible to operate as a remote dispensing pharmacy, a pharmacy shall meet all of the following conditions:

(a) Be licensed under this chapter as a terminal distributor of dangerous drugs;

(b) Be located in this state, in a building that is zoned for commercial use, and in an area that meets the conditions of division (C)(2) of this section;

(c) Have a supervising pharmacy that meets the requirements of division (D) of this section and a supervising pharmacist that meets the requirements of division (E) of this section;

(d) Be staffed by two or more pharmacy interns or certified pharmacy technicians who meet qualifications and training requirements established in rules adopted under this section.

(2)(a) Except as provided in division (C)(2)(b) of this section, a remote dispensing pharmacy shall not be located

within a ten-mile radius of a pharmacy that serves the public as an outpatient pharmacy.

(b) A remote dispensing pharmacy may be located within the ten-mile radius that constitutes an excluded area for location, as described in division (C)(2)(a) of this section, if either of the following is the case:

(i) The remote dispensing pharmacy is part of a federally qualified health center or federally qualified health center look-alike, as defined in section 3701.047 of the Revised Code, and the remote dispensing pharmacy is located on the same property as, or on a campus contiguous to, the health center or look-alike.

(ii) The board, based on a demonstration of need that meets the standards established in rules adopted under this section, approves a request submitted to the board to allow the remote dispensing pharmacy to be located within the ten-mile radius.

(c) As part of the process the board uses to consider requests received under division (C)(2)(b)(ii) of this section, the board shall establish a method by which persons may register to receive notice from the board of requests received under that division. The board also shall establish a system for accepting comments from the public regarding the requests.

When the board receives a request under division (C)(2)(b)(ii) of this section, it shall electronically notify any person who has registered to be notified. During the sixty-day period that begins on the date that the board sends the electronic notices, a pharmacy may submit a request to the board for approval as a location for operation of a remote dispensing

pharmacy.

On the same date that the electronic notices are sent, the board shall post notice on its internet web site that comments from the public will be accepted regarding the request received under division (C)(2)(b)(ii) of this section. The board shall accept the comments only during the sixty-day period that begins on the date the electronic notices are sent.

At the board's next regularly scheduled meeting that occurs on or after the date that is ninety days after the electronic notices are sent, the board shall review all of the requests received and make its determination of whether any should be approved. As part of the board's determination, the board shall consider the following:

(i) Any comments received from the public;

(ii) The geographic proximity of a supervising pharmacy to a proposed remote dispensing pharmacy;

(iii) Any other standards specified in rules adopted under division (H) of this section.

(D)(1) To be eligible to serve as the supervising pharmacy of a remote dispensing pharmacy, a pharmacy shall meet all of the following conditions:

(a) Be licensed under this chapter as a terminal distributor of dangerous drugs;

(b) Be physically located in this state;

(c) Be under common ownership and control with the remote dispensing pharmacy or, pursuant to a contract that meets requirements specified in rules adopted under this section, operate under contract with the remote dispensing pharmacy.

(2) In serving as a supervising pharmacy, the supervising pharmacy shall control the telepharmacy system used by the remote dispensing pharmacy and shall employ or contract with the supervising pharmacist of the remote dispensing pharmacy.

(E)(1) To be eligible to serve as the supervising pharmacist of a remote dispensing pharmacy, a pharmacist shall meet all of the following conditions:

(a) Be licensed under this chapter as a pharmacist;

(b) Be physically located in this state when acting as the supervising pharmacist;

(c) Be employed by or under contract with the supervising pharmacy.

(2) In serving as a supervising pharmacist, the supervising pharmacist shall do all of the following:

(a) Be in full and actual charge of the remote dispensing pharmacy by using the pharmacy's telepharmacy system and by using a surveillance system that meets standards established in rules adopted under this section;

(b) Through the telepharmacy system and surveillance system, oversee the pharmacy interns and certified pharmacy technicians who are staffing the remote dispensing pharmacy;

(c) Verify each prescription and drug dispensed pursuant to the prescription before the drug leaves the remote dispensing pharmacy and provide the verification through visual review and the use of barcoding and any other technology required in rules adopted under this section;

(d) Offer to provide the service of counseling for each drug dispensed pursuant to a new prescription for a patient at

the remote dispensing pharmacy.

(3) Unless otherwise approved by the board in accordance with standards established in rules adopted under this section, a supervising pharmacist shall not simultaneously oversee the activities of more than one remote dispensing pharmacy.

(F) All of the following apply to the operation of a remote dispensing pharmacy:

(1) Unless otherwise approved by the board, a remote dispensing pharmacy shall not dispense drugs pursuant to more than an average of one hundred fifty prescriptions per day during a ninety-day period.

(2) A remote dispensing pharmacy shall implement a quality assurance plan to ensure that there is a planned and systematic process for monitoring and evaluating the quality and appropriateness of the pharmacy services being provided and for identifying and resolving problems.

(3) A remote dispensing pharmacy that holds a category III terminal distributor of dangerous drugs license shall maintain a perpetual controlled substance inventory, as specified in rules adopted under this section.

(G) Notwithstanding section 4729.91 of the Revised Code or any other section of this chapter to the contrary, both of the following apply to a pharmacy intern or certified pharmacy technician staffing a remote dispensing pharmacy:

(1) The intern or technician may assist in the process of dispensing drugs at the pharmacy.

(2) The intern or technician shall not do any of the following:

(a) Counsel an individual regarding drugs that are dispensed, recommend drugs and drug therapy related devices or otherwise provide advice regarding drug therapy, or assist with selecting drugs and drug therapy related devices for treatment of common diseases and injuries or assist with providing instruction on their use;

(b) Perform compounding of sterile or nonsterile drugs, except for the reconstitution of prepackaged dangerous drugs;

(c) Engage in the repackaging of dangerous drugs;

(d) Administer immunizations or perform diagnostic testing, unless a pharmacist is onsite to provide direct supervision;

(e) Perform any other activity prohibited by rules adopted under this section.

(H) The board shall adopt rules ~~for purposes of its regulation of remote dispensing pharmacies. The rules shall be adopted~~ in accordance with Chapter 119. of the Revised Code ~~and include~~ establishing all of the following standards and procedures for the operation of remote dispensing pharmacies:

(1) Standards for a system of continuous video surveillance and recording of remote dispensing pharmacies, including standards for both of the following:

(a) An adequate number of views of the entire remote dispensing pharmacy to ensure that the supervising pharmacist can maintain oversight;

(b) Retention of each recording made by the system for at least sixty days after the date of the recording.

(2) Standards for telepharmacy systems and surveillance

systems used by remote dispensing pharmacies, supervising pharmacies, and supervising pharmacists, including standards to ensure that the systems are capable of all of the following:

(a) Facilitating a safe and secured method for appropriate pharmacist supervision;

(b) Allowing an appropriate exchange of visual, verbal, and written communications for patient counseling and other pharmacy services;

(c) Being secure and compliant with the "Health Insurance Portability and Accountability Act of 1996," 42 U.S.C. 1320d et seq.

(3) Requirements for any contract between a supervising pharmacy and a remote dispensing pharmacy;

(4) Standards that must be met to make a demonstration of need for purposes of division (C)(2)(b)(ii) of this section;

(5) Requirements for the implementation of a quality assurance plan by a remote dispensing pharmacy;

(6) The qualifications and training necessary for pharmacy interns and certified pharmacy technicians who staff remote dispensing pharmacies, including the number of experiential hours required;

(7) Any additional activities that pharmacy interns and certified pharmacy technicians staffing remote dispensing pharmacies are prohibited from performing;

(8) The number of pharmacy interns and certified pharmacy technicians that a supervising pharmacist may supervise at any given time;

(9) The maximum distance a supervising pharmacist may be physically located from the remote dispensing pharmacy;

(10) Standards for remote patient counseling by a supervising pharmacist, including the counseling that is required to be offered for each drug dispensed pursuant to a new prescription for a patient by the remote dispensing pharmacy;

(11) Standards for and frequency of inspection of a remote dispensing pharmacy by the supervising pharmacist;

(12) Requirements for the closure of a remote dispensing pharmacy if the required telepharmacy system or surveillance system, or any related security system used by or for the pharmacy, is malfunctioning;

(13) Requirements related to perpetual controlled substance inventories;

(14) Security requirements for remote dispensing pharmacies that include methods for supervising pharmacists to determine who has accessed the pharmacy;

(15) Standards by which a supervising pharmacist may be approved by the board to oversee simultaneously more than one remote dispensing pharmacy;

(16) Requirements for a remote dispensing pharmacy's responsible person, as that term is defined in rules adopted by the board~~;~~

~~(17) Any other standards or procedures the board considers necessary to implement this section~~.

Sec. 4729.56. (A)(1) The state board of pharmacy, in accordance with Chapter 119. of the Revised Code, may impose any one or more of the following sanctions on a person licensed

under section 4729.52 of the Revised Code for any of the causes set forth in division (A)(2) of this section:

(a) Suspend, revoke, restrict, limit, or refuse to grant or renew a license;

(b) Reprimand or place the license holder on probation;

(c) Impose a monetary penalty or forfeiture not to exceed in severity any fine designated under the Revised Code for a similar offense or two thousand five hundred dollars if the acts committed are not classified as an offense by the Revised Code~~;~~.

(2) The board may impose the sanctions set forth in division (A)(1) of this section for any of the following:

(a) Making any false material statements in an application for licensure under section 4729.52 of the Revised Code;

(b) Violating any federal, state, or local drug law; any provision of this chapter or Chapter 2925., 3715., or 3719. of the Revised Code; or any rule of the board;

(c) A conviction of a felony;

(d) Failing to satisfy the qualifications for licensure under section 4729.53 of the Revised Code or the rules of the board or ceasing to satisfy the qualifications after the registration is granted or renewed;

(e) Falsely or fraudulently promoting to the public a drug that is a controlled substance included in schedule I, II, III, IV, or V, except that nothing in this division prohibits a manufacturer, outsourcing facility, third-party logistics provider, repackager, or wholesale distributor of dangerous drugs from furnishing information concerning a controlled substance to a health care provider or licensed terminal

distributor;

(f) Violating any provision of the "Federal Food, Drug, and Cosmetic Act," 52 Stat. 1040 (1938), 21 U.S.C. 301, or Chapter 3715. of the Revised Code;

(g) Any other cause for which the board may impose sanctions as set forth in rules adopted under this section~~—4729.26 of the Revised Code~~.

(B) Upon the suspension or revocation of any license issued under section 4729.52 of the Revised Code, the licensee shall immediately surrender the license to the board.

(C) If the board suspends, revokes, or refuses to renew any license issued under section 4729.52 of the Revised Code and determines that there is clear and convincing evidence of a danger of immediate and serious harm to any person, the board may place under seal all dangerous drugs owned by or in the possession, custody, or control of the affected licensee. Except as provided in this division, the board shall not dispose of the dangerous drugs sealed under this division until the licensee exhausts all of the licensee's appeal rights under Chapter 119. of the Revised Code. The court involved in such an appeal may order the board, during the pendency of the appeal, to sell sealed dangerous drugs that are perishable. The board shall deposit the proceeds of the sale with the court.

(D) If the board is required under Chapter 119. of the Revised Code to give notice of an opportunity for a hearing and the license holder does not make a timely request for a hearing in accordance with section 119.07 of the Revised Code, the board is not required to hold a hearing, but may adopt a final order that contains the board's findings. In the final order, the

board may impose any of the sanctions listed in division (A) of this section.

(E) Notwithstanding division (D)(2) of section 2953.32 or division (F)(1) of section 2953.39 of the Revised Code specifying that if records pertaining to a criminal case are sealed or expunged under that section the proceedings in the case must be deemed not to have occurred, sealing or expungement of the following records on which the board has based an action under this section shall have no effect on the board's action or any sanction imposed by the board under this section: records of any conviction, guilty plea, judicial finding of guilt resulting from a plea of no contest, or a judicial finding of eligibility for a pretrial diversion program or intervention in lieu of conviction. The board is not required to seal, destroy, redact, or otherwise modify its records to reflect the court's sealing or expungement of conviction records.

(F) In accordance with Chapter 119. of the Revised Code, the board shall adopt rules establishing causes for which the board may impose sanctions on a license holder under division (A)(2)(g) of this section.

Sec. 4729.57. (A) The state board of pharmacy may after notice and a hearing in accordance with Chapter 119. of the Revised Code, impose any one or more of the following sanctions on a terminal distributor of dangerous drugs for any of the causes set forth in division (B) of this section:

(1) Suspend, revoke, restrict, limit, or refuse to grant or renew any license;

(2) Reprimand or place the license holder on probation;

(3) Impose a monetary penalty or forfeiture not to exceed

in severity any fine designated under the Revised Code for a similar offense or one thousand dollars if the acts committed have not been classified as an offense by the Revised Code.

(B) The board may impose the sanctions listed in division (A) of this section for any of the following:

(1) Making any false material statements in an application for a license as a terminal distributor of dangerous drugs;

(2) Violating any rule of the board;

(3) Violating any provision of this chapter;

(4) Except as provided in section 4729.89 of the Revised Code, violating any provision of the "Federal Food, Drug, and Cosmetic Act," 52 Stat. 1040 (1938), 21 U.S.C.A. 301, or Chapter 3715. of the Revised Code;

(5) Violating any provision of the federal drug abuse control laws or Chapter 2925. or 3719. of the Revised Code;

(6) Falsely or fraudulently promoting to the public a dangerous drug, except that nothing in this division prohibits a terminal distributor of dangerous drugs from furnishing information concerning a dangerous drug to a health care provider or another licensed terminal distributor;

(7) Ceasing to satisfy the qualifications of a terminal distributor of dangerous drugs set forth in section 4729.55 of the Revised Code;

(8) Except as provided in division (C) of this section:

(a) Waiving the payment of all or any part of a deductible or copayment that an individual, pursuant to a health insurance or health care policy, contract, or plan that covers the

services provided by a terminal distributor of dangerous drugs, would otherwise be required to pay for the services if the waiver is used as an enticement to a patient or group of patients to receive pharmacy services from that terminal distributor;

(b) Advertising that the terminal distributor will waive the payment of all or any part of a deductible or copayment that an individual, pursuant to a health insurance or health care policy, contract, or plan that covers the pharmaceutical services, would otherwise be required to pay for the services.

(9) Conviction of a felony;

(10) Any other cause for which the board may impose discipline as set forth in rules adopted under this section— ~~4729.26 of the Revised Code~~.

(C) Sanctions shall not be imposed under division (B)(8) of this section against any terminal distributor of dangerous drugs that waives deductibles and copayments as follows:

(1) In compliance with a health benefit plan that expressly allows such a practice. Waiver of the deductibles or copayments shall be made only with the full knowledge and consent of the plan purchaser, payer, and third-party administrator. Documentation of the consent shall be made available to the board on request.

(2) For professional services rendered to any other person licensed pursuant to this chapter to the extent allowed by this chapter and the rules of the board.

(D)(1) Upon the suspension or revocation of a license issued to a terminal distributor of dangerous drugs or the refusal by the board to renew such a license, the distributor

shall immediately surrender the license to the board.

(2)(a) The board may place under seal all dangerous drugs that are owned by or in the possession, custody, or control of a terminal distributor at the time the license is suspended or revoked or at the time the board refuses to renew the license. Except as provided in division (D)(2)(b) of this section, dangerous drugs so sealed shall not be disposed of until appeal rights under Chapter 119. of the Revised Code have expired or an appeal filed pursuant to that chapter has been determined.

(b) The court involved in an appeal filed pursuant to Chapter 119. of the Revised Code may order the board, during the pendency of the appeal, to sell sealed dangerous drugs that are perishable. The proceeds of such a sale shall be deposited with that court.

(E) If the board is required under Chapter 119. of the Revised Code to give notice of an opportunity for a hearing and the license holder does not make a timely request for a hearing in accordance with section 119.07 of the Revised Code, the board is not required to hold a hearing, but may adopt a final order that contains the board's findings. In the final order, the board may impose any of the sanctions listed in division (A) of this section.

(F) Notwithstanding division (D)(2) of section 2953.32 or division (F)(1) of section 2953.39 of the Revised Code specifying that if records pertaining to a criminal case are sealed or expunged under that section the proceedings in the case must be deemed not to have occurred, sealing or expungement of the following records on which the board has based an action under this section shall have no effect on the board's action or any sanction imposed by the board under this section: records of

any conviction, guilty plea, judicial finding of guilt resulting from a plea of no contest, or a judicial finding of eligibility for a pretrial diversion program or intervention in lieu of conviction. The board is not required to seal, destroy, redact, or otherwise modify its records to reflect the court's sealing or expungement of conviction records.

(G) In accordance with Chapter 119. of the Revised Code, the board shall adopt rules establishing causes for which the board may impose sanctions on a license holder as described in division (B)(10) of this section.

Sec. 4729.62. If a person licensed under section 4729.52 or 4729.54 of the Revised Code ceases to engage in the activities for which the license was issued, the person shall notify the state board of pharmacy of such fact and shall surrender such license to the board within a time frame specified by the board in rules adopted under this section ~~4729.26 of the Revised Code~~; provided, that on dissolution of a partnership by death, the surviving partner may operate under a license issued to the partnership until expiration, revocation, or suspension of such license, and the heirs or legal representatives of deceased persons, and receivers and trustees in bankruptcy appointed by any competent authority, may operate under the license issued to the persons succeeded in possession by such heir, representative, receiver, or trustee in bankruptcy until expiration, revocation, or suspension of such license.

The board shall adopt rules in accordance with Chapter 119. of the Revised Code specifying the time frame within which a license shall be surrendered under this section.

Sec. 4729.69. (A)(1) The state board of pharmacy, in collaboration with the director of mental health and addiction

services and attorney general, shall establish and administer a drug take-back program under which drugs are collected from the community by participating entities for the purpose of destruction or disposal of the drugs.

(2) Each of the following may participate in the program:

(a) A law enforcement agency;

(b) Any registrant authorized by the federal drug enforcement administration to be a collector pursuant to 21 C.F.R. 1317.40;

(c) Any other entity specified by the board in rule.

(B) The program shall be established and administered in such a manner that it does both of the following:

(1) Complies with any state or federal laws regarding the collection, destruction, or disposal of drugs;

(2) Maintains the confidentiality of individuals who submit or otherwise provide drugs under the program.

(C) In consultation with the director of mental health and addiction services and attorney general, the board shall adopt rules governing the program. The rules shall be adopted in accordance with Chapter 119. of the Revised Code. In adopting the rules, the board shall specify all of the following:

(1) The entities that may participate;

(2) Guidelines and responsibilities for accepting drugs by participating entities;

(3) Drugs that may be collected;

(4) Record-keeping requirements;

(5) Proper methods to destroy unused drugs;

(6) Privacy protocols and security standards;

(7) Drug transportation procedures;

(8) The schedule, duration, and frequency of the collections of drugs~~;~~

~~(9) Any other standards and procedures the board considers necessary for purposes of governing the program~~.

(D) In accordance with state and federal law, the board may adopt rules to allow an entity participating in the program to return any unused drugs to the pharmacy that originally dispensed the drug. The rules shall include procedures to be followed to maintain the confidentiality of the person for whom the drug was dispensed.

(E) Rules adopted under this section may not do any of the following:

(1) Require any entity to establish, fund, or operate a drug take-back program;

(2) Establish any new licensing requirement or fee to participate in the program;

(3) Require any entity to compile data on drugs collected;

(4) Limit the authority of an entity to collect controlled substances in accordance with federal law.

(F) The board may compile data on the amount and type of drugs collected under the program. For purposes of this division, the board may cooperate with a public or private entity in obtaining assistance in the compilation of data. An entity providing the assistance shall not be reimbursed under

the program for any costs incurred in providing the assistance.

(G) If the board compiles data under division (F) of this section, the board shall submit a report to the governor and, in accordance with section 101.68 of the Revised Code, the general assembly. The report, to the extent possible, shall include the total weight of drugs collected.

(H) No entity is required to participate in a drug take-back program established under this section, and no entity shall be subject to civil liability or professional disciplinary action for declining to participate.

(I) The board may accept grants, gifts, or donations for purposes of the program. Money received under this division shall be deposited into the drug take-back program fund established under section 109.90 of the Revised Code.

(J) An ordinance, resolution, or other law that is adopted by a municipal corporation or other political subdivision on or after ~~the effective date of this amendment~~ March 22, 2019, and regulates the collection of drugs for destruction or disposal shall comply with division (E) of this section.

Sec. 4729.70. (A) As used in this section, "cryogenic vessel" means an insulated metal container in the form of a cylinder or other design used to hold gases that have been liquefied by extreme reductions in temperature.

(B) The state board of pharmacy shall establish and implement a medical gases safety program to ensure that cryogenic vessels containing medical gases meet the requirements of this section and are properly handled. The program applies only to cryogenic vessels that are portable and contain medical gases in a volume intended for use in administering direct

treatment to one or more individuals. The program does not apply to cylinders or containers of other designs that contain medical gases that are only compressed.

(C) Each cryogenic vessel subject to this section shall meet the following requirements:

(1) The vessel shall be properly labeled according to the medical gas contained in the vessel.

(2) The vessel shall be color coded as follows:

(a) Air - yellow;

(b) Carbon dioxide - gray;

(c) Cyclopropane - orange;

(d) Helium - brown;

(e) Nitrogen - black;

(f) Nitrous oxide - blue;

(g) Oxygen - green.

The colors specified in this division shall not be used for any medical gas other than those specified in this division.

(3) The color coding specified in division (C)(2) of this section shall be applied to the vessel by doing either of the following:

(a) Applying the appropriate color to the top six inches of the body of the vessel;

(b) Affixing a wrap to the vessel that encircles the vessel completely, has the identity of the contained gas printed completely or continuously around the wrap, and uses the appropriate color as the print or background for the identity of

the gas.

(4) The vessel shall not have previously contained a gas that is not a medical gas.

(5) When the vessel is being reused for a medical gas other than the medical gas it previously contained, new labeling and color coding shall be applied to the vessel and all old labeling and color coding shall be completely removed.

(6) The connector between the vessel and the valve through which the medical gas is delivered shall be either of the following:

(a) A threaded or socket connection that is silver brazed or welded to the valve;

(b) A permanent and integral part of the valve.

(D) No person shall remove a connector between a cryogenic vessel subject to this section and the valve through which the medical gas is delivered from the vessel, replace the connector with another connector, or attach an adapter to the vessel or connector unless the person meets standards established by the board in rules adopted under this section. A person who violates this division is guilty of tampering with drugs pursuant to section 2925.24 of the Revised Code.

(E) All employees who are responsible for installing or changing the cryogenic vessels subject to this section shall be trained in the proper handling of medical gases and cryogenic vessels, including training in understanding the labeling of the vessels and recognizing the color coding required by this section.

(F) The board shall adopt rules~~ to implement the medical~~

~~gases safety program established pursuant to this section. The rules shall be adopted~~ , in accordance with Chapter 119. of the Revised Code~~.~~

~~The board's rules shall specify~~ , specifying standards and procedures to be followed in ensuring that the individuals who modify existing cryogenic vessels for purposes of bringing the vessels into compliance with this section are qualified individuals. The board's standards for being considered qualified shall include requirements for knowledge in proper safety precautions concerning medical gases, cryogenic vessels that contain medical gases, and devices through which medical gases are delivered from cryogenic vessels.

Sec. 4729.84. For purposes of establishing and maintaining a drug database pursuant to section 4729.75 of the Revised Code, the state board of pharmacy shall adopt rules in accordance with Chapter 119. of the Revised Code ~~to carry out and enforce sections 4729.75 to 4729.83 of the Revised Code. The rules shall specify~~ specifying all of the following:

(A) A means of identifying each patient, each terminal distributor of dangerous drugs, each purchase at wholesale of dangerous drugs, and each retail dispensary licensed under Chapter 3796. of the Revised Code about which information is entered into the drug database;

(B) Requirements for the transmission of information from terminal distributors of dangerous drugs, manufacturers of dangerous drugs, outsourcing facilities, repackagers of dangerous drugs, wholesale distributors of dangerous drugs, prescribers, and retail dispensaries;

(C) An electronic format for the submission of information

from persons identified in division (B) of this section;

(D) A procedure whereby a person unable to submit information electronically may obtain a waiver to submit information in another format;

(E) A procedure whereby the board may grant a request from a law enforcement agency or a government entity responsible for the licensure, regulation, or discipline of licensed health professionals authorized to prescribe drugs that information that has been stored for three years be retained when the information pertains to an open investigation being conducted by the agency or entity;

(F) A procedure whereby a person identified in division (B) of this section may apply for an extension to the time by which information must be transmitted to the board;

(G) A procedure whereby a person or government entity to which the board is authorized to provide information may submit a request to the board for the information and the board may verify the identity of the requestor;

(H) Standards for determining what information is appropriate to be provided under division (A)(21) of section 4729.80 of the Revised Code;

(I) A procedure whereby the board can use the database request records required by division (B) of section 4729.80 of the Revised Code to document and report statistics and law enforcement outcomes;

(J) A procedure whereby an individual may request the individual's own database information and the board may verify the identity of the requestor;

(K) A reasonable fee that the board may charge under section 4729.83 of the Revised Code for providing an individual with the individual's own database information pursuant to section 4729.80 of the Revised Code;

(L) The other specific dangerous drugs that, in addition to controlled substances, must be included in the database;

(M) The types of pharmacies licensed as terminal distributors of dangerous drugs that are required to submit prescription information to the board pursuant to section 4729.77 of the Revised Code;

(N) Additional data fields, recognized by the American society for automation in pharmacy, that licensed terminal distributors of dangerous drugs must submit to the board pursuant to section 4729.77 of the Revised Code;

(O) The information regarding medical marijuana dispensed to a patient that a retail dispensary is required to submit to the board pursuant to section 4729.771 of the Revised Code;

(P) Requirements for the transmission of information pursuant to section 4729.772 of the Revised Code and requirements for the release of such information by the board.

Sec. 4729.94. The state board of pharmacy shall adopt rules ~~under section 4729.26 of the Revised Code~~ governing registration of registered pharmacy technicians, certified pharmacy technicians, and pharmacy technician trainees. The rules shall include all of the following:

(A) Application and renewal forms and procedures;

(B) Reapplication forms and procedures for individuals whose registration has lapsed more than ninety days;

(C) Education and training requirements, requirements for employer-administered training programs, and other requirements considered appropriate by the board;

(D) Additional activities permitted by divisions (A)(7) and (B)(4) of section 4729.91 of the Revised Code;

(E) Requirements for sterile and non-sterile drug compounding;

(F) Continuing education requirements;

(G) Conduct that constitutes dishonesty or unprofessional conduct by a registered pharmacy technician, certified pharmacy technician, or pharmacy technician trainee;

(H) Additional conduct for which the board may impose discipline under section 4729.96 of the Revised Code on a registered pharmacy technician, certified pharmacy technician, or pharmacy technician trainee~~;~~

~~(I) Any other rules the board considers appropriate to implement sections 4729.90 to 4729.96 of the Revised Code~~.

Sec. 4730.141. (A) An individual who holds a current, valid license issued under this chapter to practice as a physician assistant and who retires voluntarily from practice may request that the state medical board place the individual's license on retired status.

(B) An individual seeking to have the individual's license placed on retired status shall file with the board an application in the form and manner prescribed by the board. The application shall be submitted before the end of a biennial renewal period and include all of the following:

(1) The applicant's full name, license number, mailing

address, and electronic mail address;

(2) An attestation that the information included in the application is accurate and truthful and that the applicant meets the following qualifications:

(a) That the applicant holds a current, valid license issued under this chapter;

(b) That the applicant has retired voluntarily from practice as a physician assistant;

(c) That the applicant does not hold an active registration with the federal drug enforcement administration;

(d) That the applicant does not have any criminal charges pending against the applicant;

(e) That the applicant is not the subject of discipline by, or an investigation pending with, a regulatory agency of this state, another state, or the United States;

(f) That the applicant does not have any complaints pending with the board;

(g) That the applicant is not, at the time of application, subject to the board's hearing, disciplinary, or compliance processes under the terms of a citation, notice of opportunity for hearing, board order, or consent agreement.

(3) A fee in an amount equal to the sum of the biennial renewal fee and restoration penalty described in section 4730.14 of the Revised Code.

The board shall not consider an application for retired status complete until the board receives the fee described in this division. On receipt of a fee, the board shall deposit the

fee in accordance with section 4731.24 of the Revised Code.

(C) If the board determines that an applicant meets the requirements of division (B) of this section, the board shall place the applicant's license on retired status. The license remains on retired status for the life of the license holder, unless suspended, revoked, or reactivated, and does not require renewal.

(D) During the period in which a license is on retired status, all of the following apply:

(1) The license holder is prohibited from practicing as a physician assistant under any circumstance.

(2) The license holder is not required to complete the continuing education described in sections 4730.14 and 4730.49 of the Revised Code.

(3) The license holder is prohibited from using the license to obtain a license to practice as a physician assistant in another state, whether by endorsement or reciprocity or through a licensure compact.

(4) The license holder may use a title authorized for the holder's license, but only if "retired" also is included in the title.

(5) In the case of a license holder who was issued a prescriber number by the board as part of the holder's physician-delegated prescriptive authority, the number, like the license, is placed on retired status.

(E) If a license has been placed on retired status pursuant to this section, it may be reactivated. Subject to section 4730.28 of the Revised Code, the board may reactivate a

license placed on retired status if all of the following conditions are satisfied:

(1) The individual seeking to reactivate the license applies to the board in the form and manner prescribed by the board.

(2) The applicant certifies completion of, within the two-year period that ends on the date of the application's submission, the continuing education requirements that must be met for renewal of a license.

(3) The applicant complies with sections 4776.01 to 4776.04 of the Revised Code.

(4) The applicant pays a reactivation fee in an amount equal to the sum of the biennial renewal fee and restoration penalty described in section 4730.14 of the Revised Code.

The board shall not consider an application to reactivate a license complete until the board receives the fee described in this division. On receipt of a fee, the board shall deposit the fee in accordance with section 4731.24 of the Revised Code.

(F) The board shall reactivate a license placed on retired status if the conditions of division (E) of this section have been satisfied and the board, in its discretion, determines that the results of the criminal records check conducted pursuant to sections 4776.01 to 4776.04 of the Revised Code do not make the applicant ineligible for active status.

(G) The board may take disciplinary action against an applicant who is seeking to place a license on retired status or to reactivate the license if the applicant commits fraud, misrepresentation, or deception in applying for or securing the retired status or reactivation.

The board also may take disciplinary action against the holder of a license placed on retired status if the holder practices under the license, uses the license to obtain licensure as a physician assistant in another state, or uses a title that does not reflect the holder's retired status.

In taking disciplinary action under this section, the board may impose on the applicant or holder any sanction described in section 4730.25 of the Revised Code, but shall do so in accordance with the procedures described in that section.

~~(H) The board may adopt rules to implement and enforce this section. The rules shall be adopted in accordance with Chapter 119. of the Revised Code.~~

Sec. 4730.39. (A) The state medical board shall adopt rules governing physician-delegated prescriptive authority for physician assistants. The rules shall be adopted in accordance with Chapter 119. of the Revised Code.

(B) The board's rules governing physician-delegated prescriptive authority shall establish all of the following:

(1) Requirements regarding the pharmacology courses that a physician assistant is required to complete;

(2) A specific prohibition against prescribing any drug or device to perform or induce an abortion;

(3) Standards and procedures to be followed by a physician assistant in personally furnishing samples of drugs or complete or partial supplies of drugs to patients under section 4730.43 of the Revised Code~~;~~

~~(4) Any other requirements the board considers necessary to implement the provisions of this chapter regarding physician-~~

~~delegated prescriptive authority~~.

Sec. 4730.49. (A) To be eligible for renewal of a license to practice as a physician assistant, an applicant who has been granted physician-delegated prescriptive authority is subject to both of the following:

(1) The applicant shall complete every two years at least twelve hours of continuing education in pharmacology obtained through a program or course approved by the state medical board or a person the board has authorized to approve continuing pharmacology education programs and courses. Except as provided in section 5903.12 of the Revised Code, the continuing education shall be completed not later than the date on which the applicant's license expires.

(2)(a) Except as provided in division (A)(2)(b) of this section, in the case of an applicant who prescribes opioid analgesics or benzodiazepines, as defined in section 3719.01 of the Revised Code, the applicant shall certify to the board whether the applicant has been granted access to the drug database established and maintained by the state board of pharmacy pursuant to section 4729.75 of the Revised Code.

(b) The requirement described in division (A)(2)(a) of this section does not apply if any of the following is the case:

(i) The state board of pharmacy notifies the state medical board pursuant to section 4729.861 of the Revised Code that the applicant has been restricted from obtaining further information from the drug database.

(ii) The state board of pharmacy no longer maintains the drug database.

(iii) The applicant does not practice as a physician

assistant in this state.

(c) If an applicant certifies to the state medical board that the applicant has been granted access to the drug database and the board finds through an audit or other means that the applicant has not been granted access, the board may take action under section 4730.25 of the Revised Code.

(B) The state medical board shall provide for pro rata reductions by month of the number of hours of continuing education in pharmacology that is required to be completed for physician assistants who have been disabled due to illness or accident or have been absent from the country. The board shall adopt rules, in accordance with Chapter 119. of the Revised Code, ~~as necessary~~ to implement this division.

(C) The continuing education required by this section is in addition to the continuing education required under section 4730.14 of the Revised Code.

(D) If the board chooses to authorize persons to approve continuing pharmacology education programs and courses, it shall establish standards for granting that authority and grant the authority in accordance with the standards.

Sec. 4731.05. (A) ~~The state medical board shall adopt rules in accordance with Chapter 119. of the Revised Code to carry out the purposes of this chapter.~~ All adjudicative proceedings of the state medical board shall be conducted in accordance with Chapter 119. of the Revised Code.

(B) The state medical board shall appoint an executive director who shall be in the unclassified service of the state. The board may appoint other employees of the board as are necessary and shall prescribe their titles and duties.

(C) The state medical board shall develop requirements for and provide appropriate initial and continuing training for investigators employed by the board to carry out its duties under Chapter 4731. of the Revised Code. The training and continuing education may include enrollment in courses operated or approved by the Ohio peace officer training commission that the board considers appropriate under conditions set forth in section 109.79 of the Revised Code.

(D)(1) The state medical board shall adopt internal management rules pursuant to section 111.15 of the Revised Code. The rules shall set forth criteria for assessing the board's accomplishments, activities, and performance data, including metrics detailing the board's revenues and reimbursements; budget distribution; investigation and licensing activity, including issuance of licenses and processing time frames; and enforcement data, including processing time frames. The board shall include the assessment in the annual report required by section 149.01 of the Revised Code.

(2) The state medical board shall cause the internal management rules and annual report described in division (D)(1) of this section to be publicly accessible on the state medical board's web site.

Sec. 4731.053. (A) As used in this section, "physician" means an individual authorized by this chapter to practice medicine and surgery, osteopathic medicine and surgery, or podiatric medicine and surgery.

(B) The state medical board shall adopt rules that establish standards to be met and procedures to be followed by a physician with respect to the physician's delegation of the performance of a medical task to a person who is not licensed or

otherwise specifically authorized by the Revised Code to perform the task. The rules shall be adopted in accordance with Chapter 119. of the Revised Code and shall include a coroner's investigator among the individuals who are competent to recite the facts of a deceased person's medical condition to a physician so that the physician may pronounce the person dead without personally examining the body.

(C) To the extent that delegation applies to the administration of drugs, the rules adopted under this section shall provide for all of the following:

(1) On-site supervision when the delegation occurs in an institution or other facility that is used primarily for the purpose of providing health care, unless the board establishes a specific exception to the on-site supervision requirement with respect to routine administration of a topical drug, such as the use of a medicated shampoo;

(2) Evaluation of whether delegation is appropriate according to the acuity of the patient involved;

(3) Training and competency requirements that must be met by the person administering the drugs~~;~~

~~(4) Other standards and procedures the board considers relevant~~.

(D) The board shall not adopt rules that do any of the following:

(1) Authorize a physician to transfer the physician's responsibility for supervising a person who is performing a delegated medical task to a health professional other than another physician;

(2) Authorize an individual to whom a medical task is delegated to delegate the performance of that task to another individual;

(3) Except as provided in divisions (D)(4) to (7) of this section, authorize a physician to delegate the administration of anesthesia, controlled substances, drugs administered intravenously, or any other drug or category of drug the board considers to be inappropriate for delegation;

(4) Prevent an individual from engaging in an activity performed for a child with a disability as a service needed to meet the educational needs of the child, as identified in the individualized education program developed for the child under Chapter 3323. of the Revised Code;

(5) Conflict with any provision of the Revised Code that specifically authorizes an individual to perform a particular task;

(6) Conflict with any rule adopted pursuant to the Revised Code that is in effect on April 10, 2001, as long as the rule remains in effect, specifically authorizing an individual to perform a particular task;

(7) Prohibit a perfusionist from administering drugs intravenously while practicing as a perfusionist;

(8) Authorize a physician assistant, anesthesiologist assistant, or any other professional regulated by the board to delegate tasks pursuant to this section.

Sec. 4731.151. (A) Naprapaths who received a certificate to practice from the state medical board prior to March 2, 1992, may continue to practice naprapathy, as defined in rules adopted by the board under this section. Such naprapaths shall practice

in accordance with those rules ~~adopted by the board~~.

(B)(1) As used in this division:

(a) "Mechanotherapy" means all of the following:

(i) Examining patients by verbal inquiry;

(ii) Examination of the musculoskeletal system by hand;

(iii) Visual inspection and observation;

(iv) Diagnosing a patient's condition only as to whether the patient has a disorder of the musculoskeletal system;

(v) In the treatment of patients, employing the techniques of advised or supervised exercise; electrical neuromuscular stimulation; massage or manipulation; or air, water, heat, cold, sound, or infrared ray therapy only to those disorders of the musculoskeletal system that are amenable to treatment by such techniques and that are identifiable by examination performed in accordance with division (B)(1)(a)(i) of this section and diagnosable in accordance with division (B)(1)(a)(ii) of this section.

(b) "Educational requirements" means the completion of a course of study appropriate for certification to practice mechanotherapy on or before November 3, 1985, as determined by rules adopted under this ~~chapter~~section.

(2) Mechanotherapists who received a certificate to practice from the board prior to March 2, 1992, may continue to practice mechanotherapy, as defined in rules adopted by the board under this section. Such mechanotherapists shall practice in accordance with those rules ~~adopted by the board~~.

A person authorized by this division to practice as a

mechanotherapist may examine, diagnose, and assume responsibility for the care of patients with due regard for first aid and the hygienic and nutritional care of the patients. Roentgen rays shall be used by a mechanotherapist only for diagnostic purposes.

(3) A person who holds a certificate to practice mechanotherapy and completed educational requirements in mechanotherapy on or before November 3, 1985, is entitled to use the title "doctor of mechanotherapy" and is a "physician" who performs "medical services" for the purposes of Chapters 4121. and 4123. of the Revised Code and the medicaid program, and shall receive payment or reimbursement as provided under those chapters and that program.

(C) Chapter 4796. of the Revised Code does not apply to a certificate to practice naprapathy or mechanotherapy issued under this section.

(D) In accordance with Chapter 119. of the Revised Code, the state medical board shall adopt rules to define the practice of naprapathy, as described in division (A) of this section and the practice of mechanotherapy, as described in division (B)(2) of this section.

Sec. 4731.16. (A) The state medical board shall determine the standing of the schools, colleges, or institutions giving instruction in the limited branch of medicine of massage therapy.

(B) The board may administer an examination of competency to practice the limited branch of medicine of massage therapy. If it administers an examination, the board shall establish by rule a fee to cover the cost of administering the examination.

If it does not administer an examination, the board shall, in accordance with Chapter 119. of the Revised Code, adopt rules under this section ~~4731.05 of the Revised Code~~ that specify both of the following:

(1) An examination acceptable to the board as an examination of competency to practice the limited branch of medicine of massage therapy;

(2) The score that constitutes evidence of passing the examination.

Sec. 4731.19. (A) Except as provided in division (E) of this section, a person seeking a license to practice the limited branch of medicine of massage therapy shall file with the state medical board an application in a manner prescribed by the board. The application shall include or be accompanied by all of the following:

(1) Evidence that the applicant is at least eighteen years of age;

(2) Evidence that the applicant has attained high school graduation or its equivalent;

(3) Evidence that the applicant holds one of the following:

(a) A diploma or certificate from a school, college, or institution in good standing as determined by the board in accordance with rules adopted under this section ~~4731.05 of the Revised Code~~, showing the completion of a course of instruction in massage therapy of at least six hundred clock hours.

(b) A diploma or certificate from a school, college, or institution in another state or jurisdiction meeting standards

determined by the board through rules adopted under this section ~~4731.05 of the Revised Code~~, that require the completion of a course of instruction in massage therapy of at least six hundred clock hours.

(4) Evidence that the applicant has successfully passed an examination, prescribed in rules described in section 4731.16 of the Revised Code, to determine competency to practice massage therapy;

(5) An attestation that the information submitted under this section is accurate and truthful and that the applicant consents to release of information;

(6) Any other information the board requires.

(B) An applicant for a license to practice massage therapy shall comply with the requirements of section 4731.171 of the Revised Code.

(C) At the time of making application for a license to practice massage therapy, the applicant shall pay to the board a fee of one hundred fifty dollars, no part of which shall be returned. No application shall be considered filed until the board receives the appropriate fee.

(D) The board may investigate the application materials received under this section and contact any agency or organization for recommendations or other information about the applicant.

(E) The board shall issue a certificate to practice a limited branch of medicine in accordance with Chapter 4796. of the Revised Code to an applicant if either of the following applies:

(1) The applicant holds a license or certificate in another state.

(2) As described in that chapter, the applicant has satisfactory work experience in practicing, or a government certification or private certification to practice, a limited branch of medicine in a state that does not issue that license or certificate.

(F) In accordance with Chapter 119. of the Revised Code, the board shall adopt rules establishing standards and procedures for determining each of the following:

(1) Whether a school, college, or institution is in good standing as described in division (A)(3)(a) of this section;

(2) Whether a school, college, or institution in another state or jurisdiction meets standards as described in division (A)(3)(b) of this section.

Sec. 4731.22. (A) The state medical board, by an affirmative vote of not fewer than six of its members, may limit, revoke, or suspend a license or certificate to practice or certificate to recommend, refuse to grant a license or certificate, refuse to renew a license or certificate, refuse to reinstate a license or certificate, or reprimand or place on probation the holder of a license or certificate if the individual applying for or holding the license or certificate is found by the board to have committed fraud during the administration of the examination for a license or certificate to practice or to have committed fraud, misrepresentation, or deception in applying for, renewing, or securing any license or certificate to practice or certificate to recommend issued by the board.

(B) Except as provided in division (P) of this section, the board, by an affirmative vote of not fewer than six members, shall, to the extent permitted by law, limit, revoke, or suspend a license or certificate to practice or certificate to recommend, refuse to issue a license or certificate, refuse to renew a license or certificate, refuse to reinstate a license or certificate, or reprimand or place on probation the holder of a license or certificate for one or more of the following reasons:

(1) Permitting one's name or one's license or certificate to practice to be used by a person, group, or corporation when the individual concerned is not actually directing the treatment given;

(2) Failure to maintain minimal standards applicable to the selection or administration of drugs, or failure to employ acceptable scientific methods in the selection of drugs or other modalities for treatment of disease;

(3) Except as provided in section 4731.97 of the Revised Code, selling, giving away, personally furnishing, prescribing, or administering drugs for other than legal and legitimate therapeutic purposes or a plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility for intervention in lieu of conviction of, a violation of any federal or state law regulating the possession, distribution, or use of any drug;

(4) Willfully betraying a professional confidence.

For purposes of this division, "willfully betraying a professional confidence" does not include providing any information, documents, or reports under sections 307.621 to 307.629 of the Revised Code to a child fatality review board;

does not include providing any information, documents, or reports under sections 307.631 to 307.6410 of the Revised Code to a drug overdose fatality review committee, a suicide fatality review committee, or hybrid drug overdose fatality and suicide fatality review committee; does not include providing any information, documents, or reports under sections 307.651 to 307.659 of the Revised Code to a domestic violence fatality review board; does not include providing any information, documents, or reports to the director of health pursuant to guidelines established under section 3701.70 of the Revised Code; does not include written notice to a mental health professional under section 4731.62 of the Revised Code; does not include making a report as described in division (F) of section 2921.22 and section 4731.224 of the Revised Code; and does not include the making of a report of an employee's use of a drug of abuse, or a report of a condition of an employee other than one involving the use of a drug of abuse, to the employer of the employee as described in division (B) of section 2305.33 of the Revised Code. Nothing in this division affects the immunity from civil liability conferred by section 2305.33 or 4731.62 of the Revised Code upon a physician who makes a report in accordance with section 2305.33 or notifies a mental health professional in accordance with section 4731.62 of the Revised Code. As used in this division, "employee," "employer," and "physician" have the same meanings as in section 2305.33 of the Revised Code.

(5) Making a false, fraudulent, deceptive, or misleading statement in the solicitation of or advertising for patients; in relation to the practice of medicine and surgery, osteopathic medicine and surgery, podiatric medicine and surgery, or a limited branch of medicine; or in securing or attempting to secure any license or certificate to practice issued by the

board.

As used in this division, "false, fraudulent, deceptive, or misleading statement" means a statement that includes a misrepresentation of fact, is likely to mislead or deceive because of a failure to disclose material facts, is intended or is likely to create false or unjustified expectations of favorable results, or includes representations or implications that in reasonable probability will cause an ordinarily prudent person to misunderstand or be deceived.

(6) A departure from, or the failure to conform to, minimal standards of care of similar practitioners under the same or similar circumstances, whether or not actual injury to a patient is established;

(7) Representing, with the purpose of obtaining compensation or other advantage as personal gain or for any other person, that an incurable disease or injury, or other incurable condition, can be permanently cured;

(8) The obtaining of, or attempting to obtain, money or anything of value by fraudulent misrepresentations in the course of practice;

(9) A plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility for intervention in lieu of conviction for, a felony;

(10) Commission of an act that constitutes a felony in this state, regardless of the jurisdiction in which the act was committed;

(11) A plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility for intervention in lieu of conviction for, a misdemeanor committed in the course of

practice;

(12) Commission of an act in the course of practice that constitutes a misdemeanor in this state, regardless of the jurisdiction in which the act was committed;

(13) A plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility for intervention in lieu of conviction for, a misdemeanor involving moral turpitude;

(14) Commission of an act involving moral turpitude that constitutes a misdemeanor in this state, regardless of the jurisdiction in which the act was committed;

(15) Violation of the conditions of limitation placed by the board upon a license or certificate to practice;

(16) Failure to pay license renewal fees specified in this chapter;

(17) Except as authorized in section 4731.31 of the Revised Code, engaging in the division of fees for referral of patients, or the receiving of a thing of value in return for a specific referral of a patient to utilize a particular service or business;

(18) Subject to section 4731.226 of the Revised Code, violation of any provision of a code of ethics of the American medical association, the American osteopathic association, the American podiatric medical association, or any other national professional organizations that the board specifies by rule. The state medical board shall obtain and keep on file current copies of the codes of ethics of the various national professional organizations. The individual whose license or certificate is being suspended or revoked shall not be found to have violated any provision of a code of ethics of an organization not

appropriate to the individual's profession.

For purposes of this division, a "provision of a code of ethics of a national professional organization" does not include any provision that would preclude the making of a report by a physician of an employee's use of a drug of abuse, or of a condition of an employee other than one involving the use of a drug of abuse, to the employer of the employee as described in division (B) of section 2305.33 of the Revised Code. Nothing in this division affects the immunity from civil liability conferred by that section upon a physician who makes either type of report in accordance with division (B) of that section. As used in this division, "employee," "employer," and "physician" have the same meanings as in section 2305.33 of the Revised Code.

(19) Inability to practice according to acceptable and prevailing standards of care by reason of mental illness or physical illness, including, but not limited to, physical deterioration that adversely affects cognitive, motor, or perceptive skills.

In enforcing this division, the board, upon a showing of a possible violation, shall refer any individual who is authorized to practice by this chapter or who has submitted an application pursuant to this chapter to the monitoring organization that conducts the confidential monitoring program established under section 4731.25 of the Revised Code. The board also may compel the individual to submit to a mental examination, physical examination, including an HIV test, or both a mental and a physical examination. The expense of the examination is the responsibility of the individual compelled to be examined. Failure to submit to a mental or physical examination or consent

to an HIV test ordered by the board constitutes an admission of the allegations against the individual unless the failure is due to circumstances beyond the individual's control, and a default and final order may be entered without the taking of testimony or presentation of evidence. If the board finds an individual unable to practice because of the reasons set forth in this division, the board shall require the individual to submit to care, counseling, or treatment by physicians approved or designated by the board, as a condition for initial, continued, reinstated, or renewed authority to practice. An individual affected under this division shall be afforded an opportunity to demonstrate to the board the ability to resume practice in compliance with acceptable and prevailing standards under the provisions of the individual's license or certificate. For the purpose of this division, any individual who applies for or receives a license or certificate to practice under this chapter accepts the privilege of practicing in this state and, by so doing, shall be deemed to have given consent to submit to a mental or physical examination when directed to do so in writing by the board, and to have waived all objections to the admissibility of testimony or examination reports that constitute a privileged communication.

(20) Except as provided in division (F)(1)(b) of section 4731.282 of the Revised Code or when civil penalties are imposed under section 4731.225 of the Revised Code, and subject to section 4731.226 of the Revised Code, violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate, any provisions of this chapter or any rule promulgated by the board.

This division does not apply to a violation or attempted violation of, assisting in or abetting the violation of, or a

conspiracy to violate, any provision of this chapter or any rule adopted by the board that would preclude the making of a report by a physician of an employee's use of a drug of abuse, or of a condition of an employee other than one involving the use of a drug of abuse, to the employer of the employee as described in division (B) of section 2305.33 of the Revised Code. Nothing in this division affects the immunity from civil liability conferred by that section upon a physician who makes either type of report in accordance with division (B) of that section. As used in this division, "employee," "employer," and "physician" have the same meanings as in section 2305.33 of the Revised Code.

(21) The violation of section 3701.79 of the Revised Code or of any abortion rule adopted by the director of health pursuant to section 3701.341 of the Revised Code;

(22) Any of the following actions taken by an agency responsible for authorizing, certifying, or regulating an individual to practice a health care occupation or provide health care services in this state or another jurisdiction, for any reason other than the nonpayment of fees: the limitation, revocation, or suspension of an individual's license to practice; acceptance of an individual's license surrender; denial of a license; refusal to renew or reinstate a license; imposition of probation; or issuance of an order of censure or other reprimand;

(23) The violation of section 2919.12 of the Revised Code or the performance or inducement of an abortion upon a pregnant woman with actual knowledge that the conditions specified in division (B) of section 2317.56 of the Revised Code have not been satisfied or with a heedless indifference as to whether

those conditions have been satisfied, unless an affirmative defense as specified in division (H)(2) of that section would apply in a civil action authorized by division (H)(1) of that section;

(24) The revocation, suspension, restriction, reduction, or termination of clinical privileges by the United States department of defense or department of veterans affairs or the termination or suspension of a certificate of registration to prescribe drugs by the drug enforcement administration of the United States department of justice;

(25) Termination or suspension from participation in the medicare or medicaid programs by the department of health and human services or other responsible agency;

(26) Impairment of ability to practice according to acceptable and prevailing standards of care because of substance use disorder or excessive use or abuse of drugs, alcohol, or other substances that may impair ability to practice.

For the purposes of this division, any individual authorized to practice by this chapter accepts the privilege of practicing in this state subject to supervision by the board. By filing an application for or holding a license or certificate to practice under this chapter, an individual shall be deemed to have given consent to submit to a mental or physical examination when ordered to do so by the board in writing, and to have waived all objections to the admissibility of testimony or examination reports that constitute privileged communications.

If it has reason to believe that any individual authorized to practice by this chapter or any applicant for licensure or certification to practice suffers such impairment, the board

shall refer the individual to the monitoring organization that conducts the confidential monitoring program established under section 4731.25 of the Revised Code. The board also may compel the individual to submit to a mental or physical examination, or both. The expense of the examination is the responsibility of the individual compelled to be examined. Any mental or physical examination required under this division shall be undertaken by a treatment provider or physician who is qualified to conduct the examination and who is approved under section 4731.251 of the Revised Code.

Failure to submit to a mental or physical examination ordered by the board constitutes an admission of the allegations against the individual unless the failure is due to circumstances beyond the individual's control, and a default and final order may be entered without the taking of testimony or presentation of evidence. If the board determines that the individual's ability to practice is impaired, the board shall suspend the individual's license or certificate or deny the individual's application and shall require the individual, as a condition for initial, continued, reinstated, or renewed licensure or certification to practice, to submit to treatment.

Before being eligible to apply for reinstatement of a license or certificate suspended under this division, the impaired practitioner shall demonstrate to the board the ability to resume practice in compliance with acceptable and prevailing standards of care under the provisions of the practitioner's license or certificate. The demonstration shall include, but shall not be limited to, the following:

(a) Certification from a treatment provider approved under section 4731.251 of the Revised Code that the individual has

successfully completed any required inpatient treatment;

(b) Evidence of continuing full compliance with an aftercare contract or consent agreement;

(c) Two written reports indicating that the individual's ability to practice has been assessed and that the individual has been found capable of practicing according to acceptable and prevailing standards of care. The reports shall be made by individuals or providers approved by the board for making the assessments and shall describe the basis for their determination.

The board may reinstate a license or certificate suspended under this division after that demonstration and after the individual has entered into a written consent agreement.

When the impaired practitioner resumes practice, the board shall require continued monitoring of the individual. The monitoring shall include, but not be limited to, compliance with the written consent agreement entered into before reinstatement or with conditions imposed by board order after a hearing, and, upon termination of the consent agreement, submission to the board for at least two years of annual written progress reports made under penalty of perjury stating whether the individual has maintained sobriety.

(27) A second or subsequent violation of section 4731.66 or 4731.69 of the Revised Code;

(28) Except as provided in division (N) of this section:

(a) Waiving the payment of all or any part of a deductible or copayment that a patient, pursuant to a health insurance or health care policy, contract, or plan that covers the individual's services, otherwise would be required to pay if the

waiver is used as an enticement to a patient or group of patients to receive health care services from that individual;

(b) Advertising that the individual will waive the payment of all or any part of a deductible or copayment that a patient, pursuant to a health insurance or health care policy, contract, or plan that covers the individual's services, otherwise would be required to pay.

(29) Failure to use universal blood and body fluid precautions established by rules adopted under section 4731.051 of the Revised Code;

(30) Failure to provide notice to, and receive acknowledgment of the notice from, a patient when required by section 4731.143 of the Revised Code prior to providing nonemergency professional services, or failure to maintain that notice in the patient's medical record;

(31) Failure of a physician supervising a physician assistant to maintain supervision in accordance with the requirements of Chapter 4730. of the Revised Code~~ and the rules adopted under that chapter~~;

(32) Failure of a physician or podiatrist to enter into a standard care arrangement with a clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner with whom the physician or podiatrist is in collaboration pursuant to section 4731.27 of the Revised Code or failure to fulfill the responsibilities of collaboration after entering into a standard care arrangement;

(33) Failure to comply with the terms of a consult agreement entered into with a pharmacist pursuant to section 4729.39 of the Revised Code;

(34) Failure to cooperate in an investigation conducted by the board under division (F) of this section, including failure to comply with a subpoena or order issued by the board or failure to answer truthfully a question presented by the board in an investigative interview, an investigative office conference, at a deposition, or in written interrogatories, except that failure to cooperate with an investigation shall not constitute grounds for discipline under this section if a court of competent jurisdiction has issued an order that either quashes a subpoena or permits the individual to withhold the testimony or evidence in issue;

(35) Failure to supervise an anesthesiologist assistant in accordance with Chapter 4760. of the Revised Code ~~and the board's rules for supervision of an anesthesiologist assistant~~;

(36) Assisting suicide, as defined in section 3795.01 of the Revised Code;

(37) Failure to comply with the requirements of section 2317.561 of the Revised Code;

(38) Failure to supervise a radiologist assistant in accordance with Chapter 4774. of the Revised Code ~~and the board's rules for supervision of radiologist assistants~~;

(39) Performing or inducing an abortion at an office or facility with knowledge that the office or facility fails to post the notice required under section 3701.791 of the Revised Code;

(40) Failure to comply with the standards and procedures established in rules under section 4731.054 of the Revised Code for the operation of or the provision of care at a pain management clinic;

(41) Failure to comply with the standards and procedures established in rules under section 4731.054 of the Revised Code for providing supervision, direction, and control of individuals at a pain management clinic;

(42) Failure to comply with the requirements of section 4729.79 or 4731.055 of the Revised Code, unless the state board of pharmacy no longer maintains a drug database pursuant to section 4729.75 of the Revised Code;

(43) Failure to comply with the requirements of section 2919.171, 2919.202, or 2919.203 of the Revised Code or failure to submit to the department of health in accordance with a court order a complete report as described in section 2919.171 or 2919.202 of the Revised Code;

(44) Practicing at a facility that is subject to licensure as a category III terminal distributor of dangerous drugs with a pain management clinic classification unless the person operating the facility has obtained and maintains the license with the classification;

(45) Owning a facility that is subject to licensure as a category III terminal distributor of dangerous drugs with a pain management clinic classification unless the facility is licensed with the classification;

(46) Failure to comply with any of the requirements regarding making or maintaining medical records or documents described in division (A) of section 2919.192, division (C) of section 2919.193, division (B) of section 2919.195, or division (A) of section 2919.196 of the Revised Code;

(47) Failure to comply with the requirements in section 3719.061 of the Revised Code before issuing for a minor a

prescription for an opioid analgesic, as defined in section 3719.01 of the Revised Code;

(48) Failure to comply with the requirements of section 4731.30 of the Revised Code or rules adopted under section 4731.301 of the Revised Code when recommending treatment with medical marijuana;

(49) A pattern of continuous or repeated violations of division (E)(2) or (3) of section 3963.02 of the Revised Code;

(50) Failure to fulfill the responsibilities of a collaboration agreement entered into with an athletic trainer as described in section 4755.621 of the Revised Code;

(51) Failure to take the steps specified in section 4731.911 of the Revised Code following an abortion or attempted abortion in an ambulatory surgical facility or other location that is not a hospital when a child is born alive;

(52) Violation of section 4731.77 of the Revised Code;

(53) Failure of a physician supervising a certified mental health assistant to maintain supervision in accordance with the requirements of Chapter 4772. of the Revised Code ~~and the rules adopted under that chapter~~;

(54) Failure to comply with the requirements of section 3705.16 of the Revised Code when certifying a decedent's cause of death and completing and signing the medical certificate of death.

(C) Disciplinary actions taken by the board under divisions (A) and (B) of this section shall be taken pursuant to an adjudication under Chapter 119. of the Revised Code, except that in lieu of an adjudication, the board may enter into a

consent agreement with an individual to resolve an allegation of a violation of this chapter or any rule adopted under it. A consent agreement, when ratified by an affirmative vote of not fewer than six members of the board, shall constitute the findings and order of the board with respect to the matter addressed in the agreement. If the board refuses to ratify a consent agreement, the admissions and findings contained in the consent agreement shall be of no force or effect.

A telephone conference call may be utilized for ratification of a consent agreement that revokes or suspends an individual's license or certificate to practice or certificate to recommend. The telephone conference call shall be considered a special meeting under division (F) of section 121.22 of the Revised Code.

If the board takes disciplinary action against an individual under division (B) of this section for a second or subsequent plea of guilty to, or judicial finding of guilt of, a violation of section 2919.123 or 2919.124 of the Revised Code, the disciplinary action shall consist of a suspension of the individual's license or certificate to practice for a period of at least one year or, if determined appropriate by the board, a more serious sanction involving the individual's license or certificate to practice. Any consent agreement entered into under this division with an individual that pertains to a second or subsequent plea of guilty to, or judicial finding of guilt of, a violation of that section shall provide for a suspension of the individual's license or certificate to practice for a period of at least one year or, if determined appropriate by the board, a more serious sanction involving the individual's license or certificate to practice.

(D) For purposes of divisions (B)(10), (12), and (14) of this section, the commission of the act may be established by a finding by the board, pursuant to an adjudication under Chapter 119. of the Revised Code, that the individual committed the act. The board does not have jurisdiction under those divisions if the trial court renders a final judgment in the individual's favor and that judgment is based upon an adjudication on the merits. The board has jurisdiction under those divisions if the trial court issues an order of dismissal upon technical or procedural grounds.

(E) The sealing or expungement of conviction records by any court shall have no effect upon a prior board order entered under this section or upon the board's jurisdiction to take action under this section if, based upon a plea of guilty, a judicial finding of guilt, or a judicial finding of eligibility for intervention in lieu of conviction, the board issued a notice of opportunity for a hearing prior to the court's order to seal or expunge the records. The board shall not be required to seal, expunge, destroy, redact, or otherwise modify its records to reflect the court's sealing of conviction records.

(F)(1) The board shall investigate evidence that appears to show that a person has violated any provision of this chapter or any rule adopted under it. Any person may report to the board in a signed writing any information that the person may have that appears to show a violation of any provision of this chapter or any rule adopted under it. In the absence of bad faith, any person who reports information of that nature or who testifies before the board in any adjudication conducted under Chapter 119. of the Revised Code shall not be liable in damages in a civil action as a result of the report or testimony. Each complaint or allegation of a violation received by the board

shall be assigned a case number and shall be recorded by the board.

(2) Investigations of alleged violations of this chapter or any rule adopted under it shall be supervised by the supervising member elected by the board in accordance with section 4731.02 of the Revised Code and by the secretary as provided in section 4731.39 of the Revised Code. The president may designate another member of the board to supervise the investigation in place of the supervising member. Upon a vote of the majority of the board to authorize the addition of a consumer member in the supervision of any part of any investigation, the president shall designate a consumer member for supervision of investigations as determined by the president. The authorization of consumer member participation in investigation supervision may be rescinded by a majority vote of the board. No member of the board who supervises the investigation of a case shall participate in further adjudication of the case.

(3) In investigating a possible violation of this chapter or any rule adopted under this chapter, or in conducting an inspection under division (E) of section 4731.054 of the Revised Code, the board may question witnesses, conduct interviews, administer oaths, order the taking of depositions, inspect and copy any books, accounts, papers, records, or documents, issue subpoenas, and compel the attendance of witnesses and production of books, accounts, papers, records, documents, and testimony, except that a subpoena for patient record information shall not be issued without consultation with the attorney general's office and approval of the secretary of the board.

(a) Before issuance of a subpoena for patient record

information, the secretary shall determine whether there is probable cause to believe that the complaint filed alleges a violation of this chapter or any rule adopted under it and that the records sought are relevant to the alleged violation and material to the investigation. The subpoena may apply only to records that cover a reasonable period of time surrounding the alleged violation.

(b) On failure to comply with any subpoena issued by the board and after reasonable notice to the person being subpoenaed, the board may move for an order compelling the production of persons or records pursuant to the Rules of Civil Procedure.

(c) A subpoena issued by the board may be served by a sheriff, the sheriff's deputy, or a board employee or agent designated by the board. Service of a subpoena issued by the board may be made by delivering a copy of the subpoena to the person named therein, reading it to the person, or leaving it at the person's usual place of residence, usual place of business, or address on file with the board. When serving a subpoena to an applicant for or the holder of a license or certificate issued under this chapter, service of the subpoena may be made by certified mail, return receipt requested, and the subpoena shall be deemed served on the date delivery is made or the date the person refuses to accept delivery. If the person being served refuses to accept the subpoena or is not located, service may be made to an attorney who notifies the board that the attorney is representing the person.

(d) A sheriff's deputy who serves a subpoena shall receive the same fees as a sheriff. Each witness who appears before the board in obedience to a subpoena shall receive the fees and

mileage provided for under section 119.094 of the Revised Code.

(4) All hearings, investigations, and inspections of the board shall be considered civil actions for the purposes of section 2305.252 of the Revised Code.

(5) A report required to be submitted to the board under this chapter, a complaint, or information received by the board pursuant to an investigation or pursuant to an inspection under division (E) of section 4731.054 of the Revised Code is confidential and not subject to discovery in any civil action.

The board shall conduct all investigations or inspections and proceedings in a manner that protects the confidentiality of patients and persons who file complaints with the board. The board shall not make public the names or any other identifying information about patients or complainants unless proper consent is given or, in the case of a patient, a waiver of the patient privilege exists under division (B) of section 2317.02 of the Revised Code, except that consent or a waiver of that nature is not required if the board possesses reliable and substantial evidence that no bona fide physician-patient relationship exists.

The board may share any information it receives pursuant to an investigation or inspection, including patient records and patient record information, with law enforcement agencies, other licensing boards, and other governmental agencies that are prosecuting, adjudicating, or investigating alleged violations of statutes or administrative rules. An agency or board that receives the information shall comply with the same requirements regarding confidentiality as those with which the state medical board must comply, notwithstanding any conflicting provision of the Revised Code or procedure of the agency or board that

applies when it is dealing with other information in its possession. In a judicial proceeding, the information may be admitted into evidence only in accordance with the Rules of Evidence, but the court shall require that appropriate measures are taken to ensure that confidentiality is maintained with respect to any part of the information that contains names or other identifying information about patients or complainants whose confidentiality was protected by the state medical board when the information was in the board's possession. Measures to ensure confidentiality that may be taken by the court include sealing its records or deleting specific information from its records.

No person shall knowingly access, use, or disclose confidential investigatory information in a manner prohibited by law.

(6) On a quarterly basis, the board shall prepare a report that documents the disposition of all cases during the preceding three months. The report shall contain the following information for each case with which the board has completed its activities:

(a) The case number assigned to the complaint or alleged violation;

(b) The type of license or certificate to practice, if any, held by the individual against whom the complaint is directed;

(c) A description of the allegations contained in the complaint;

(d) Whether witnesses were interviewed;

(e) Whether the individual against whom the complaint is directed is the subject of any pending complaints;

(f) The disposition of the case.

The report shall state how many cases are still pending and shall be prepared in a manner that protects the identity of each person involved in each case. The report shall be a public record under section 149.43 of the Revised Code.

(7) The board may provide a status update regarding an investigation to a complainant on request if the board verifies the complainant's identity.

(G)(1) If either of the following circumstances occur, the secretary and supervising member may recommend that the board suspend an individual's license or certificate to practice or certificate to recommend without a prior hearing:

(a) The secretary and supervising member determine both of the following:

(i) That there is clear and convincing evidence that an individual has violated division (B) of this section;

(ii) That the individual's continued practice presents a danger of immediate and serious harm to the public.

(b) The board receives verifiable information that a licensee has been charged in any state or federal court with a crime classified as a felony under the charging court's law and the conduct constitutes a violation of division (B) of this section.

(2) If a recommendation is made to suspend without a prior hearing pursuant to division (G)(1) of this section, written allegations shall be prepared for consideration by the board. The board, upon review of those allegations and by an affirmative vote of not fewer than six of its members, excluding

the secretary and supervising member, may suspend a license or certificate without a prior hearing. A telephone conference call may be utilized for reviewing the allegations and taking the vote on the summary suspension.

The board shall serve a written order of suspension in accordance with sections 119.05 and 119.07 of the Revised Code. If the individual subject to the summary suspension requests an adjudicatory hearing by the board, the date set for the hearing shall be within fifteen days, but not earlier than seven days, after the individual requests the hearing, unless otherwise agreed to by both the board and the individual.

(3) Any summary suspension imposed under division (G)(2) of this section is not a final appealable order and is not an adjudication that may be appealed under section 119.12 of the Revised Code. The summary suspension shall remain in effect until a final adjudicative order issued by the board pursuant to this section and Chapter 119. of the Revised Code becomes effective. Once a final adjudicative order has been issued by the board, any party adversely affected by it may file an appeal in accordance with the requirements of Chapter 119. of the Revised Code.

The board shall issue its final adjudicative order within seventy-five days after completion of its hearing. A failure to issue the order within seventy-five days shall result in dissolution of the summary suspension order but shall not invalidate any subsequent, final adjudicative order.

(H) If the board takes action under division (B)(9), (11), or (13) of this section and the judicial finding of guilt, guilty plea, or judicial finding of eligibility for intervention in lieu of conviction is overturned on appeal, upon exhaustion

of the criminal appeal, a petition for reconsideration of the order may be filed with the board along with appropriate court documents. Upon receipt of a petition of that nature and supporting court documents, the board shall reinstate the individual's license or certificate to practice. The board may then hold an adjudication under Chapter 119. of the Revised Code to determine whether the individual committed the act in question. Notice of an opportunity for a hearing shall be given in accordance with Chapter 119. of the Revised Code. If the board finds, pursuant to an adjudication held under this division, that the individual committed the act or if no hearing is requested, the board may order any of the sanctions identified under division (B) of this section.

(I) The license or certificate to practice issued to an individual under this chapter and the individual's practice in this state are automatically suspended as of the date of the individual's second or subsequent plea of guilty to, or judicial finding of guilt of, a violation of section 2919.123 or 2919.124 of the Revised Code. In addition, the license or certificate to practice or certificate to recommend issued to an individual under this chapter and the individual's practice in this state are automatically suspended as of the date the individual pleads guilty to, is found by a judge or jury to be guilty of, or is subject to a judicial finding of eligibility for intervention in lieu of conviction in this state or treatment or intervention in lieu of conviction in another jurisdiction for any of the following criminal offenses in this state or a substantially equivalent criminal offense in another jurisdiction: aggravated murder, murder, voluntary manslaughter, felonious assault, trafficking in persons, kidnapping, rape, sexual battery, gross sexual imposition, aggravated arson, aggravated robbery, or

aggravated burglary. Continued practice after suspension shall be considered practicing without a license or certificate.

The board shall notify the individual subject to the suspension in accordance with sections 119.05 and 119.07 of the Revised Code. If an individual whose license or certificate is automatically suspended under this division fails to make a timely request for an adjudication under Chapter 119. of the Revised Code, the board shall do whichever of the following is applicable:

(1) If the automatic suspension under this division is for a second or subsequent plea of guilty to, or judicial finding of guilt of, a violation of section 2919.123 or 2919.124 of the Revised Code, the board shall enter an order suspending the individual's license or certificate to practice for a period of at least one year or, if determined appropriate by the board, imposing a more serious sanction involving the individual's license or certificate to practice.

(2) In all circumstances in which division (I)(1) of this section does not apply, enter a final order permanently revoking the individual's license or certificate to practice.

(J) If the board is required by Chapter 119. of the Revised Code to give notice of an opportunity for a hearing and if the individual subject to the notice does not timely request a hearing in accordance with section 119.07 of the Revised Code, the board is not required to hold a hearing, but may adopt, by an affirmative vote of not fewer than six of its members, a final order that contains the board's findings. In that final order, the board may order any of the sanctions identified under division (A) or (B) of this section.

(K) Any action taken by the board under division (B) of this section resulting in a suspension from practice shall be accompanied by a written statement of the conditions under which the individual's license or certificate to practice may be reinstated. The board shall adopt rules governing conditions to be imposed for reinstatement. Reinstatement of a license or certificate suspended pursuant to division (B) of this section requires an affirmative vote of not fewer than six members of the board.

(L) When the board refuses to grant or issue a license or certificate to practice to an applicant, revokes an individual's license or certificate to practice, refuses to renew an individual's license or certificate to practice, or refuses to reinstate an individual's license or certificate to practice, the board may specify that its action is permanent. An individual subject to a permanent action taken by the board is forever thereafter ineligible to hold a license or certificate to practice and the board shall not accept an application for reinstatement of the license or certificate or for issuance of a new license or certificate.

(M) Notwithstanding any other provision of the Revised Code, all of the following apply:

(1) The surrender of a license or certificate issued under this chapter shall not be effective unless or until accepted by the board. A telephone conference call may be utilized for acceptance of the surrender of an individual's license or certificate to practice. The telephone conference call shall be considered a special meeting under division (F) of section 121.22 of the Revised Code. Reinstatement of a license or certificate surrendered to the board requires an affirmative

vote of not fewer than six members of the board.

(2) An application for a license or certificate made under the provisions of this chapter may not be withdrawn without approval of the board.

(3) Failure by an individual to renew a license or certificate to practice in accordance with this chapter or a certificate to recommend in accordance with rules adopted under section 4731.301 of the Revised Code does not remove or limit the board's jurisdiction to take any disciplinary action under this section against the individual.

(4) The placement of an individual's license on retired status, as described in section 4731.283 of the Revised Code, does not remove or limit the board's jurisdiction to take any disciplinary action against the individual with regard to the license as it existed before being placed on retired status.

(5) At the request of the board, a license or certificate holder shall immediately surrender to the board a license or certificate that the board has suspended, revoked, or permanently revoked.

(N) Sanctions shall not be imposed under division (B)(28) of this section against any person who waives deductibles and copayments as follows:

(1) In compliance with the health benefit plan that expressly allows such a practice. Waiver of the deductibles or copayments shall be made only with the full knowledge and consent of the plan purchaser, payer, and third-party administrator. Documentation of the consent shall be made available to the board upon request.

(2) For professional services rendered to any other person

authorized to practice pursuant to this chapter, to the extent allowed by this chapter ~~and rules adopted by the board~~.

(O) Under the board's investigative duties described in this section and subject to division (F) of this section, the board shall develop and implement a quality intervention program designed to improve through remedial education the clinical and communication skills of individuals authorized under this chapter to practice medicine and surgery, osteopathic medicine and surgery, and podiatric medicine and surgery. In developing and implementing the quality intervention program, the board may do all of the following:

(1) Offer in appropriate cases as determined by the board an educational and assessment program pursuant to an investigation the board conducts under this section;

(2) Select providers of educational and assessment services, including a quality intervention program panel of case reviewers;

(3) Make referrals to educational and assessment service providers and approve individual educational programs recommended by those providers. The board shall monitor the progress of each individual undertaking a recommended individual educational program.

(4) Determine what constitutes successful completion of an individual educational program and require further monitoring of the individual who completed the program or other action that the board determines to be appropriate~~;~~

~~(5) Adopt rules in accordance with Chapter 119. of the Revised Code to further implement the quality intervention program~~.

An individual who participates in an individual educational program pursuant to this division shall pay the financial obligations arising from that educational program.

(P) The board shall not refuse to issue a license to an applicant because of a conviction, plea of guilty, judicial finding of guilt, judicial finding of eligibility for intervention in lieu of conviction, or the commission of an act that constitutes a criminal offense, unless the refusal is in accordance with section 9.79 of the Revised Code.

(Q) A license or certificate to practice or certificate to recommend issued to an individual under this chapter and an individual's practice under this chapter in this state are automatically suspended if the individual's license or certificate to practice a health care occupation or provide health care services is suspended, revoked, or surrendered or relinquished in lieu of discipline by an agency responsible for authorizing, certifying, or regulating an individual to practice a health care occupation or provide health care services in this state or another jurisdiction. The automatic suspension begins immediately upon entry of the order by the agency and lasts for ninety days to permit the board to investigate the basis for the action under this chapter. Continued practice during the automatic suspension shall be considered practicing without a license or certificate.

The board shall notify the individual subject to the automatic suspension by certified mail or in person in accordance with section 119.07 of the Revised Code. If an individual subject to an automatic suspension under this division fails to make a timely request for an adjudication under Chapter 119. of the Revised Code, the board is not

required to hold a hearing, but may adopt, by an affirmative vote of not fewer than six of its members, a final order that contains the board's findings. In that final order, the board may order any of the sanctions identified under division (A) or (B) of this section.

Sec. 4731.228. (A) As used in this section:

(1) "Federally qualified health center" has the same meaning as in section 3701.047 of the Revised Code.

(2) "Federally qualified health center look-alike" has the same meaning as in section 3701.047 of the Revised Code.

(3) "Health care entity" means any of the following that employs a physician to provide physician services:

(a) A hospital registered with the department of health under section 3701.07 of the Revised Code;

(b) A corporation formed under division (B) of section 1701.03 of the Revised Code;

(c) A corporation formed under Chapter 1702. of the Revised Code;

(d) A limited liability company formed under Chapter 1705. or 1706. of the Revised Code;

(e) A health insuring corporation holding a certificate of authority under Chapter 1751. of the Revised Code;

(f) A partnership;

(g) A professional association formed under Chapter 1785. of the Revised Code.

(4) "Physician" means an individual authorized under this chapter to practice medicine and surgery, osteopathic medicine

and surgery, or podiatric medicine and surgery.

(5) "Physician services" means direct patient care services provided by a physician.

(6) "Termination" means the end of a physician's employment with a health care entity for any reason.

(B) This section applies when a physician's employment with a health care entity to provide physician services is terminated for any reason, unless the physician continues to provide medical services for patients of the health care entity on an independent contractor basis.

(C)(1) Except as provided in division (C)(2) of this section, a health care entity shall send notice of the termination of a physician's employment to each patient who received physician services from the physician in the two-year period immediately preceding the date of employment termination. Only patients of the health care entity who received services from the physician are to receive the notice.

(2) If the health care entity provides to the physician a list of patients treated and patient contact information, the health care entity may require the physician to send the notice required by this section.

(D) The notice provided under division (C) of this section shall be provided not later than the date of termination or thirty days after the health care entity has actual knowledge of termination or resignation of the physician, whichever is later. ~~The notice shall be provided in accordance with rules adopted by the state medical board under section 4731.05 of the Revised Code.~~ The notice shall include at least all of the following:

(1) A notice to the patient that the physician will no

longer be practicing medicine as an employee of the health care entity;

(2) Except in situations in which the health care entity has a good faith concern that the physician's conduct or the medical care provided by the physician would jeopardize the health and safety of patients, the physician's name and, if known by the health care entity, information provided by the physician that the patient may use to contact the physician;

(3) The date on which the physician ceased or will cease to practice as an employee of the health care entity;

(4) Contact information for an alternative physician or physicians employed by the health care entity or contact information for a group practice that can provide care for the patient;

(5) Contact information that enables the patient to obtain information on the patient's medical records.

In accordance with Chapter 119. of the Revised Code, the state medical board shall adopt rules establishing standards and procedures for the provision of notice required by division (C) of this section.

(E) The requirements of this section do not apply to any of the following:

(1) A physician rendering services to a patient on an episodic basis or in an emergency department or urgent care center, when it should not be reasonably expected that related medical services will be rendered by the physician to the patient in the future;

(2) A medical director or other physician providing

services in a similar capacity to a medical director to patients through a hospice care program licensed pursuant to section 3712.04 of the Revised Code.

(3) Medical residents, interns, and fellows who work in hospitals, health systems, federally qualified health centers, and federally qualified health center look-alikes as part of their medical education and training.

(4) A physician providing services to a patient through a community mental health services provider certified by the director of mental health and addiction services under section 5119.36 of the Revised Code or a community addiction services provider certified by the director under that section.

(5) A physician providing services to a patient through a federally qualified health center or a federally qualified health center look-alike.

Sec. 4731.255. The state medical board ~~may adopt any rules it considers necessary to implement sections 4731.25 to 4731.254 of the Revised Code, except that the board~~ shall adopt rules establishing standards for evaluating, treating, and monitoring practitioners and applicants who are or may be impaired, including standards for the approval of evaluators and treatment providers. Any such rules shall be adopted in accordance with Chapter 119. of the Revised Code.

Sec. 4731.283. (A) An individual who holds a current, valid license issued under this chapter and who retires voluntarily from the practice of medicine and surgery, osteopathic medicine and surgery, or podiatric medicine and surgery or a limited branch of medicine may request that the state medical board place the individual's license on retired

status.

This section does not authorize an individual who holds a training certificate issued under section 4731.291 or 4731.573 of the Revised Code to request that the board place the individual's certificate on retired status.

(B) An individual seeking to have the individual's license placed on retired status shall file with the board an application in the form and manner prescribed by the board. The application shall be submitted before the end of a biennial renewal period and include all of the following:

(1) The applicant's full name, license number, mailing address, and electronic mail address;

(2) An attestation that the information included in the application is accurate and truthful and that the applicant meets the following qualifications:

(a) That the applicant holds a current, valid license issued under this chapter;

(b) That the applicant has retired voluntarily from the practice of medicine and surgery, osteopathic medicine and surgery, or podiatric medicine and surgery or a limited branch of medicine;

(c) In the case of an applicant who holds a current, valid license to practice medicine and surgery, osteopathic medicine and surgery, or podiatric medicine and surgery, that the applicant does not hold an active registration with the federal drug enforcement administration;

(d) That the applicant does not have any criminal charges pending against the applicant;

(e) That the applicant is not the subject of discipline by, or an investigation pending with, a regulatory agency of this state, another state, or the United States;

(f) That the applicant does not have any complaints pending with the board;

(g) That the applicant is not, at the time of application, subject to the board's hearing, disciplinary, or compliance processes under the terms of a citation, notice of opportunity for hearing, board order, or consent agreement.

(3) In the case of an applicant who holds a current, valid license to practice medicine and surgery, osteopathic medicine and surgery, or podiatric medicine and surgery, a fee in an amount equal to the restoration fee amount described in section 4731.281 of the Revised Code;

(4) In the case of an applicant who holds a current, valid license to practice a limited branch of medicine, a fee in an amount equal to the restoration fee amount described in section 4731.15 of the Revised Code.

The board shall not consider an application for retired status complete until the board receives the fee described in this division. On receipt of a fee, the board shall deposit the fee in accordance with section 4731.24 of the Revised Code.

(C) If the board determines that an applicant meets the requirements of division (B) of this section, the board shall place the applicant's license on retired status. The license remains on retired status for the life of the license holder, unless suspended, revoked, or reactivated, and does not require renewal.

(D) During the period in which a license is on retired

status, all of the following apply:

(1) The license holder is prohibited under any circumstance from practicing medicine and surgery, osteopathic medicine and surgery, or podiatric medicine and surgery or a limited branch of medicine.

(2) In the case of a license holder whose license to practice medicine and surgery, osteopathic medicine and surgery, or podiatric medicine and surgery is on retired status, the holder is not required to complete the continuing education required by section 4731.282 of the Revised Code.

(3) The license holder is prohibited from using the license to obtain a license in another state, whether by endorsement or reciprocity or through a licensure compact.

(4) The license holder may use a title authorized for the holder's license as described in section 4731.14, 4731.151, or 4731.56 of the Revised Code, but only if "retired" also is included in the title.

(5) In the case of a license holder who also holds a certificate to recommend issued under section 4731.30 of the Revised Code, the certificate, like the license, is on retired status.

(6) The license holder is prohibited from holding or practicing under a volunteer's certificate issued under section 4731.295 of the Revised Code.

(E) If a license has been placed on retired status pursuant to this section, it may be reactivated. Subject to section 4731.222 of the Revised Code, the board may reactivate a license placed on retired status if all of the following conditions are satisfied:

(1) The individual seeking to reactivate the license applies to the board in the form and manner prescribed by the board.

(2) In the case of an applicant whose license to practice medicine and surgery, osteopathic medicine and surgery, or podiatric medicine and surgery is on retired status, the applicant certifies completion of, within the two-year period that ends on the date of the application's submission, the continuing education requirements that must be met for renewal of a license.

(3) The applicant complies with sections 4776.01 to 4776.04 of the Revised Code.

(4) In the case of an applicant whose license to practice medicine and surgery, osteopathic medicine and surgery, or podiatric medicine and surgery is on retired status, the applicant pays a reactivation fee in an amount equal to the restoration fee amount described in section 4731.281 of the Revised Code.

(5) In the case of an applicant whose license to practice a limited branch of medicine is on retired status, the applicant pays a reactivation fee in an amount equal to the restoration fee amount described in section 4731.15 of the Revised Code.

The board shall not consider an application to reactivate a license complete until the board receives the fee described in this division. On receipt of a fee, the board shall deposit the fee in accordance with section 4731.24 of the Revised Code.

(F) The board shall reactivate a license placed on retired status if the conditions of division (E) of this section have been satisfied and the board, in its discretion, determines that

the results of the criminal records check conducted pursuant to sections 4776.01 to 4776.04 of the Revised Code do not make the applicant ineligible for active status.

(G) The board may take disciplinary action against an applicant who is seeking to place a license on retired status or to reactivate the license if the applicant commits fraud, misrepresentation, or deception in applying for or securing the retired status or reactivation.

The board also may take disciplinary action against the holder of a license placed on retired status if the holder practices under the license, uses the license to obtain licensure in another state, or uses a title that does not reflect the holder's retired status.

In taking disciplinary action under this section, the board may impose on the applicant or holder any sanction described in section 4731.22 of the Revised Code, but shall do so in accordance with the procedures described in that section.

~~(H) The board may adopt rules to implement and enforce this section. The rules shall be adopted in accordance with Chapter 119. of the Revised Code.~~

Sec. 4731.291. (A) An individual seeking to pursue an internship, residency, clinical fellowship program, or elective clinical rotation in this state, who does not hold a license to practice medicine and surgery or osteopathic medicine or surgery issued under this chapter, shall apply to the state medical board for a training certificate. The application shall be made on forms that the board shall furnish and shall be accompanied by an application fee of one hundred thirty dollars.

An applicant for a training certificate shall furnish to

the board all of the following:

(1) Evidence satisfactory to the board that the applicant is at least eighteen years of age;

(2) Evidence satisfactory to the board that the applicant has been accepted or appointed to participate in this state in one of the following:

(a) An internship, residency, or clinical fellowship program accredited by either the accreditation council for graduate medical education of the American medical association or the American osteopathic association;

(b) A clinical fellowship program that is not accredited as described in division (A)(2)(a) of this section, but is conducted at an institution with a residency program that is accredited as described in that division and is in a clinical field the same as or related to the clinical field of the fellowship program;

(c) An elective clinical rotation that lasts not more than one year and is offered to interns, residents, or clinical fellows participating in programs that are located outside this state and meet the requirements of division (A)(2)(a) or (b) of this section.

(3) Information identifying the beginning and ending dates of the period for which the applicant has been accepted or appointed to participate in the internship, residency, or clinical fellowship program;

(4) Any other information that the board requires.

(B) If no grounds for denying a license or certificate under section 4731.22 of the Revised Code apply, and the

applicant meets the requirements of division (A) of this section, the board shall issue a training certificate to the applicant. The board shall not require an examination as a condition of receiving a training certificate.

A training certificate issued pursuant to this section shall be valid only for three years, but may be renewed by the board for one additional three-year period. To renew a training certificate, the holder shall apply to the board on or before the certificate's expiration date.

The fee for renewal of a training certificate shall be one hundred dollars. A late application may be submitted not more than thirty days after the certificate's expiration date. In such a case, the holder shall include with the application a one-hundred-fifty-dollar reinstatement fee.

(C) The holder of a valid training certificate shall be entitled to perform such acts as may be prescribed by or incidental to the holder's internship, residency, or clinical fellowship program, but the holder shall not be entitled otherwise to engage in the practice of medicine and surgery or osteopathic medicine and surgery in this state. The holder shall limit activities under the certificate to the programs of the hospitals or facilities for which the training certificate is issued. The holder shall train only under the supervision of the physicians responsible for supervision as part of the internship, residency, or clinical fellowship program.

A training certificate may be revoked by the board upon proof, satisfactory to the board, that the holder thereof has engaged in practice in this state outside the scope of the internship, residency, or clinical fellowship program for which the training certificate has been issued, or upon proof,

satisfactory to the board, that the holder thereof has engaged in unethical conduct or that there are grounds for action against the holder under section 4731.22 of the Revised Code.

~~(D) The board may adopt rules as the board finds necessary to effect the purpose of this section.~~

Sec. 4731.293. (A) The state medical board shall issue, without examination, a clinical research faculty certificate to practice medicine and surgery, osteopathic medicine and surgery, or podiatric medicine and surgery to any person who applies for the certificate and provides to the board satisfactory evidence of both of the following:

(1) That the applicant holds a current, unrestricted license to practice medicine and surgery, osteopathic medicine and surgery, or podiatric medicine and surgery issued by another state or country;

(2) That the applicant has been appointed to serve in this state on the academic staff of a medical school accredited by the liaison committee on medical education, an osteopathic medical school accredited by the American osteopathic association, or a college of podiatric medicine and surgery in good standing with the board.

(B) The holder of a clinical research faculty certificate may do one of the following, as applicable:

(1) Practice medicine and surgery or osteopathic medicine and surgery only as is incidental to the certificate holder's teaching or research duties at the medical school or a teaching hospital affiliated with the school;

(2) Practice podiatric medicine and surgery only as is incidental to the certificate holder's teaching or research

duties at the college of podiatric medicine and surgery or a teaching hospital affiliated with the college.

(C) The board may revoke a certificate on receiving proof satisfactory to the board that the certificate holder has engaged in practice in this state outside the scope of the certificate or that there are grounds for action against the certificate holder under section 4731.22 of the Revised Code.

(D) A clinical research faculty certificate is valid for three years, except that the certificate ceases to be valid if the holder's academic staff appointment described in division (A)(2) of this section is no longer valid or the certificate is revoked pursuant to division (C) of this section.

(E)(1) The board shall provide a renewal notice to the certificate holder at least one month before the certificate expires. Failure of a certificate holder to receive a notice of renewal from the board shall not excuse the certificate holder from the requirements contained in this section. The notice shall inform the certificate holder of the renewal procedure. The notice also shall inform the certificate holder of the reporting requirement established by division (H) of section 3701.79 of the Revised Code. At the discretion of the board, the information may be included on the application for renewal or on an accompanying page.

(2) A clinical research faculty certificate may be renewed for an additional three-year period. There is no limit on the number of times a certificate may be renewed. A person seeking renewal of a certificate shall apply to the board. The board shall provide the application for renewal in a form determined by the board.

(3) An applicant is eligible for renewal if the applicant does all of the following:

(a) Reports any criminal offense to which the applicant has pleaded guilty, of which the applicant has been found guilty, or for which the applicant has been found eligible for intervention in lieu of conviction, since last filing an application for a clinical research faculty certificate;

(b) Provides evidence satisfactory to the board of both of the following:

(i) That the applicant continues to maintain a current, unrestricted license to practice medicine and surgery, osteopathic medicine and surgery, or podiatric medicine and surgery issued by another state or country;

(ii) That the applicant's initial appointment to serve in this state on the academic staff of a school or college is still valid or has been renewed.

(4) Regardless of whether the certificate has expired, a person who was granted a visiting medical faculty certificate under this section as it existed immediately prior to June 6, 2012, may apply for a clinical research faculty certificate as a renewal. The board may issue the clinical research faculty certificate if the applicant meets the requirements of division (E)(3) of this section. The board may not issue a clinical research faculty certificate if the visiting medical faculty certificate was revoked.

(F) A person holding a clinical research faculty certificate issued under this section shall not be required to obtain a certificate under Chapter 4796. of the Revised Code.

~~(G) The board may adopt any rules it considers necessary~~

~~to implement this section. The rules shall be adopted in accordance with Chapter 119. of the Revised Code.~~

Sec. 4731.295. (A)(1) As used in this section:

(a) "Free clinic" has the same meaning as in section 3701.071 of the Revised Code.

(b) "Indigent and uninsured person" and "operation" have the same meanings as in section 2305.234 of the Revised Code.

(2) For the purposes of this section, a person shall be considered retired from practice if the person's license has expired with the person's intention of ceasing to practice medicine and surgery or osteopathic medicine and surgery for remuneration.

(B) The state medical board may issue, without examination, a volunteer's certificate to a person who is retired from practice so that the person may provide medical services to indigent and uninsured persons at any location, including a free clinic. The board shall deny issuance of a volunteer's certificate to a person who is not qualified under this section to hold a volunteer's certificate.

(C) An application for a volunteer's certificate shall include all of the following:

(1) A copy of the applicant's degree of medicine or osteopathic medicine.

(2) One of the following, as applicable:

(a) A copy of the applicant's most recent license authorizing the practice of medicine and surgery or osteopathic medicine and surgery issued by a jurisdiction in the United States that licenses persons to practice medicine and surgery or

osteopathic medicine and surgery.

(b) A copy of the applicant's most recent license equivalent to a license to practice medicine and surgery or osteopathic medicine and surgery in one or more branches of the United States armed services that the United States government issued.

(3) Evidence of one of the following, as applicable:

(a) That the applicant has maintained for at least ten years prior to retirement full licensure in good standing in any jurisdiction in the United States that licenses persons to practice medicine and surgery or osteopathic medicine and surgery.

(b) That the applicant has practiced for at least ten years prior to retirement in good standing as a doctor of medicine and surgery or osteopathic medicine and surgery in one or more of the branches of the United States armed services.

(4) An attestation that the applicant will not accept any form of remuneration for any medical services rendered while in possession of a volunteer's certificate.

(D) The holder of a volunteer's certificate may provide medical services only to indigent and uninsured persons, but may do so at any location, including a free clinic. The holder shall not accept any form of remuneration for providing medical services while in possession of the certificate. Except in a medical emergency, the holder shall not perform any operation or deliver babies. The board may revoke a volunteer's certificate on receiving proof satisfactory to the board that the holder has engaged in practice in this state outside the scope of the certificate.

(E)(1) A volunteer's certificate shall be valid for a period of three years, unless earlier revoked under division (D) of this section or pursuant to section 4731.22 of the Revised Code. A volunteer's certificate may be renewed upon the application of the holder. The board shall maintain a register of all persons who hold volunteer's certificates. The board shall not charge a fee for issuing or renewing a certificate pursuant to this section.

(2) To be eligible for renewal of a volunteer's certificate the holder of the certificate shall certify to the board completion of one hundred fifty hours of continuing medical education that meets the requirements of section 4731.282 of the Revised Code regarding certification by private associations and approval by the board. The board may not renew a certificate if the holder has not complied with the continuing medical education requirements. Any entity for which the holder provides medical services may pay for or reimburse the holder for any costs incurred in obtaining the required continuing medical education credits.

(3) The board shall issue a volunteer's certificate to each person who qualifies under this section for the certificate. The certificate shall state that the certificate holder is authorized to provide medical services pursuant to the laws of this state. The holder shall display the certificate prominently at the location where the holder primarily practices.

(4) The holder of a volunteer's certificate issued pursuant to this section is subject to the immunity provisions regarding the provision of services to indigent and uninsured persons in section 2305.234 of the Revised Code.

(F) The holder of a volunteer's certificate issued under this section is not required to obtain a license under Chapter 4796. of the Revised Code.

~~(G) The board shall adopt rules in accordance with Chapter 119. of the Revised Code to administer and enforce this section.~~

Sec. 4731.297. (A) As used in this section:

(1) "Academic medical center" means a medical school and its affiliated teaching hospitals and clinics partnering to do all of the following:

(a) Provide the highest quality of patient care from expert physicians;

(b) Conduct groundbreaking research leading to medical advancements for current and future patients;

(c) Provide medical education and graduate medical education to educate and train physicians.

(2) "Affiliated physician group practice" means a medical practice that consists of one or more physicians authorized under this chapter to practice medicine and surgery or osteopathic medicine and surgery and that is affiliated with an academic medical center to further the objectives described in divisions (A)(1)(a) to (c) of this section.

(B) The state medical board shall issue, without examination, to an applicant who meets the requirements of this section a certificate of conceded eminence authorizing the practice of medicine and surgery or osteopathic medicine and surgery as part of the applicant's employment with an academic medical center in this state or affiliated physician group practice in this state.

(C) To be eligible for a certificate of conceded eminence, an applicant shall provide to the board all of the following:

(1) Evidence satisfactory to the board of all of the following:

(a) That the applicant is an international medical graduate who holds a medical degree from an educational institution listed in the international medical education directory;

(b) That the applicant has been appointed to serve in this state as a full-time faculty member of a medical school accredited by the liaison committee on medical education or an osteopathic medical school accredited by the American osteopathic association;

(c) That the applicant has accepted an offer of employment with an academic medical center in this state or affiliated physician group practice in this state;

(d) That the applicant holds a license in good standing in another state or country authorizing the practice of medicine and surgery or osteopathic medicine and surgery;

(e) That the applicant has unique talents and extraordinary abilities not generally found within the applicant's specialty, as demonstrated by satisfying at least four of the following:

(i) The applicant has achieved educational qualifications beyond those that are required for entry into the applicant's specialty, including advanced degrees, special certifications, or other academic credentials.

(ii) The applicant has written multiple articles in

journals listed in the index medicus or an equivalent scholarly publication acceptable to the board.

(iii) The applicant has a sustained record of excellence in original research, at least some of which involves serving as the principal investigator or co-principal investigator for a research project.

(iv) The applicant has received nationally or internationally recognized prizes or awards for excellence.

(v) The applicant has participated in peer review in a field of specialization that is the same as or similar to the applicant's specialty.

(vi) The applicant has developed new procedures or treatments for complex medical problems that are recognized by peers as a significant advancement in the applicable field of medicine.

(vii) The applicant has held previous academic appointments with or been employed by a health care organization that has a distinguished national or international reputation.

(viii) The applicant has been the recipient of a national institutes of health or other competitive grant award.

(f) That the applicant has received staff membership or professional privileges from the academic medical center pursuant to standards adopted under section 3701.351 of the Revised Code on a basis that requires the applicant's medical education and graduate medical education to be at least equivalent to that of a physician educated and trained in the United States;

(g) That the applicant has sufficient written and oral

English skills to communicate effectively and reliably with patients, their families, and other medical professionals;

(h) That the applicant will have professional liability insurance through the applicant's employment with the academic medical center or affiliated physician group practice.

(2) An attestation that the applicant agrees to practice only within the clinical setting of the academic medical center or for the affiliated physician group practice;

(3) Three letters of reference from distinguished experts in the applicant's specialty attesting to the unique capabilities of the applicant, at least one of which must be from outside the academic medical center or affiliated physician group practice;

(4) An affidavit from the dean of the medical school where the applicant has been appointed to serve as a faculty member stating that the applicant meets all of the requirements of division (C)(1) of this section and that the letters of reference submitted under division (C)(3) of this section are from distinguished experts in the applicant's specialty, and documentation to support the affidavit;

(5) A fee of one thousand dollars for the certificate.

(D)(1) The holder of a certificate of conceded eminence may practice medicine and surgery or osteopathic medicine and surgery only within the clinical setting of the academic medical center with which the certificate holder is employed or for the affiliated physician group practice with which the certificate holder is employed.

(2) A certificate holder may supervise medical students, physicians participating in graduate medical education, advanced

practice nurses, and physician assistants when performing clinical services in the certificate holder's area of specialty.

(E) The board may revoke a certificate issued under this section on receiving proof satisfactory to the board that the certificate holder has engaged in practice in this state outside the scope of the certificate or that there are grounds for action against the certificate holder under section 4731.22 of the Revised Code.

(F) A certificate of conceded eminence is valid for the shorter of two years or the duration of the certificate holder's employment with the academic medical center or affiliated physician group practice. The certificate ceases to be valid if the holder resigns or is otherwise terminated from the academic medical center or affiliated physician group practice.

(G) A certificate of conceded eminence may be renewed for an additional two-year period. There is no limit on the number of times a certificate may be renewed. A person seeking renewal of a certificate shall apply to the board and is eligible for renewal if the applicant does all of the following:

(1) Pays the renewal fee of one thousand dollars;

(2) Provides to the board an affidavit and supporting documentation from the academic medical center or affiliated physician group practice of all of the following:

(a) That the applicant's initial appointment to the medical faculty is still valid or has been renewed;

(b) That the applicant's clinical practice is consistent with the established standards in the field;

(c) That the applicant has demonstrated continued

scholarly achievement;

(d) That the applicant has demonstrated continued professional achievement consistent with the academic medical center's requirements, established pursuant to standards adopted under section 3701.351 of the Revised Code, for physicians with staff membership or professional privileges with the academic medical center.

(3) Satisfies the same continuing medical education requirements set forth in section 4731.282 of the Revised Code that apply to a person who holds a certificate to practice medicine and surgery or osteopathic medicine and surgery issued under this chapter.

(4) Complies with any other requirements established by the board.

(H) The board shall not require a person to obtain a certificate under Chapter 4796. of the Revised Code to practice medicine and surgery or osteopathic medicine and surgery if the person holds a certificate of conceded eminence issued under this section.

~~(I) The board may adopt any rules it considers necessary to implement this section. The rules shall be adopted in accordance with Chapter 119. of the Revised Code.~~

Sec. 4731.298. (A) The state medical board shall issue, without examination, to an applicant who meets the requirements of this section a visiting clinical professional development certificate authorizing the practice of medicine and surgery or osteopathic medicine and surgery as part of the applicant's participation in a clinical professional development program.

(B) To be eligible for a visiting clinical professional

development certificate, an applicant shall provide to the board satisfactory evidence that the applicant meets both of the following requirements:

(1) Has been accepted for participation in a clinical professional development program of a medical school or osteopathic medical school in this state that is accredited by the liaison committee on medical education or the American osteopathic association or of a teaching hospital affiliated with such a medical school;

(2) Holds a current, unrestricted license to practice medicine and surgery or osteopathic medicine and surgery issued in another country.

(C) The board shall maintain a register of all persons who hold visiting clinical professional development certificates.

(D) The holder of a visiting clinical professional development certificate may practice medicine and surgery or osteopathic medicine and surgery only as part of the clinical professional development program in which the certificate holder participates. The certificate holder's practice must be under the direct supervision of a qualified faculty member of the medical school, osteopathic medical school, or teaching hospital conducting the program who holds a license to practice medicine and surgery or osteopathic medicine and surgery issued under this chapter.

The program in which the certificate holder participates shall ensure that the certificate holder does not do any of the following:

(1) Write orders or prescribe medication;

(2) Bill for services performed;

(3) Occupy a residency or fellowship position approved by the accreditation council for graduate medical education;

(4) Attempt to have participation in a clinical professional development program pursuant to this section counted toward meeting the graduate medical education requirements specified in section 4731.09 of the Revised Code.

(E) The board may revoke a certificate issued under this section on receiving proof satisfactory to the board that the certificate holder has engaged in practice in this state outside the scope of the certificate or that there are grounds for action against the certificate holder under section 4731.22 of the Revised Code.

(F) A visiting clinical professional development certificate is valid for the shorter of one year or the duration of the program in which the holder is participating. The certificate ceases to be valid if the holder resigns or is otherwise terminated from the program. The certificate may not be extended.

(G) The program in which a certificate holder participates shall obtain from each patient or patient's parent or legal guardian written consent to any medical or surgical procedure or course of procedures in which the certificate holder participates.

~~(H) The board may adopt any rules it considers necessary to implement this section. The rules shall be adopted in accordance with Chapter 119. of the Revised Code.~~

Sec. 4731.301. (A) Not later than one year after~~ the effective date of this section~~ September 8, 2016, the state medical board shall adopt rules establishing all of the

following:

(1) The procedures when applying for a certificate to recommend under section 4731.301 of the Revised Code;

(2) The conditions that must be met to be eligible for a certificate to recommend;

(3) The schedule and procedures for renewing a certificate to recommend;

(4) The reasons for which a certificate may be suspended or revoked;

(5) The standards under which a certificate suspension may be lifted;

(6) The minimal standards of care when recommending treatment with medical marijuana.

The rules shall be adopted in accordance with Chapter 119. of the Revised Code.

(B) In addition to the rules described in division (A) of this section, the board may adopt ~~any other rules it considers necessary to implement sections 4731.30 and 4731.302 of the Revised Code which may include~~ rules specifying the information that must be included in a written recommendation issued under section 4731.30 of the Revised Code. The rules shall be adopted in accordance with Chapter 119. of the Revised Code.

(C) The board shall approve one or more continuing medical education courses of study, which may be a course or courses certified by the Ohio state medical association or Ohio osteopathic association, that assist physicians holding certificates to recommend in both of the following:

(1) Diagnosing qualifying medical conditions as defined in section 3796.01 of the Revised Code;

(2) Treating qualifying medical conditions with medical marijuana.

Sec. 4731.573. (A) An individual seeking to pursue an internship, residency, or clinical fellowship program in podiatric medicine and surgery in this state, who does not hold a license to practice podiatric medicine and surgery issued under this chapter, shall apply to the state medical board for a training certificate. The application shall be made on forms that the board shall furnish and shall be accompanied by an application fee of one hundred thirty dollars.

An applicant for a training certificate shall furnish to the board all of the following:

(1) Evidence satisfactory to the board that the applicant is at least eighteen years of age;

(2) Evidence satisfactory to the board that the applicant has been accepted or appointed to participate in this state in one of the following:

(a) An internship, residency, or clinical fellowship program accredited by either the council on podiatric medical education or the American podiatric medical association;

(b) A clinical fellowship program that is not accredited as described in division (A)(2)(a) of this section, but is conducted at an institution with a residency program that is accredited as described in that division and is in a clinical field the same as or related to the clinical field of the fellowship program.

(3) Information identifying the beginning and ending dates of the period for which the applicant has been accepted or appointed to participate in the internship, residency, or clinical fellowship program;

(4) Any other information that the board requires.

(B) If no grounds for denying a license or certificate under section 4731.22 of the Revised Code apply and the applicant meets the requirements of division (A) of this section, the board shall issue a training certificate to the applicant. The board shall not require an examination as a condition of receiving a training certificate.

A training certificate issued pursuant to this section shall be valid only for three years, but may be renewed by the board for one additional three-year period. To renew a training certificate, the holder shall apply to the board on or before the certificate's expiration date.

The fee for renewal of a training certificate shall be one hundred dollars. A late application may be submitted not more than thirty days after the certificate's expiration date. In such a case, the holder shall include with the application a one-hundred-fifty-dollar reinstatement fee.

(C) The holder of a valid training certificate shall be entitled to perform such acts as may be prescribed by or incidental to the holder's internship, residency, or clinical fellowship program, but the holder shall not be entitled otherwise to engage in the practice of podiatric medicine and surgery in this state. The holder shall limit activities under the certificate to the programs of the hospitals or facilities for which the training certificate is issued. The holder shall

train only under the supervision of the podiatrists responsible for supervision as part of the internship, residency, or clinical fellowship program. A training certificate may be revoked by the board upon proof, satisfactory to the board, that the holder thereof has engaged in practice in this state outside the scope of the internship, residency, or clinical fellowship program for which the training certificate has been issued, or upon proof, satisfactory to the board, that the holder thereof has engaged in unethical conduct or that there are grounds for action against the holder under section 4731.22 of the Revised Code.

~~(D) The board may adopt rules as the board finds necessary to effect the purpose of this section.~~

Sec. 4732.06. The principal office of the state board of psychology shall be in Columbus, but it may meet or conduct business at any place in this state. The board may empower any one or more of its members to conduct any proceeding, hearing, or investigation necessary to its purposes, including the administration and enforcement of Chapter 4783. of the Revised Code. The board shall meet at least twice annually and at such other times as it determines. Special meetings may be called by the president and shall be called by the secretary upon the written request of two members. The board shall not conduct business by teleconference except as provided in division (F)(1) of section 4732.17 of the Revised Code.

~~The board shall make such rules as are necessary to conduct its business.~~

The board shall employ an executive director, investigators, and administrative assistants as are necessary to administer and enforce this chapter and Chapter 4783. of the

Revised Code.

Sec. 4733.07. The state board of registration for professional engineers and surveyors shall adopt all necessary rules and bylaws, in accordance with Chapter 119. of the Revised Code, and not inconsistent with this chapter, and the constitutions and laws of this state or of the United States, to govern its times and places of meetings for organization and reorganization~~,~~ and for the holding of examinations~~, and for governing all other matters requisite to the exercise of its powers, the performance of its duties, and the transaction of its business~~. The board shall adopt and have an official seal. ~~The board may include among the rules adopted governing the standards of practice of engineering, requirements regarding financial responsibility and professional liability insurance.~~

In carrying this chapter into effect, the board may hold hearings in accordance with sections 119.01 to 119.13 of the Revised Code.

Sec. 4734.25. A license to practice chiropractic from the state chiropractic board expires biennially in accordance with a schedule the board establishes in rules adopted under this section. The license may be renewed. The renewal process shall be conducted in accordance with the standard renewal procedures of Chapter 4745. of the Revised Code, except that the board's executive director shall notify each license holder of the license renewal requirements of this section not later than sixty days prior to the license's expiration date.

When an application for license renewal is submitted, the applicant shall provide the information necessary to process the application and pay a renewal fee in an amount the board specifies in rules adopted under this section. The board shall

deposit twenty-five dollars of each renewal fee collected into the state treasury to the credit of the chiropractic loan repayment fund created by section 3702.9810 of the Revised Code.

Before a renewal of license is issued by the board, the licensee shall furnish the board with satisfactory evidence that the licensee has completed during the current licensing period not less than the number of hours of continuing education that the board requires in rules adopted under this section. For an activity to be applied toward the continuing education requirement, the activity must meet the board's approval as a continuing education activity, as specified in rules adopted under this section. Any exception from the continuing education requirement must be approved by the board.

Failure of a licensee to comply with this section shall operate as an automatic forfeiture of the right of the licensee to practice chiropractic in this state. A forfeited license may be reinstated by the board upon payment of all fees due and a penalty fee in an amount the board specifies in rules adopted under this section for reinstatement, in addition to satisfying the board of having complied with the continuing education requirements of this section. If an individual's license has been forfeited for two or more years, the board may also require as a condition of reinstatement that the individual complete training or testing as specified by the board.

The board shall adopt ~~any~~ rules ~~it considers necessary to implement this section, including~~ establishing standards for approval of continuing education in the practice of chiropractic. All rules adopted under this section shall be adopted in accordance with Chapter 119. of the Revised Code.

Sec. 4734.27. (A) To the extent it is in the public

interest, the state chiropractic board may issue, without examination, a special limited license to practice chiropractic as follows:

(1) To a person who is seeking to participate in an internship, residency, preceptorship, or clinical fellowship in this state in preparation for the practice of chiropractic;

(2) To a nonresident person who plans to provide chiropractic services in connection with a special activity, program, or event conducted in this state, if the person holds a current, valid, and unrestricted license to practice chiropractic in another state or country;

(3) To a person who previously held an unrestricted license to practice chiropractic in this state who plans to offer gratuitous chiropractic services as a voluntary public service~~;~~

~~(4) To any other person for any other reason specified as good cause by the board in rules adopted under this section~~.

(B) An applicant for a special limited license shall submit to the board a complete application on a form prescribed by the board, pay an application fee of seventy-five dollars, and furnish proof satisfactory to the board of being at least twenty-one years of age and of either holding the degree of doctor of chiropractic or being enrolled in a program leading to the degree. The institution from which the applicant received the degree or in which the applicant is enrolled must be a school or college that is approved by the board under section 4734.21 of the Revised Code.

(C) The provisions of this chapter that apply to applicants for and holders of licenses to practice chiropractic

shall apply to applicants for and holders of special limited licenses to the extent the board considers appropriate, including the board's authority to conduct any investigation it considers appropriate to verify an applicant's credentials and fitness to receive a license and the board's authority to take actions under section 4734.31 of the Revised Code.

~~(D) The board shall adopt any rules it considers necessary to implement this section. All rules adopted under this section shall be adopted in accordance with Chapter 119. of the Revised Code.~~

~~(E)(1)~~ (D)(1) The board shall issue a special limited license to practice chiropractic under division (A)(1) of this section in accordance with Chapter 4796. of the Revised Code to a person if either of the following applies:

(a) The person holds a limited license to practice chiropractic in another state.

(b) The person has satisfactory work experience, a government certification, or a private certification as described in that chapter as a chiropractor in a state that does not issue that limited license.

(2) A nonresident person who holds a special limited license to practice chiropractic under division (A)(2) of this section is not required to obtain a license under Chapter 4796. of the Revised Code to practice under the special limited license.

(3) Chapter 4796. of the Revised Code does not apply to a special limited license issued under division (A)(3) ~~or (4)~~ of this section.

Sec. 4734.282. (A) A chiropractor licensed under this

chapter seeking a certificate to practice acupuncture shall file with the state chiropractic board a written application on a form prescribed and supplied by the board. The application shall include all of the following:

(1) Evidence satisfactory to the board that the applicant's license is current and valid and that the applicant is in good standing with the board;

(2) Evidence satisfactory to the board that the applicant has completed a course of study in acupuncture approved by the board in accordance with section 4734.211 of the Revised Code~~.~~;

(3) Evidence satisfactory to the board that the applicant has passed the acupuncture examination administered by the national board of chiropractic examiners or a person that administers the examinations on the national board's behalf.

(B) The board shall review all applications received under this section. The board shall determine whether an applicant meets the requirements to receive a certificate to practice acupuncture not later than sixty days after receiving a complete application. The affirmative vote of not fewer than three members of the board is required to determine that an applicant meets the requirements for a certificate.

(C) At the time of making application for a certificate to practice acupuncture, the applicant shall pay the board a fee in an amount determined by the board pursuant to rules adopted under ~~section 4734.10~~ Chapter 119. of the Revised Code, no part of which shall be returned.

Sec. 4734.284. A chiropractor seeking to renew a certificate to practice acupuncture shall follow the standard renewal procedures of Chapter 4745. of the Revised Code and do

all of the following:

(A) Furnish the state chiropractic board with satisfactory evidence that the chiropractor completed, during the twenty-four months immediately preceding renewal, at least twelve hours of acupuncture continuing education provided by an entity that administers a course of study approved under section 4734.211 of the Revised Code;

(B) Certify to the board that the chiropractor remains in good standing with the board and has not engaged in any conduct for which the board may take action under division (C) of section 4734.31 of the Revised Code;

(C) Pay a renewal fee in an amount determined by the board pursuant to rules adopted under ~~section 4734.10~~ Chapter 119. of the Revised Code.

Sec. 4734.42. Pursuant to the state chiropractic board's investigative authority established under this chapter, the board shall develop and implement a quality intervention program designed to improve the practice and communication skills of individuals authorized to practice chiropractic under this chapter. In developing and implementing the quality intervention program, the board shall do all of the following:

(A) Offer in appropriate cases as determined by the board an educational and assessment program pursuant to an investigation the board conducts under this section;

(B) Select providers of educational and assessment services, including a quality intervention program panel of case reviewers;

(C) Make referrals to educational and assessment service providers and approve individual educational programs

recommended by those providers. The board shall monitor the progress of each individual undertaking a recommended individual education program;

(D) Determine what constitutes successful completion of an individual education program and require further monitoring of the individual who completed the program or other action the board determines to be appropriate~~;~~

~~(E) Adopt rules in accordance with Chapter 119. of the Revised Code establishing standards and procedures for implementing the quality intervention program~~.

Sec. 4735.10. (A)(1) The Ohio real estate commission may adopt ~~reasonable~~ rules in accordance with Chapter 119. of the Revised Code~~, necessary for implementing the provisions of this chapter relating, but not limited~~ to~~,~~ establish the following:

(a) The form and manner of filing applications for licensure;

(b) Times and form of examination for license;

(c) Placing an existing broker's license on deposit or a salesperson's license on an inactive status for an indefinite period;

(d) Specifying the process by which a licensee may resign the licensee's license;

(e) Defining any additional license status that the commission determines is necessary and that is not otherwise defined in this chapter and establishing the process by which a licensee places the licensee's license in a status defined by the commission in the rules the commission adopts;

(f) Clarification of the activities that require a license

under this chapter;

(g) Permitting a broker to act as principal broker for more than one brokerage.

(2) The commission shall adopt reasonable rules in accordance with Chapter 119. of the Revised Code, for implementing the provisions of this chapter relating to the following:

(a) The issuance, renewal, suspension, and revocation of licenses, other sanctions that may be imposed for violations of this chapter, the conduct of hearings related to these actions, and the process of reactivating a license;

(b) A three-year license and a three-year license renewal system;

(c) Standards for the approval of the postlicensure courses as required by division (G) of section 4735.07 and division (J) of section 4735.09 of the Revised Code, courses of study required for licenses, courses offered in preparation for license examinations, or courses required as continuing education for licenses.

(d) Guidelines to ensure that continuing education classes are open to all persons licensed under this chapter. The rules shall specify that an organization that sponsors a continuing education class may offer its members a reasonable reduction in the fees charged for the class.

(e) Requirements for trust accounts and property management accounts. The rules shall specify that:

(i) Brokerages engaged in the management of property for another may, pursuant to a written contract with the property

owner, exercise signatory authority for withdrawals from property management accounts maintained in the name of the property owner. The exercise of authority for withdrawals does not constitute a violation of any provision of division (A) of section 4735.18 of the Revised Code.

(ii) The interest earned on property management trust accounts maintained in the name of the property owner or the broker shall be payable to the property owner unless otherwise specified in a written contract.

(f) Notice of renewal forms and filing deadlines;

(g) Special assessments under division (A) of section 4735.12 of the Revised Code.

(B) The commission may adopt rules in accordance with Chapter 119. of the Revised Code establishing standards and guidelines with which the superintendent of real estate shall comply in the exercise of the following powers:

(1) Appointment and recommendation of ancillary trustees under section 4735.05 of the Revised Code;

(2) Rejection of names proposed to be used by partnerships, associations, limited liability companies, limited liability partnerships, and corporations, under division (B) of section 4735.06 of the Revised Code, including procedures for the application and approval of more than one trade name for a brokerage;

(3) Acceptance and rejection of applications to take the broker and salesperson examinations and licensure;

(4) Approval of applications of brokers to place their licenses in an inactive status and to become salespersons under

section 4735.13 of the Revised Code;

(5) Appointment of hearing examiners under section 119.09 of the Revised Code;

(6) Acceptance and rejection of applications to take the foreign real estate dealer and salesperson examinations and licensure, with waiver of examination, under sections 4735.27 and 4735.28 of the Revised Code;

(7) Qualification of foreign real estate under section 4735.25 of the Revised Code.

If at any time there is no rule in effect establishing a guideline or standard required by this division, the superintendent may adopt a rule in accordance with Chapter 119. of the Revised Code for such purpose.

(C) The commission or superintendent may hear testimony in matters relating to the duties imposed upon them, and the president of the commission and superintendent may administer oaths. The commission or superintendent may require other proof of the honesty and truthfulness of any person named in an application for a real estate broker's or real estate salesperson's license before admitting the applicant to the examination or issuing a license.

Sec. 4737.045. (A) To register as a scrap metal dealer or a bulk merchandise container dealer with the director of public safety as required by division (B) of section 4737.04 of the Revised Code, a person shall do all of the following:

(1) Provide the name and street address of the dealer's place of business;

(2) Provide the name of the primary owner of the business,

and of the manager of the business, if the manager is not the primary owner;

(3) Provide the electronic mail address of the business;

(4) Provide confirmation that the dealer has the capabilities to electronically connect with the department of public safety for the purpose of sending and receiving information;

(5) ~~Provide any other information required by the director in rules the director adopts pursuant to sections 4737.01 to 4737.045 of the Revised Code;~~

~~(6)~~ Pay an initial registration fee of two hundred dollars.

(B) A person engaging in the business of a scrap metal dealer or a bulk merchandise container dealer in this state on or before September 28, 2012, shall register with the director not later than January 1, 2013. With respect to a person who commences engaging in the business of a scrap metal dealer or a bulk merchandise container dealer after September 28, 2012, the person shall register with the director pursuant to this section prior to commencing business as a scrap metal dealer or a bulk merchandise container dealer.

(C) A registration issued to a scrap metal dealer or a bulk merchandise container dealer pursuant to this section is valid for a period of one year. A dealer shall renew the registration in accordance with the rules adopted by the director and pay a renewal fee of one hundred fifty dollars to cover the costs of operating and maintaining the registry created pursuant to division (E) of this section.

(D) A scrap metal dealer or a bulk merchandise container

dealer registered under this section shall prominently display a copy of the annual registration certificate received from the director pursuant to division (E)(2) of this section.

(E) The director shall do all of the following:

(1) Develop and implement, by January 1, 2014, and maintain as a registry a secure database for use by law enforcement agencies that is capable of all of the following:

(a) Receiving and securely storing all of the information required by division (A) of this section and the daily transaction data that scrap metal dealers and bulk merchandise dealers are required to send pursuant to division (E)(1) of section 4737.04 of the Revised Code;

(b) Providing secure search capabilities to law enforcement agencies for enforcement purposes;

(c) Creating a link and retransmission capability for receipt of routine scrap theft alerts published by the institute of scrap recycling industries for transmission to dealers and law enforcement agencies in the state;

(d) Making the electronic lists prepared pursuant to division (F)(2) of section 4737.04 of the Revised Code available through an electronic searchable format for individual law enforcement agencies and for dealers in the state;

(e) Providing, without charge, interlink programming enabling the transfer of information to dealers.

(2) Issue, reissue, or deny registration to dealers;

(3) Adopt rules ~~to enforce sections 4737.01 to 4737.045 of the Revised Code, rules~~ establishing procedures to renew a registration issued under this section, rules for the format and

maintenance for the records required under division (A) of section 4737.012 of the Revised Code or division (C) of section 4737.04 of the Revised Code, and rules regarding the delivery of the report required by division (E)(1) of section 4737.04 of the Revised Code to the registry, which shall be used exclusively by law enforcement agencies.

(F) A scrap metal dealer or bulk merchandise container dealer may search, modify, or update only the dealer's own business data contained within the registry established in division (E) of this section.

(G) All fees received by the director pursuant to this section and division (F) of section 4737.99 of the Revised Code shall be used to develop and maintain the registry required under this section and for the department of public safety's operating expenses. The fees shall be deposited into the infrastructure protection fund which is hereby created in the state treasury.

Sec. 4738.11. (A) The motor vehicle salvage dealer's licensing board shall adopt rules prescribing the physical characteristics of facilities used by motor vehicle salvage dealers, salvage motor vehicle auctions, and salvage motor vehicle pools, which shall include requirements for fencing or otherwise screening the view of the facilities to at least the extent required for junkyards by sections 4737.07 and 4737.09 of the Revised Code. Such rules shall be consistent with the standards adopted by the director of transportation pursuant to the "Highway Beautification Act of 1965," 79 Stat. 1030, 23 U.S.C.A. 361, as amended. Enforcement of the screening regulations of this division shall be subject to approval, supervision, and action of the director of transportation. The

director may enforce the screening regulations of this section if he considers that such regulations are not adequately enforced.

(B) The board may make ~~such other reasonable rules as are necessary to carry out and effect sections 4738.01 to 4738.12 of the Revised Code, and further~~ rules ~~as are necessary~~ relating to the time, place, and manner of conducting hearings on the issuance, suspension, or revocation of licenses. The board may hear testimony in matters relating to the duties imposed upon it and the president and the secretary of the board may administer oaths. The board may require any proof it deems advisable and may require the attendance of witnesses and the production of books, records, and papers as it desires at any hearing before it or relating to any matter which it has authority to investigate. The board may, through its secretary, issue a subpoena for any witness, or a subpoena duces tecum for the production of any books, records, and papers, directed to the sheriff of the county where a witness resides or is found, which subpoena shall be served and returned in the same manner as a subpoena in a criminal case.

The fees of the sheriff shall be the same as that allowed in the court of common pleas in criminal cases. Witnesses shall be paid the fees and mileage provided for under section 119.094 of the Revised Code. The fees and mileage shall be paid in the same manner as other expenses of the board.

Depositions of witnesses residing within or without the state may be taken by the board in the manner prescribed for like depositions in civil actions in the court of common pleas. In any case of disobedience to or neglect of any subpoena served on any person, or the refusal of any witness to testify to any

matter regarding which he may lawfully be interrogated, the court of common pleas of any county where disobedience, neglect, or refusal occurs, or any judge thereof on application of the secretary of the board, shall compel obedience by attachment proceedings for contempt as in the case of disobedience of a subpoena issued from the court or a refusal to testify therein.

Sec. 4740.04. The administrative section of the Ohio construction industry licensing board is responsible for the administration of this chapter and shall do all of the following:

(A) Schedule the contractor examinations each of the other sections of the board directs. Each type of examination shall be held at least four times per year.

(B) Select and contract with one or more persons to do all of the following relative to the examinations:

(1) Prepare, administer, score, and maintain the confidentiality of the examinations;

(2) Be responsible for all the expenses required to fulfill division (B)(1) of this section;

(3) Charge an applicant a fee in an amount the administrative section of the board authorizes for administering the examination.

(C) Issue and renew licenses as follows:

(1) Issue a license to any individual who the appropriate specialty section of the board determines is qualified pursuant to section 4740.06 of the Revised Code to hold a license and has attained, within the twelve months preceding the individual's application for licensure, a score on the examination that the

appropriate specialty section authorizes for the licensed trade.

(a) Each license shall include the contractor's name, license number, expiration date, and the name of the contracting company associated with the individual, as applicable.

(b) Each license issued to an individual who holds more than one valid license shall contain the same license number and expiration date as the original license issued to that individual.

(2) Renew licenses for individuals who meet the renewal requirements of section 4740.06 of the Revised Code.

(D) Make an annual written report to the director of commerce on proceedings had by or before the board for the previous year and make an annual statement of all money received and expended by the board during the year;

(E) Keep a record containing the name, address, the date on which the board issues or renews a license to, and the license number of, every heating, ventilating, and air conditioning contractor, refrigeration contractor, electrical contractor, plumbing contractor, and hydronics contractor issued a license pursuant to this chapter;

(F) Regulate a contractor's use and display of a license issued pursuant to this chapter and of any information contained in that license;

(G) Adopt rules in accordance with Chapter 119. of the Revised Code ~~as necessary~~ to ~~properly discharge the administrative section's duties under this chapter. The rules shall include, but not be limited to,~~ establish the following:

(1) Application procedures for examinations;

(2) Specifications for continuing education requirements for license renewal that address all of the following:

(a) A requirement that an individual who holds any number of valid and unexpired licenses accrue a total of ten hours of continuing education courses per year;

(b) Fees the board charges to persons who provide continuing education courses, in an amount of twenty-five dollars annually for each person approved to provide courses, not more than ten dollars plus one dollar per credit hour for each course submitted to a specialty section of the board for approval according to division (F) of section 4740.05 of the Revised Code, and one dollar per credit hour of instruction per attendee;

(c) A provision limiting approval of continuing education courses to one year.

(3) Requirements for criminal records checks of applicants under section 4776.03 of the Revised Code.

(H) Adopt any continuing education curriculum as the other sections of the board establish or approve pursuant to division (F) of section 4740.05 of the Revised Code;

(I) Keep a record of its proceedings and do all things necessary to carry out this chapter.

Sec. 4741.03. (A) The state veterinary medical licensing board shall meet at least once in each calendar year and may hold additional meetings as often as it considers necessary to conduct the business of the board. The president of the board may call special meetings, and the executive director shall call special meetings upon the written request of three members of the board. The board shall organize by electing a president and

vice-president from its veterinarian members and such other officers as the board prescribes by rule. Each officer shall serve for a term specified by board rule or until a successor is elected and qualified. A quorum of the board consists of four members of which at least three are members who are veterinarians. The concurrence of four members is necessary for the board to take any action.

(B) The board may appoint a person, not one of its members, to serve as its executive director. The executive director is in the unclassified service and serves at the pleasure of the board. The executive director shall serve as the board's secretary-treasurer ex officio. The board may employ additional employees for professional, technical, clerical, and special work as it considers necessary. The executive director shall give a surety bond to the state in the sum the board requires, conditioned upon the faithful performance of the executive director's duties. The board shall pay the cost of the bond. The executive director shall keep a complete accounting of all funds received and of all vouchers presented by the board to the director of budget and management for the disbursement of funds. The president or executive director shall approve all vouchers of the board. All money received by the board shall be credited to the occupational licensing and regulatory fund.

(C) In addition to any other duty required under this chapter, the board shall do all of the following:

(1) Prescribe a seal;

(2) Review the results of ~~board-appproved~~ board-approved, nationally recognized examinations taken by applicants in accordance with rules adopted by the board.

(3) Keep a record of all of its meetings and proceedings;

(4) Maintain a register that records all applicants for a certificate of license or a temporary permit, all persons who have been denied a license or permit, all persons who have been granted or reissued a license or permit, and all persons whose license or permit has been revoked or suspended. The register shall also include a record of persons licensed prior to October 17, 1975.

(5) Maintain a register, in such form as the board determines by rule, of all colleges and universities that teach veterinary medicine and veterinary technology that are approved by the board;

(6) Enforce this chapter, and for that purpose, make investigations relative as provided in section 4741.26 of the Revised Code;

(7) Issue licenses and permits to persons who meet the qualifications set forth in this chapter;

(8) Approve colleges and universities which meet the board's requirements for veterinary medicine and associated fields of study and withdraw or deny, after an adjudication conducted in accordance with Chapter 119. of the Revised Code, approval from colleges and universities which fail to meet those requirements;

(9) Adopt rules, in accordance with Chapter 119. of the Revised Code, which are necessary for its government~~ and for the administration and enforcement of this chapter~~.

(D) The board may do all of the following:

(1) Subpoena witnesses and require their attendance and

testimony, and require the production by witnesses of books, papers, public records, animal patient records, and other documentary evidence and examine them, in relation to any matter that the board has authority to investigate, inquire into, or hear. Except for any officer or employee of the state or any political subdivision of the state, the treasurer of state shall pay all witnesses in any proceeding before the board, upon certification from the board, witness fees and mileage in the amount provided for under section 119.094 of the Revised Code.

(2) Examine and inspect books, papers, public records, animal patient records, and other documentary evidence at the location where the books, papers, records, and other evidence are normally stored or maintained.

(E) All registers, books, and records kept by the board are the property of the board and are open for public examination and inspection at all reasonable times in accordance with section 149.43 of the Revised Code. The registers, books, and records are prima-facie evidence of the matters contained in them.

Sec. 4741.221. ~~(A)~~ The state veterinary medical licensing board may, prior to or after a hearing conducted under section 4741.22 of the Revised Code, and in lieu of taking or in addition to any action it may take under that section, refer any veterinarian or registered veterinarian technician:

~~(1)~~ (A) Who experiences alcohol or substance abuse, to the Ohio veterinary medical association special assistance committee, the Ohio physicians health program, or an advocacy group approved by the board, for support and assistance in the coordination of the treatment of that veterinarian or technician;

~~(2)~~ (B) Who has violated any provision of this chapter for any offense for which the board normally would not seek the revocation or suspension of the person's license or registration, to the Ohio veterinary medical association special committee on peer review.

~~(B) To implement this section, the board shall adopt rules in accordance with Chapter 119. of the Revised Code.~~

Sec. 4741.45. The state veterinary medical licensing board, in accordance with Chapter 119. of the Revised Code, shall adopt rules that do all of the following:

(A) Define "large animal veterinary services," "veterinary services necessary to implement or enforce the law," and "veterinary services necessary to protect public health";

(B) Designate veterinary resource shortage areas comprised of areas in this state that have limited access to each of the following:

(1) Large animal veterinary services;

(2) Veterinary services necessary to implement or enforce the law;

(3) Veterinary services necessary to protect public health.

The designations may apply to a geographic area, one or more facilities within a particular area, or a population group of animals within a particular area.

(C) Establish priorities among veterinary resource shortage areas for use in recruiting veterinarians under the veterinarian loan repayment program;

(D) Establish priorities for use in determining eligibility among applicants for participation in the veterinarian loan repayment program~~;~~

~~(E) Establish any other requirement or procedure that is necessary to implement and administer sections 4741.40 to 4741.47 of the Revised Code~~.

In adopting the rules, the board shall consult with the state veterinarian.

Sec. 4741.51. ~~(A)~~ The state veterinary medical licensing board, in accordance with Chapter 119. of the Revised Code, shall adopt rules ~~necessary to implement and administer~~ for purposes of the veterinarian student debt assistance program~~.~~

~~(B) Rules adopted under division (A) of this section shall~~ to do all of the following:

~~(1)~~ (A) Establish procedures for the selection of veterinarian student debt assistance recipients, including the development of a lottery system for selecting who, from the list of eligible veterinarians, will receive assistance. The rules shall require that the selection of recipients occur in each odd-numbered calendar year.

~~(2)~~ (B) Provide for a method to determine the amount that each recipient of veterinarian student debt assistance receives if selected through the lottery system. The rules shall require that all recipients receive the same amount of assistance in each year in which assistance is awarded. The rules also shall require that the amount awarded to each recipient is not less than five thousand dollars and not more than ten thousand dollars.

~~(3)~~ (C) Establish the types of charitable veterinarian

services that qualify for application to and participation in the program, including, but not limited to, spay and neutering services. The rules shall require an applicant to complete charitable veterinarian services in service to a nonprofit organization, a humane society established under Chapter 1717. of the Revised Code, a law enforcement agency, or a state, local, or federal government entity. The rules also shall require each recipient of veterinarian student debt assistance to submit information to the board that details the charitable veterinarian services completed by the veterinarian.

~~(4)~~ (D) Establish the minimum amount of time that a veterinarian must have performed charitable veterinarian services to be eligible to apply to the program. The number of hours shall be not less than twelve.

~~(5)~~ (E) Establish the minimum period of time, not to exceed two years, that a veterinarian must agree to reside in this state under a contract entered into under section 4741.54 of the Revised Code;

~~(6)~~ (F) Provide for the inclusion of information regarding the program on application forms for both an initial veterinary license and a renewal of a veterinary license~~;~~

~~(7) Establish any other procedures and requirements that the board determines is necessary to administer and implement the program~~.

Sec. 4743.041. (A) As used in this section:

"Active guard and reserve" has the meaning defined in 10 U.S.C. 101.

"Military duty" includes service in the uniformed services on active duty, in the active guard and reserve, and as a

military technician dual status under 10 U.S.C. 10216.

"Uniformed services" has the meaning defined in section 5747.01 of the Revised Code.

(B) Pursuant to division (C) of section 4743.04 of the Revised Code, a department, agency, or office of this state shall issue a temporary license or certificate to practice a trade or profession to an individual, provided that all of the following qualifications are met:

(1) The individual holds a valid license or certificate to practice the trade or profession issued by any other state or jurisdiction;

(2) The individual is in good standing in the state or jurisdiction of licensure or certification;

(3) The individual presents adequate proof to the department, agency, or office of this state that the individual or the individual's spouse is on military duty in this state; and

(4) The individual complies with sections 4776.01 to 4776.04 of the Revised Code if a department, agency, or office of this state requires an applicant under the law governing the applicable trade or profession to submit to a criminal records check to receive a license or certificate.

(C) A department, agency, or office of this state may, under this section, issue a regular license or certificate in lieu of issuing a temporary license or certificate, provided that the applicant meets the requirements of this section, and provided that the regular license is issued by the deadline specified in division (D) of this section.

(D) If the department, agency, or office of this state requires an individual under the law governing the applicable trade or profession to submit to a criminal records check to receive a license or certificate, and the individual applies for a license or certificate under this section, the department, agency, or office of this state shall, within twenty-four hours after receiving the report under division (A) of section 4776.04 of the Revised Code, notify the applicant that the department, agency, or office of this state has received the results of a criminal records check. A department, agency, or office of this state shall issue a temporary license or certificate or a regular license under this section, provided that the applicant meets the requirements of this section, within thirty days of having received an application, or, if the applicant is subject to a criminal records check, within fourteen days of having received the results of a criminal records check. If the department, agency, or office of this state finds that the individual is under investigation by the licensing agency of any other state or jurisdiction, the department, agency, or office of this state may postpone issuing the license or certificate until the investigation is complete and the licensing agency of the other state or jurisdiction confirms that the individual is in good standing. The department, agency, or office of this state shall verify the standing of the license or certificate issued by another state or jurisdiction when the temporary license is up for renewal. No temporary license shall be valid for a period of more than six years.

(E) A department, agency, or office of this state shall, in accordance with Chapter 119. of the Revised Code, deny an individual a temporary license or certificate issued under this section or revoke an individual's temporary license or

certificate issued under this section if any of the following circumstances occur:

(1) The individual's license or certificate issued by another state or jurisdiction expires or is revoked, or the individual is not in good standing;

(2) With respect to an individual who was eligible for a temporary license under this section as the spouse of an individual on military duty, six months have elapsed since the divorce, dissolution, or annulment of the marriage;

(3) The individual is disqualified from obtaining a license in the trade or profession because of a conviction, judicial finding of guilt, or plea of guilty to a disqualifying criminal offense specified on the list the department, agency, or office of this state makes available pursuant to division (C) of section 9.78 of the Revised Code.

(F) An individual with a temporary license or certificate or a regular license issued under this section may practice the trade or profession in this state only within the scope and practice that is permitted under Ohio law and that does not exceed the individual's training.

(G) Notwithstanding any other provision of the Revised Code, a department, agency, or office of this state shall waive all fees associated with the issuance of a temporary license or certificate issued under this section.

(H) ~~Each department, agency, or office of this state that issues a license or certificate to practice a trade or profession shall adopt rules under Chapter 119. of the Revised Code as necessary to implement this section.~~

~~(I)~~ Each department, agency, or office of this state that

issues a license or certificate to practice a trade or profession, shall, upon the conclusion of the state fiscal year, prepare a report on the number and type of temporary licenses or certificates that were issued during the fiscal year under this section. The report shall be provided to the director of veterans services not later than thirty days after the end of the fiscal year. The director shall compile the reports and make them available to the public.

~~(J)~~ (I) A license or certificate issued under this section shall be considered a license issued under the laws regulating the practice of the applicable occupation or profession in this state. Provisions of law applicable to a license issued to an applicant who does not obtain a license under this section apply in the same manner to licenses issued under this section.

~~(K)~~ (J) Chapter 4796. of the Revised Code does not apply to a license or certificate issued under this section.

~~(L)~~ (K) A department, agency, or office of this state shall not require an individual who meets the requirements of this section to apply for the license or certificate under Chapter 4796. of the Revised Code. However, the individual may elect to apply for the license or certificate under Chapter 4796. of the Revised Code.

Sec. 4743.09. (A) As used in this section:

(1) "Durable medical equipment" means a type of equipment, such as a remote monitoring device utilized by a physician, physician assistant, or advanced practice registered nurse in accordance with this section, that can withstand repeated use, is primarily and customarily used to serve a medical purpose, and generally is not useful to a person in the absence of

illness or injury and, in addition, includes repair and replacement parts for the equipment.

(2) "Facility fee" means any fee charged or billed for telehealth services provided in a facility that is intended to compensate the facility for its operational expenses and is separate and distinct from a professional fee.

(3) "Health care professional" means:

(a) An advanced practice registered nurse, as defined in section 4723.01 of the Revised Code;

(b) An optometrist licensed under Chapter 4725. of the Revised Code to practice optometry;

(c) A pharmacist licensed under Chapter 4729. of the Revised Code;

(d) A physician assistant licensed under Chapter 4730. of the Revised Code;

(e) A physician licensed under Chapter 4731. of the Revised Code to practice medicine and surgery, osteopathic medicine and surgery, or podiatric medicine and surgery;

(f) A psychologist, independent school psychologist, or school psychologist licensed under Chapter 4732. of the Revised Code;

(g) A chiropractor licensed under Chapter 4734. of the Revised Code;

(h) An audiologist or speech-language pathologist licensed under Chapter 4753. of the Revised Code;

(i) An occupational therapist or physical therapist licensed under Chapter 4755. of the Revised Code;

(j) An occupational therapy assistant or physical therapist assistant licensed under Chapter 4755. of the Revised Code;

(k) A professional clinical counselor, independent social worker, independent marriage and family therapist, art therapist, or music therapist licensed under Chapter 4757. of the Revised Code;

(l) An independent chemical dependency counselor licensed under Chapter 4758. of the Revised Code;

(m) A dietitian licensed under Chapter 4759. of the Revised Code;

(n) A respiratory care professional licensed under Chapter 4761. of the Revised Code;

(o) A genetic counselor licensed under Chapter 4778. of the Revised Code;

(p) A certified Ohio behavior analyst certified under Chapter 4783. of the Revised Code;

(q) A certified mental health assistant licensed under Chapter 4772. of the Revised Code.

(4) "Health care professional licensing board" means any of the following:

(a) The board of nursing;

(b) The state vision professionals board;

(c) The state board of pharmacy;

(d) The state medical board;

(e) The state board of psychology;

(f) The state chiropractic board;

(g) The state speech and hearing professionals board;

(h) The Ohio occupational therapy, physical therapy, and athletic trainers board;

(i) The counselor, social worker, and marriage and family therapist board;

(j) The chemical dependency professionals board.

(5) "Health plan issuer" has the same meaning as in section 3922.01 of the Revised Code.

(6) "Telehealth services" means health care services provided through the use of information and communication technology by a health care professional, within the professional's scope of practice, who is located at a site other than the site where either of the following is located:

(a) The patient receiving the services;

(b) Another health care professional with whom the provider of the services is consulting regarding the patient.

(B)(1) Each health care professional licensing board shall permit a health care professional under its jurisdiction to provide the professional's services as telehealth services in accordance with this section. ~~Subject to division (B)(2) of this section, a board may adopt any rules it considers necessary to implement this section. All rules adopted under this section shall be adopted in accordance with Chapter 119. of the Revised Code. Any such rules adopted by a board are not subject to the requirements of division (F) of section 121.95 of the Revised Code.~~

(2)(a) Except as provided in division (B)(2)(b) of this section, ~~the rules adopted by~~ a health care professional licensing board may adopt rules under ~~this section shall~~ Chapter 119. of the Revised Code to establish a standard of care for telehealth services that is equal to the standard of care for in-person services.

(b) Subject to division (B)(2)(c) of this section, a board may require an initial in-person visit prior to prescribing a schedule II controlled substance to a new patient, equivalent to applicable state and federal requirements.

(c)(i) A board shall not require an initial in-person visit for a new patient whose medical record indicates that the patient is receiving hospice or palliative care, who is receiving medication-assisted treatment or any other medication for opioid-use disorder, who is a patient with a mental health condition, or who, as determined by the clinical judgment of a health care professional, is in an emergency situation.

(ii) Notwithstanding division (B) of section 3796.01 of the Revised Code, medical marijuana shall not be considered a schedule II controlled substance.

(C) With respect to the provision of telehealth services, all of the following apply:

(1) A health care professional may use synchronous or asynchronous technology to provide telehealth services to a patient during an initial visit if the appropriate standard of care for an initial visit is satisfied.

(2) A health care professional may deny a patient telehealth services and, instead, require the patient to undergo an in-person visit.

(3) When providing telehealth services in accordance with this section, a health care professional shall comply with all requirements under state and federal law regarding the protection of patient information. A health care professional shall ensure that any username or password information and any electronic communications between the professional and a patient are securely transmitted and stored.

(4) A health care professional may use synchronous or asynchronous technology to provide telehealth services to a patient during an annual visit if the appropriate standard of care for an annual visit is satisfied.

(5) In the case of a health care professional who is a physician, physician assistant, or advanced practice registered nurse, both of the following apply:

(a) The professional may provide telehealth services to a patient located outside of this state if permitted by the laws of the state in which the patient is located.

(b) The professional may provide telehealth services through the use of medical devices that enable remote monitoring, including such activities as monitoring a patient's blood pressure, heart rate, or glucose level.

(D) When a patient has consented to receiving telehealth services, the health care professional who provides those services is not liable in damages under any claim made on the basis that the services do not meet the same standard of care that would apply if the services were provided in-person.

(E)(1) A health care professional providing telehealth services shall not charge a patient or a health plan issuer covering telehealth services under section 3902.30 of the

Revised Code any of the following: a facility fee, an origination fee, or any fee associated with the cost of the equipment used at the provider site to provide telehealth services.

A health care professional providing telehealth services may charge a health plan issuer for durable medical equipment used at a patient or client site.

(2) A health care professional may negotiate with a health plan issuer to establish a reimbursement rate for fees associated with the administrative costs incurred in providing telehealth services as long as a patient is not responsible for any portion of the fee.

(3) A health care professional providing telehealth services shall obtain a patient's consent before billing for the cost of providing the services, but the requirement to do so applies only once.

(F) Nothing in this section limits or otherwise affects any other provision of the Revised Code that requires a health care professional who is not a physician to practice under the supervision of, in collaboration with, in consultation with, or pursuant to the referral of another health care professional.

(G) It is the intent of the general assembly, through the amendments to this section, to expand access to and investment in telehealth services in this state in congruence with the expansion and investment in telehealth services made during the COVID-19 pandemic.

Sec. 4745.04. (A) As used in this section:

(1) "Indigent and uninsured person" and "volunteer" have the same meanings as in section 2305.234 of the Revised Code.

(2) "Licensing agency that licenses health care professionals" means all of the following:

(a) The state dental board established under Chapter 4715. of the Revised Code;

(b) The board of nursing established under Chapter 4723. of the Revised Code;

(c) The state vision professionals board established under Chapter 4725. of the Revised Code;

(d) The state board of pharmacy established under Chapter 4729. of the Revised Code;

(e) The state medical board established under Chapter 4731. of the Revised Code;

(f) The state board of psychology established under Chapter 4732. of the Revised Code;

(g) The state chiropractic board established under Chapter 4734. of the Revised Code;

(h) The Ohio occupational therapy, physical therapy, and athletic trainers board established under Chapter 4755. of the Revised Code;

(i) The counselor, social worker, and marriage and family therapist board established under Chapter 4757. of the Revised Code;

(j) The chemical dependency professionals board established under Chapter 4758. of the Revised Code;

(k) The state board of emergency medical services established under Chapter 4765. of the Revised Code;

(l) The state speech and hearing professionals board

established under Chapter 4744. of the Revised Code;

(m) Any other licensing agency that considers its licensees to be health care professionals.

(B) Notwithstanding any provision of the Revised Code to the contrary, a licensing agency that licenses health care professionals shall apply toward the satisfaction of a portion of a licensee's continuing education requirement the provision of health care services if all of the following apply:

(1) The licensing agency that licenses health care professionals requires a licensee to complete continuing education as a condition of having a license renewed by the agency.

(2) The licensee provides the health care services to an indigent and uninsured person.

(3) The licensee provides the health care services as a volunteer.

(4) The licensee satisfies the requirements of section 2305.234 of the Revised Code to qualify for the immunity from liability granted under that section.

(5) The health care services provided are within the scope of authority of the licensee renewing the license.

(C)(1) Except as provided in division (C)(2) of this section, a licensing agency that licenses health care professionals shall permit a licensee to satisfy up to one-third of the licensee's continuing education requirement by providing health care services as a volunteer. A licensing agency that licenses health care professionals shall permit a licensee to earn continuing education credits at the rate of one credit hour

for each sixty minutes spent providing health care services as a volunteer.

(2) In the case of a person holding a license to practice medicine and surgery, osteopathic medicine and surgery, or podiatric medicine and surgery, the state medical board shall permit the person to satisfy not more than ten hours of the person's continuing education requirement by providing health care services as a volunteer. The board shall permit a licensee to earn continuing education credits at the rate of one credit hour for every five hours spent providing health care services as a volunteer.

(D) ~~A licensing agency that licenses health care professionals shall adopt rules as necessary to implement this section. The rules shall be adopted in accordance with Chapter 119. of the Revised Code.~~

~~(E)~~ Continuing education credit received under this section for providing health care services is not compensation or any other form of remuneration for purposes of section 2305.234 of the Revised Code and does not make the provider of those services ineligible for the immunity from liability granted under that section.

Sec. 4747.04. (A) The state speech and hearing professionals board shall:

(1) Establish the nature and scope of qualifying examinations in accordance with section 4747.08 of the Revised Code;

(2) Determine whether persons holding similar valid licenses from other jurisdictions other than other states shall be required to take and successfully pass the appropriate

qualifying examination as a condition for licensing in this state;

(3) Review complaints and conduct investigations in accordance with section 4747.13 of the Revised Code and hold any hearings that are necessary to carry out this chapter;

(4) Determine and specify the length of time each license that is suspended or revoked shall remain suspended or revoked;

(5) Deposit all payments collected under this chapter into the state treasury to the credit of the occupational licensing and regulatory fund created in section 4743.05 of the Revised Code;

(6) Establish a list of disqualifying offenses for licensure as a hearing aid dealer or fitter, or for a hearing aid dealer or fitter trainee permit, pursuant to sections 9.79, 4747.05, 4747.10, 4747.12, and 4776.10 of the Revised Code.

(B) The board shall adopt ~~reasonable~~ rules, in accordance with Chapter 119. of the Revised Code, ~~necessary for the administration of this chapter. The board shall~~ that include all of the following ~~in those rules~~:

(1) The amount of any fees required under this chapter;

(2) The information to be included in a hearing aid receipt provided by a licensed hearing aid dealer or fitter to a person under section 4747.09 of the Revised Code;

(3) The amount of time a licensed hearing aid dealer or fitter or trainee permit holder has to provide the notice of a change in address or addresses required under section 4747.11 of the Revised Code and any other requirements relating to the notice;

(4) Any additional conduct for which the board may discipline a licensee or permit holder under section 4747.12 of the Revised Code.

(C) Nothing in this section shall be interpreted as granting to the board the right to restrict advertising which is not false or misleading, or to prohibit or in any way restrict a hearing aid dealer or fitter from renting or leasing space from any person, firm or corporation in a mercantile establishment for the purpose of using such space for the lawful sale of hearing aids or to prohibit a mercantile establishment from selling hearing aids if the sale would be otherwise lawful under this chapter.

Sec. 4749.02. The director of public safety shall administer this chapter, and for that purpose, may appoint employees ~~and adopt rules that the director considers necessary~~.

The director shall implement electronic licensing and registration procedures under this chapter not later than December 31, 2006. The application procedures in effect on ~~the effective date of this amendment~~June 29, 2005, shall continue until such time as electronic licensing and registration procedures are implemented.

Sec. 4749.08. (A) No class A, B, or C licensee, or registered employee of a class A, B, or C licensee shall be considered, because of licensure or registration under this chapter, a law enforcement officer for any purpose. Nothing in this chapter shall be construed as granting the right to carry a concealed weapon.

(B) The ~~rules of the~~ department of public safety ~~adopted for the administration of this chapter~~ shall ~~include provisions~~

adopt rules to assure that any uniform or identification card shall be so designed as to avoid confusion of a private investigator, security guard provider, or registered employee with any law enforcement officer in this state.

Sec. 4751.03. There is hereby created in the state treasury the board of executives of long-term services and supports fund. The fund shall consist of the amounts the board of executives of long-term services and supports collects under this chapter as fees, civil penalties, and fines. The board shall use the money in the fund to administer and enforce this chapter ~~and the rules adopted under section 4751.04 of the Revised Code~~. Investment earnings of the fund shall be credited to the fund.

Sec. 4751.10. No person shall knowingly do any of the following:

(A) Operate a nursing home unless it is under the supervision of an administrator whose principal occupation is nursing home administration or hospital administration and who is a licensed nursing home administrator;

(B) Practice or offer to practice nursing home administration unless the person is a licensed nursing home administrator;

(C) Use any of the following unless the person is a licensed nursing home administrator:

(1) The title "licensed nursing home administrator," "nursing home administrator," "licensed assistant nursing home administrator," or "assistant nursing home administrator";

(2) The acronym "LNHA," "L.N.H.A.," "NHA," "N.H.A.," "LANHA," "L.A.N.H.A.," "ANHA," or "A.N.H.A." after the person's

name;

(3) Any other words, letters, signs, cards, or devices that tend to indicate or imply that the person is a licensed nursing home administrator.

(D) Use any of the following unless the person is a licensed health services executive:

(1) The title "licensed health services executive" or "health services executive";

(2) The acronym "LHSE," "L.H.S.E.," "HSE," or "H.S.E." after the person's name;

(3) Any other words, letters, signs, cards, or devices that tend to indicate or imply that the person is a licensed health services executive.

(E) Sell, fraudulently furnish, fraudulently obtain, or aid or abet another person in selling, fraudulently furnishing, or fraudulently obtaining either of the following:

(1) A nursing home administrator license;

(2) A health services executive license.

(F) Otherwise violate any of the provisions of this chapter ~~or the rules adopted under section 4751.04 of the Revised Code~~.

Sec. 4751.15. The board of executives of long-term services and supports shall administer, or contract with a government or private entity to administer, examinations that an individual must pass to obtain a nursing home administrator license under section 4751.20 of the Revised Code. If the board contracts with a government or private entity to administer the

examinations, the contract may authorize the entity to collect and keep, as all or part of the entity's compensation under the contract, any fee an individual pays to take the examination. The entity is not required to deposit the fee into the state treasury.

To be admitted to an examination administered under this section, an individual must pay the examination fee charged by the board or government or private entity. If an individual fails three times to pass the examination, the individual, before being admitted to the examination a subsequent time, also must satisfy any education requirements, experience requirements, or both, that may be prescribed in rules adopted under ~~section 4751.04~~ Chapter 119. of the Revised Code in addition to any education requirements or experience requirements that must be satisfied to obtain a nursing home administrator license under section 4751.20 of the Revised Code.

Sec. 4751.20. (A) Except as provided in section 4751.201 of the Revised Code, and subject to section 4751.32 of the Revised Code, the board of executives of long-term services and supports shall issue a nursing home administrator license to an individual under this section if all of the following requirements are satisfied:

(1) The individual has submitted to the board a completed application for the license ~~in accordance with rules adopted under section 4751.04 of the Revised Code~~ and paid an application fee of two hundred fifty dollars.

(2) If the individual is required ~~by rules adopted under section 4751.04 of the Revised Code~~ to serve as a nursing home administrator resident, the individual has paid to the board the application fee of two hundred fifty dollars.

(3) The individual is at least twenty-one years of age.

(4) The individual has successfully completed educational requirements and work experience ~~specified in rules adopted under section 4751.04 of the Revised Code~~, including~~, if so required by the rules,~~ experience obtained as a nursing home administrator resident.

(5) The individual has complied with section 4776.02 of the Revised Code regarding a criminal records check.

(6) The board, in accordance with section 9.79 of the Revised Code, has determined that the results of the criminal records check do not make the individual ineligible for the license.

(7) Except as provided in division (B) of this section, the individual has passed the licensing examination administered under section 4751.15 of the Revised Code.

(8) The individual has paid to the board three hundred fifty dollars for a temporary license issued under division (B) of this section.

(9) The individual has paid to the board a license fee of eight hundred dollars.

~~(10) The individual has satisfied any additional requirements as may be prescribed in rules adopted under section 4751.04 of the Revised Code.~~

(B) Beginning January 1, 2025, the operator of a nursing home may request that the board issue a nursing home administrator license to an individual who meets the requirements specified in division (A) of this section but has not passed the licensing examination administered under section

4751.15 of the Revised Code, in order to fill a vacancy in the position of nursing home administrator at the nursing home resulting from a death, illness, or other unexpected cause. An individual issued a license under division (B) of this section shall submit to the board, not later than one hundred eighty days after a license is issued, satisfactory evidence that the individual has passed the licensing examination administered under section 4751.15 of the Revised Code.

(C) A nursing home administrator license shall certify that the individual to whom it was issued has met the applicable requirements of this chapter ~~and any applicable rules adopted under section 4751.04 of the Revised Code~~ and is authorized to practice nursing home administration while the license is valid.

Sec. 4751.21. (A) Except as provided in section 4751.201 of the Revised Code, and subject to section 4751.32 of the Revised Code, the board of executives of long-term services and supports shall issue a health services executive license to an individual if all of the following requirements are satisfied:

(1) The individual has submitted to the board a completed application for the license~~ in accordance with rules adopted under section 4751.04 of the Revised Code~~.

(2) The individual is a licensed nursing home administrator.

(3) The individual has obtained the health services executive qualification through the national association of long-term care administrator boards.

(4) The individual has complied with section 4776.02 of the Revised Code regarding a criminal records check.

(5) The board, in accordance with section 9.79 of the

Revised Code, has determined that the results of the criminal records check do not make the individual ineligible for the license.

(6) The individual has paid to the board a license fee of one hundred dollars.

(B) A health services executive license shall certify that the individual to whom it was issued has met the applicable requirements of this chapter ~~and any applicable rules adopted under section 4751.04 of the Revised Code~~ and is a licensed health services executive while the license is valid.

Sec. 4751.24. (A) Subject to section 4751.32 of the Revised Code, a nursing home administrator license is valid for two years and may be renewed and reinstated in accordance with this section.

(B) If a licensed nursing home administrator intends to continue to practice nursing home administration without interruption after the administrator's license expires, the administrator shall apply to the board of executives of long-term services and supports for a renewed nursing home administrator license. Subject to section 4751.32 of the Revised Code, the board shall renew the license if the administrator does all of the following before the license expires:

(1) Submits to the board a completed application for license renewal ~~in accordance with rules adopted under section 4751.04 of the Revised Code~~;

(2) Pays to the board the license renewal fee of eight hundred dollars;

(3) Submits to the board satisfactory evidence of having attended such continuing education programs or courses of study

as may be prescribed in rules adopted under ~~section 4751.04~~Chapter 119. of the Revised Code~~;~~

~~(4) Satisfies any other requirements as may be prescribed in rules adopted under section 4751.04 of the Revised Code~~.

(C) If a nursing home administrator license issued under section 4751.20 or 4751.201 of the Revised Code is not renewed before it expires, the individual who held the license may apply to the board for the license's reinstatement. Subject to section 4751.32 of the Revised Code, the board shall reinstate the license if the individual does all of the following not later than one year after the date the license expired:

(1) Submits to the board the completed application for license reinstatement ~~in accordance with rules adopted under section 4751.04 of the Revised Code~~;

(2) Pays to the board the license reinstatement fee equal to the sum of the following:

(a) Eight hundred dollars;

(b) Fifty dollars for each calendar quarter that occurs during the period beginning on the date the license expires and ending on the last day of the calendar quarter during which the individual applies for license reinstatement, up to a maximum of two hundred dollars.

(3) Submits to the board satisfactory evidence of having attended such continuing education programs or courses of study as may be prescribed in rules adopted by the board under ~~section 4751.04~~ Chapter 119. of the Revised Code~~;~~

~~(4) Satisfies any other requirements as may be prescribed in rules adopted under section 4751.04 of the Revised Code~~.

(D) A licensed nursing home administrator who determines to temporarily abandon the practice of nursing home administration shall notify the board in writing immediately. The former administrator may thereafter resume the practice of nursing home administration within the state upon complying with the requirements of this section regarding biennial license renewal or license reinstatement, whichever is applicable.

Sec. 4751.25. (A) Subject to section 4751.32 of the Revised Code, a health services executive license is valid for one year and may be renewed and reinstated in accordance with this section.

(B) A licensed health services executive may apply to the board of executives of long-term services and supports for a renewed license. Subject to section 4751.32 of the Revised Code, the board shall renew the license if the licensed health services executive does all of the following before the license expires:

(1) Submits to the board the completed application for license renewal ~~in accordance with rules adopted under section 4751.04 of the Revised Code~~;

(2) Pays to the board the license renewal fee of one hundred dollars;

(3) Submits to the board satisfactory evidence of having attended such continuing education programs or courses of study as may be prescribed in rules adopted under ~~section 4751.04~~ Chapter 119. of the Revised Code.

(C)(1) If a health services executive license is not renewed before it expires, the individual who held the license may apply to the board for the license's reinstatement. Subject

to section 4751.32 of the Revised Code, the board shall reinstate the license if the individual does all of the following not later than one year after the date the license expired:

(a) Submits to the board the completed application for license reinstatement ~~in accordance with rules adopted under section 4751.04 of the Revised Code~~;

(b) Pays to the board the license reinstatement fee specified in division (C)(2) of this section;

(c) Submits to the board satisfactory evidence of having attended such continuing education programs or courses of study as may be prescribed in rules adopted under ~~section 4751.04~~ Chapter 119. of the Revised Code.

(2) The fee to reinstate a health services executive license under division (C)(1) of this section is the following:

(a) If the individual applying for reinstatement has, at the same time, applied for reinstatement of a nursing home administrator license under division (C) of section 4751.24 of the Revised Code and paid the reinstatement fee required by division (C)(2) of that section, one hundred dollars;

(b) If division (C)(2)(a) of this section does not apply to the individual, the sum of the following:

(i) One hundred dollars;

(ii) Twenty-five dollars for each calendar quarter that occurs during the period beginning on the date the license expired and ending on the last day of the calendar quarter during which the individual applies for license reinstatement, up to a maximum of one hundred dollars.

Sec. 4751.30. (A) Any person may submit to the board of executives of long-term services and supports a complaint that the person reasonably believes that another person has violated, or failed to comply with a requirement of, this chapter ~~or a rule adopted under section 4751.04 of the Revised Code~~. All of the following apply to complaints submitted to the board under this section:

(1) Complaints and all information and documentation related to an investigation conducted by the board pursuant to a complaint, are confidential and not subject to discovery in any civil action, except that the confidential information may be used by the board in any hearing it conducts pursuant to Chapter 119. of the Revised Code.

(2) Complaints are not public records for purposes of section 149.43 of the Revised Code.

(3) Complaints are not subject to inspection or copying under section 1347.08 of the Revised Code.

(B) Except as provided in division (D) of section 4751.31 of the Revised Code, the board shall protect the confidentiality of each person who submits a complaint to the board under this section. Any entity that receives confidential information shall maintain the confidentiality of the information in the same manner as the board, notwithstanding any conflicting provision of the Revised Code or procedure of the entity.

(C) Information that is confidential under this section may be admitted in a judicial proceeding only in accordance with the Rules of Evidence of the court. The court shall require that appropriate measures are taken to ensure that confidentiality is maintained with respect to any part of the information that

contains names or other identifying information about patients or a person who submitted a complaint to the board under this section. The court shall take measures to ensure confidentiality, which may include sealing records or redacting or deleting specific information from records.

Sec. 4751.31. (A) The board of executives of long-term services and supports shall receive, investigate, and take appropriate action with respect to any complaint submitted to the board under section 4751.30 of the Revised Code and any other credible information the board possesses that indicates a person may have violated, or failed to comply with a requirement of, this chapter ~~or a rule adopted under section 4751.04 of the Revised Code~~.

(B) In conducting an investigation under this section, the board may do any of the following:

(1) Question witnesses;

(2) Conduct interviews;

(3) Inspect and copy any books, accounts, papers, records, or other documents;

(4) Issue subpoenas;

(5) Compel the attendance of witnesses and the production of documents and testimony.

(C) No member of the board who supervises an investigation conducted under this section shall participate in any adjudication arising from the investigation.

(D) The board may disclose any information it receives as part of an investigation conducted under this section, including the identity of a person who submits a complaint under section

4751.30 of the Revised Code, to a law enforcement agency, licensing board, or other government agency that investigates, prosecutes, or adjudicates alleged violations of statutes or rules. An agency or board that receives such information shall protect the confidentiality of a person who submits a complaint under section 4751.30 of the Revised Code in the same manner as the board of executives of long-term services and supports, notwithstanding any other information that the agency or other board possesses.

Sec. 4751.32. (A) Except as provided in division (D) of this section, the board of executives of long-term services and supports may take any of the actions authorized by division (B) of this section against an individual who has applied for or holds a nursing home administrator license or health services executive license if any of the following apply to the individual:

(1) The individual has failed to satisfy any requirement established by this chapter ~~or the rules adopted under section 4751.04 of the Revised Code~~ that must be satisfied to obtain the license or temporary license.

(2) The individual has violated, or failed to comply with a requirement of, this chapter ~~or a rule adopted under section 4751.04 of the Revised Code~~ regarding the practice of nursing home administration, including the requirements of sections 4751.40 and 4751.41 of the Revised Code.

(3) The individual is unfit or incompetent to practice nursing home administration, serve in a leadership position at a long-term services and supports setting, or direct the practices of others in such a setting by reason of negligence, habits, or other causes, including the individual's habitual or excessive

use or abuse of drugs, alcohol, or other substances.

(4) The individual has acted in a manner inconsistent with the health and safety of either of the following:

(a) The residents of the nursing home at which the individual practices nursing home administration;

(b) The consumers of services and supports provided by a long-term services and supports setting at which the individual serves in a leadership position or directs the practices of others.

(5) The individual has been convicted of, or pleaded guilty to, either of the following in a court of competent jurisdiction, either within or without this state:

(a) A felony;

(b) An offense of moral turpitude that constitutes a misdemeanor in this state.

(6) The individual made a false, fraudulent, deceptive, or misleading statement in seeking to obtain, or obtaining, a nursing home administrator license or health services executive license.

(7) The individual made a fraudulent misrepresentation in attempting to obtain, or obtaining, money or anything of value in the practice of nursing home administration or while serving in a leadership position at a long-term services and supports setting or directing the practices of others in such a setting.

(8) The individual has substantially deviated from the board's code of ethics.

(9) Another health care licensing agency has taken any of

the following actions against the individual for any reason other than nonpayment of a fee:

(a) Denied, refused to renew or reinstate, limited, revoked, or suspended, or accepted the surrender of, a license or other authorization to practice;

(b) Imposed probation;

(c) Issued a censure or other reprimand.

(10) The individual has failed to do any of the following:

(a) Cooperate with an investigation conducted by the board under section 4751.31 of the Revised Code;

(b) Respond to or comply with a subpoena issued by the board in an investigation of the individual;

(c) Comply with any disciplinary action the board has taken against the individual pursuant to this section.

(B) The following are the actions that the board may take for the purpose of division (A) of this section:

(1) Deny the individual any of the following:

(a) A nursing home administrator license under section 4751.20, 4751.201, 4751.23, or 4751.24 of the Revised Code;

(b) A health services executive license under section 4751.201, 4751.21, 4751.23, or 4751.25 of the Revised Code.

(2) Suspend the individual's nursing home administrator license or health services executive license;

(3) Revoke the individual's nursing home administrator license or health services executive license, either permanently or for a period of time the board specifies;

(4) Place a limitation on the individual's nursing home administrator license or health services executive license;

(5) Place the individual on probation;

(6) Issue a written reprimand of the individual~~;~~

~~(7) Impose on the individual a civil penalty, fine, or other sanction specified in rules adopted under section 4751.04 of the Revised Code~~.

(C) The board shall take actions authorized by division (B) of this section in accordance with Chapter 119. of the Revised Code, except that the board may enter into a consent agreement with an individual to resolve an alleged violation of this chapter ~~or a rule adopted under section 4751.04 of the Revised Code~~ in lieu of making an adjudication regarding the alleged violation. A consent agreement constitutes the board's findings and order with respect to the matter addressed in the consent agreement if the board ratifies the consent agreement. Any admissions or findings included in a proposed consent agreement have no force or effect if the board refuses to ratify the consent agreement.

(D) The board shall not refuse to issue an initial nursing home administrator license or health services executive license, unless the refusal is in accordance with section 9.79 of the Revised Code.

Sec. 4751.45. An individual who is a licensed nursing home administrator or licensed health services executive may request that the board of executives of long-term services and supports provide to a licensing board or agency of another state verification of the individual's licensure status under this chapter and other related information in the board's possession.

The board shall provide the licensing board or agency of the other state the verification and other related information so requested if the individual pays to the board the fee for this service. The board shall adopt a rule under ~~section 4751.04~~ Chapter 119. of the Revised Code establishing the fee.

Sec. 4752.17. (A) The state board of pharmacy shall adopt rules ~~to implement and administer this chapter. The rules shall~~ that do all of the following:

(1) Specify items considered to be home medical equipment for purposes of divisions (B)(1) and (2) of section 4752.01 of the Revised Code;

(2) Establish procedures for issuance and renewal of licenses and certificates of registration under this chapter, including the duties that may be fulfilled by the board's executive director and other board employees;

(3) Specify the national accrediting bodies the board recognizes for purposes of issuing certificates of registration under this chapter;

(4) Establish standards an applicant must meet to be eligible to be granted a license under section 4752.05 of the Revised Code;

(5) Establish standards for personnel policies, equipment storage, equipment maintenance, and record keeping to be followed by home medical equipment services providers licensed under this chapter;

(6) Establish standards for continuing education programs in home medical equipment services for individuals who provide home medical equipment services while employed by or under the control of a home medical equipment services provider licensed

under this chapter;

(7) Establish standards and procedures for inspection of home medical equipment providers licensed under this chapter and the facilities from which their home medical equipment services are provided;

(8) Establish fees for issuing and renewing licenses under this chapter, in an amount sufficient to meet the expenses the board incurs in administering the licensing program;

(9) Establish fees for issuing and renewing certificates of registration under this chapter, in an amount sufficient to meet the expenses the board incurs in administering the registration program~~;~~

~~(10) Establish any other standards, requirements, or procedures the board considers necessary for the implementation or administration of this chapter~~.

(B) The board may adopt rules specifying items that are considered home medical equipment for purposes of division (B)(3) of section 4752.01 of the Revised Code.

(C) Rules shall be adopted under this chapter in accordance with Chapter 119. of the Revised Code. Prior to adopting any rule, the board shall consult with representatives of any association of home medical equipment services providers that do business in this state.

Sec. 4753.05. (A) The state speech and hearing professionals board ~~may make reasonable rules necessary for the administration of this chapter. All rules adopted under this chapter shall be adopted in accordance with Chapter 119. of the Revised Code.~~

~~(B) The board~~ shall determine the nature and scope of examinations to be administered to applicants for licensure pursuant to this chapter in the practices of speech-language pathology and audiology, and shall evaluate the qualifications of all applicants. Written examinations may be supplemented by ~~such~~ practical and oral examinations ~~as the board shall determine by rule~~. The board shall determine ~~by rule~~ the minimum examination score for licensure. Licensure shall be granted independently in speech-language pathology and audiology.

Test materials, examinations, answer keys, or evaluation tools used in an examination for licensure pursuant to this chapter, whether administered by the board or by a private or government entity pursuant to a contract, are not public records under section 149.43 of the Revised Code.

~~(C)~~ (B) The board shall publish and make available, upon request, the licensure and permit standards prescribed by this chapter ~~and rules adopted pursuant thereto~~.

~~(D)~~ (C) The board shall investigate all alleged irregularities in the practices of speech-language pathology and audiology by persons licensed or permitted pursuant to this chapter and any violations of this chapter ~~or rules adopted by the board~~. The board shall not investigate the practice of any person specifically exempted from licensure under this chapter by section 4753.12 of the Revised Code, as long as the person is practicing within the scope of the person's license or is carrying out responsibilities as described in division (G) or (H) of section 4753.12 of the Revised Code and does not claim to be a speech-language pathologist or audiologist.

In conducting investigations under this division, the board may administer oaths, order the taking of depositions,

issue subpoenas, and compel the attendance of witnesses and the production of books, accounts, papers, records, documents, and testimony. In any case of disobedience or neglect of any subpoena served on any person or the refusal of any witness to testify to any matter regarding which the witness may lawfully be interrogated, the court of common pleas of any county where such disobedience, neglect, or refusal occurs or any judge thereof, on application by the board, shall compel obedience by attachment proceedings for contempt, as in the case of disobedience of the requirements of a subpoena issued from such court, or a refusal to testify therein.

~~(E)~~ (D) The board shall conduct such hearings as are necessary to carry out this chapter.

Sec. 4753.06. No person is eligible for licensure as a speech-language pathologist or audiologist unless:

(A) The person has obtained a broad general education to serve as a background for the person's specialized academic training and preparatory professional experience. Such background may include study from among the areas of human psychology, sociology, psychological and physical development, the physical sciences, especially those that pertain to acoustic and biological phenomena, and human anatomy and physiology, including neuroanatomy and neurophysiology.

(B) If the person seeks licensure as a speech-language pathologist, the person submits to the state speech and hearing professionals board an official transcript demonstrating that the person has at least a master's degree in speech-language pathology or the equivalent as determined by the board. The person's academic credit must include course work accumulated in the completion of a well-integrated course of study approved by

the board and delineated by rule dealing with the normal aspects of human communication, development and disorders thereof, and clinical techniques for the evaluation and the improvement or eradication of such disorders. The course work must have been completed at colleges or universities accredited by regional or national accrediting organizations recognized by the board.

(C) If the person seeks licensure as an audiologist, the person submits to the board an official transcript demonstrating that the person has at least a doctor of audiology degree or the equivalent as determined by the board. The person's academic credit must include course work accumulated in the completion of a well-integrated course of study approved by the board and delineated by rules dealing with the normal aspects of human hearing, balance, and related development and clinical evaluation, audiologic diagnosis, and treatment of disorders of human hearing, balance, and related development. The course work must have been completed in an audiology program that is accredited by an organization recognized by the United States department of education and operated by a college or university accredited by a regional or national accrediting organization recognized by the board.

(D) The person submits to the board evidence of the completion of appropriate, supervised clinical experience in the professional area, speech-language pathology or audiology, for which licensure is requested, dealing with a variety of communication disorders. The appropriateness of the experience shall be determined under rules of the board. This experience shall have been obtained in an accredited college or university, in a cooperating program of an accredited college or university, or in another program approved by the board.

(E) The person submits to the board evidence that the person has passed the examination for licensure to practice speech-language pathology or audiology pursuant to division ~~(B)~~ (A) of section 4753.05 of the Revised Code.

(F) In the case of a person seeking licensure as a speech-language pathologist, the person presents to the board written evidence that the person has obtained professional experience.

The professional experience shall be appropriately supervised as determined by board rule. The amount of professional experience shall be determined by board rule and shall be bona fide clinical work that has been accomplished in speech-language pathology. This experience shall not begin until the requirements of divisions (B), (D), and (E) of this section have been completed unless approved by the board. Before beginning the supervised professional experience pursuant to this section, the applicant shall obtain a conditional license pursuant to section 4753.071 of the Revised Code.

Sec. 4757.10. (A) The counselor, social worker, and marriage and family therapist board ~~may adopt any rules necessary to carry out this chapter.~~

~~(B) The board~~ shall adopt rules that do all of the following:

(1) Concern intervention for and treatment of any impaired person holding a license or certificate of registration issued under this chapter;

(2) Establish standards for training and experience of supervisors described in division (C) of section 4757.30 of the Revised Code;

(3) Establish requirements for criminal records checks of

applicants under section 4776.03 of the Revised Code;

(4) Establish a graduated system of fines based on the scope and severity of violations and the history of compliance, not to exceed five hundred dollars per incident, that any professional standards committee of the board may charge for a disciplinary violation described in section 4757.36 of the Revised Code;

(5) Establish the amount and content of corrective action courses required by the board under section 4757.36 of the Revised Code;

(6) Provide for voluntary registration of all of the following:

(a) Master's level counselor trainees enrolled in practice and internships;

(b) Master's level social worker trainees enrolled in fieldwork, practice, and internships;

(c) Master's level marriage and family therapist trainees enrolled in practice and internships.

(7) In the case of an individual who is voluntarily registered as a trainee under division (B)(6) of this section and who has graduated but not yet completed all requirements for licensure, provide for an extension of the individual's registration for a period of six months beginning on the date of the individual's graduation.

(8) Establish a schedule of deadlines for renewal.

~~(C)~~ (B) Rules adopted under division ~~(B)(6)~~ (A)(6) of this section shall not require a trainee to register with the board, and if a trainee has not registered, shall prohibit any adverse

effect with respect to a trainee's application for licensure by the board.

~~(D)~~ (C) All rules adopted under this section shall be adopted in accordance with Chapter 119. of the Revised Code. When it adopts rules under this section or any other section of this chapter, the board may consider standards established by any national association or other organization representing the interests of those involved in professional counseling, social work, or marriage and family therapy.

Sec. 4757.22. (A) The counselors professional standards committee of the counselor, social worker, and marriage and family therapist board shall issue a license to practice as a licensed professional clinical counselor to each applicant who submits a properly completed application, pays the fee established under section 4757.31 of the Revised Code, and meets the requirements specified in division (B) of this section.

(B)(1) To be eligible for a licensed professional clinical counselor license, an individual must meet the following requirements:

(a) The individual must hold a graduate degree in counseling as described in division (B)(2) of this section.

(b) The individual must complete a minimum of ninety quarter hours or sixty semester hours of graduate credit in counselor training acceptable to the committee, including instruction in the following areas:

(i) Clinical psychopathology, personality, and abnormal behavior;

(ii) Evaluation of mental and emotional disorders;

(iii) Diagnosis of mental and emotional disorders;

(iv) Methods of prevention, intervention, and treatment of mental and emotional disorders.

(c) The individual must complete, in either a private or clinical counseling setting, supervised experience in counseling that is of a type approved by the committee, is supervised by a licensed professional clinical counselor or other qualified professional approved by the committee, and is in the following amounts:

(i) In the case of an individual holding only a master's degree, not less than two years of experience, which must be completed after the award of the master's degree;

(ii) In the case of an individual holding a doctorate, not less than one year of experience, which must be completed after the award of the doctorate.

(d) The individual must pass a field evaluation that meets the following requirements:

(i) Has been completed by the applicant's instructors, employers, supervisors, or other persons determined by the committee to be competent to evaluate an individual's professional competence;

(ii) Includes documented evidence of the quality, scope, and nature of the applicant's experience and competence in diagnosing and treating mental and emotional disorders.

(e) The individual must pass an examination administered by the board for the purpose of determining ability to practice as a licensed professional clinical counselor.

(2) To meet the requirement of division (B)(1)(a) of this

section, a graduate degree in counseling obtained from a counseling program in this state after January 1, 2018, must be from one of the following:

(a) A counseling program accredited by the council for accreditation of counseling and related educational programs;

(b) A counseling education program approved by the board in accordance with rules adopted by the board under division (F) of this section.

(3) All of the following meet the educational requirements of division (B)(1)(b) of this section:

(a) A clinical mental health counseling program accredited by the council for accreditation of counseling and related educational programs;

(b) A graduate degree in counseling issued by another state from a clinical mental health counseling program, a clinical rehabilitation counseling program, or an addiction counseling program that is accredited by the council for accreditation of counseling and related educational programs;

(c) A counseling education program approved by the board in accordance with rules adopted under division (F) of this section.

(C) To be accepted by the committee for purposes of division (B) of this section, counselor training must include at least the following:

(1) Instruction in human growth and development; counseling theory; counseling techniques; group dynamics, processing, and counseling; appraisal of individuals; research and evaluation; professional, legal, and ethical

responsibilities; social and cultural foundations; and lifestyle and career development;

(2) Participation in a supervised practicum and clinical internship in counseling.

(D) An individual may not sit for the licensing examination unless the individual meets the educational requirements to be licensed under this section. An individual who is denied admission to the licensing examination may appeal the denial in accordance with Chapter 119. of the Revised Code.

(E) The board shall adopt ~~any rules necessary for the committee to implement this section. The~~ rules ~~shall~~ that do both of the following:

(1) Establish criteria for the committee to use in determining whether an applicant's training should be accepted and supervised experience approved;

(2) Establish course content requirements for qualifying counseling degrees issued by institutions in other states from clinical mental health counseling programs, clinical rehabilitation counseling programs, and addiction counseling programs that are not accredited by the council for accreditation of counseling and related educational programs.

Rules adopted under this division shall be adopted in accordance with Chapter 119. of the Revised Code.

(F)(1) The board may adopt rules to temporarily approve a counseling education program created after January 1, 2018, that has not been accredited by the council for accreditation of counseling and related educational programs. If the board adopts rules under this division, the board shall do all of the following in the rules:

(a) Create an application process under which a program administrator may apply to the board for approval of the program;

(b) Identify the educational requirements that an individual must satisfy to receive a graduate degree in counseling from the approved program;

(c) Establish a time period during which an individual may use an unaccredited degree granted under the program to satisfy the requirements of divisions (B)(1)(a) and (b) of this section;

(d) Specify that, if the program is denied accreditation, a student enrolled in the program before the accreditation is denied may apply for licensure before completing the program and, on receiving a degree from the program, is considered to satisfy divisions (B)(1)(a) and (b) of this section.

(2) A degree from a counseling education program approved by the board pursuant to the rules adopted under division (F)(1) of this section satisfies the requirements of divisions (B)(1)(a) and (b) of this section for the time period approved by the board.

Sec. 4757.23. (A) The counselors professional standards committee of the counselor, social worker, and marriage and family therapist board shall issue a license as a licensed professional counselor to each applicant who submits a properly completed application, pays the fee established under section 4757.31 of the Revised Code, and meets the requirements established under division (B) of this section.

(B)(1) To be eligible for a license as a licensed professional counselor, an individual must meet the following requirements:

(a) The individual must hold a graduate degree in counseling as described in division (B)(2) of this section.

(b) The individual must complete a minimum of ninety quarter hours or sixty semester hours of graduate credit in counselor training acceptable to the committee, which the individual may complete while working toward receiving a graduate degree in counseling, or subsequent to receiving the degree, and which shall include training in the following areas:

(i) Clinical psychopathology, personality, and abnormal behavior;

(ii) Evaluation of mental and emotional disorders;

(iii) Diagnosis of mental and emotional disorders;

(iv) Methods of prevention, intervention, and treatment of mental and emotional disorders.

(c) The individual must pass an examination administered by the board for the purpose of determining ability to practice as a licensed professional counselor.

(2) To meet the requirement of division (B)(1)(a) of this section, a graduate degree in counseling obtained from a counseling program in this state after January 1, 2018, must be from one of the following:

(a) A counseling program accredited by the council for accreditation of counseling and related educational programs;

(b) A counseling education program approved by the board in accordance with rules adopted by the board under division (G) of this section.

(3) All of the following meet the educational requirements

of division (B)(1)(b) of this section:

(a) A clinical mental health counseling program accredited by the council for accreditation of counseling and related educational programs;

(b) Until January 1, 2018, a mental health counseling program accredited by the council for accreditation of counseling and related educational programs;

(c) A graduate degree in counseling issued by an institution in another state from a clinical mental health counseling program, a clinical rehabilitation counseling program, or an addiction counseling program that is accredited by the council for accreditation of counseling and related educational programs;

(d) A counseling education program approved by the board in accordance with rules adopted under division (G) of this section.

(C) To be accepted by the committee for purposes of division (B) of this section, counselor training must include at least the following:

(1) Instruction in human growth and development; counseling theory; counseling techniques; group dynamics, processing, and counseling; appraisal of individuals; research and evaluation; professional, legal, and ethical responsibilities; social and cultural foundations; and lifestyle and career development;

(2) Participation in a supervised practicum and clinical internship in counseling.

(D) The committee may issue a temporary license to

practice as a licensed professional counselor to an applicant who meets all of the requirements to be licensed under this section as follows:

(1) Pending the receipt of transcripts or action by the committee to issue a license as a licensed professional counselor;

(2) For a period not to exceed ninety days, to an applicant who provides the board with a statement from the applicant's academic institution indicating that the applicant has met the academic requirements for the applicant's degree and the projected date the applicant will receive the applicant's transcript showing a conferred degree.

On application to the committee, a temporary license issued under division (D)(2) of this section may be renewed for good cause shown.

(E) An individual may not sit for the licensing examination unless the individual meets the educational requirements to be licensed under this section. An individual who is denied admission to the licensing examination may appeal the denial in accordance with Chapter 119. of the Revised Code.

(F) The board shall adopt ~~any rules necessary for the committee to implement this section. The~~ rules ~~shall~~ that do both of the following:

(1) Establish criteria for the committee to use in determining whether an applicant's training should be accepted and supervised experience approved;

(2) Establish course content requirements for qualifying counseling degrees issued by institutions in other states from clinical mental health counseling programs, clinical

rehabilitation counseling programs, and addiction counseling programs that are not accredited by the council for accreditation of counseling and related educational programs.

Rules adopted under this division shall be adopted in accordance with Chapter 119. of the Revised Code.

(G)(1) The board may adopt rules to temporarily approve a counseling education program created after January 1, 2018, that has not been accredited by the council for accreditation of counseling and related educational programs. If the board adopts rules under this division, the board shall do all of the following in the rules:

(a) Create an application process under which a program administrator may apply to the board for approval of the program;

(b) Identify the educational requirements that an individual must satisfy to receive a graduate degree in counseling from the approved program;

(c) Establish a time period during which an individual may use an unaccredited degree granted under the program to satisfy the requirements of divisions (B)(1)(a) and (b) of this section;

(d) Specify that, if the program is denied accreditation, a student enrolled in the program before the accreditation is denied may apply for licensure before completing the program and, on receiving a degree from the program, is considered to satisfy divisions (B)(1)(a) and (b) of this section.

(2) A degree from a counseling education program approved by the board pursuant to the rules adopted under division (G)(1) of this section satisfies the requirements of divisions (B)(1)(a) and (b) of this section for the time period approved by the

board.

Sec. 4757.27. (A) The social workers professional standards committee of the counselor, social worker, and marriage and family therapist board shall issue a license as an independent social worker to each applicant who submits a properly completed application, pays the fee established under section 4757.31 of the Revised Code, and meets the requirements specified in division (B) of this section. An independent social worker license shall clearly indicate each academic degree earned by the person to whom it has been issued.

(B) To be eligible for a license as an independent social worker, an individual must meet the following requirements:

(1) The individual must hold a master's degree in social work from an educational institution accredited by the council on social work education or an educational institution in candidacy for accreditation by the council.

(2) The individual must complete at least two years of post-master's degree social work experience supervised by an independent social worker.

(3) The individual must pass an examination administered by the board for the purpose of determining ability to practice as an independent social worker.

(C) The board shall adopt ~~any~~ rules ~~necessary for the committee to implement this section, including~~ establishing criteria for the committee to use in determining whether an applicant's training should be accepted and supervised experience approved. Rules adopted under this division shall be adopted in accordance with Chapter 119. of the Revised Code.

Sec. 4757.28. (A) The social workers professional

standards committee of the counselor, social worker, and marriage and family therapist board shall issue a license as a social worker to each applicant who submits a properly completed application, pays the fee established under section 4757.31 of the Revised Code, and meets the requirements specified in division (B) of this section. A social worker license shall clearly indicate each academic degree earned by the person to whom it is issued.

(B) To be eligible for a license as a social worker, an individual must meet the following requirements:

(1) The individual must hold from an accredited educational institution one of the following:

(a) A baccalaureate degree in social work;

(b) A master's degree in social work;

(c) A doctorate in social work.

(2) The individual must pass an examination administered by the board for the purpose of determining ability to practice as a social worker.

(C) The committee may issue a temporary license to practice as a social worker as follows:

(1) To an applicant who meets all of the requirements to be licensed under this section, pending the receipt of transcripts or action by the committee to issue a license as a social worker;

(2) For a period not to exceed ninety days, to an applicant who provides the board with a statement from the applicant's academic institution indicating that the applicant has met the academic requirements for the applicant's degree,

and the projected date the applicant will receive the applicant's transcript showing a conferred degree.

On application to the committee, a temporary license issued under division (C)(2) of this section may be renewed for good cause shown.

(D) The board shall adopt ~~any~~ rules ~~necessary for the committee to implement this section, including~~ establishing criteria for the committee to use in determining whether an applicant's training should be accepted and supervised experience approved. Rules adopted under this division shall be adopted in accordance with Chapter 119. of the Revised Code.

Sec. 4758.20. (A) The chemical dependency professionals board shall adopt rules to establish, specify, or provide for all of the following:

(1) Fees for the purposes authorized by section 4758.21 of the Revised Code;

(2) If the board, pursuant to section 4758.221 of the Revised Code, elects to administer examinations for individuals seeking to act as substance abuse professionals in a United States department of transportation drug and alcohol testing program, the board's administration of the examinations;

(3) For the purpose of section 4758.23 of the Revised Code, codes of ethical practice and professional conduct for individuals who hold a license, certificate, or endorsement issued under this chapter;

(4) For the purpose of section 4758.24 of the Revised Code, all of the following:

(a) The documents that an individual seeking such a

license, certificate, or endorsement must submit to the board;

(b) Requirements to obtain the license, certificate, or endorsement that are in addition to the requirements established under sections 4758.39, 4758.40, 4758.41, 4758.42, 4758.43, 4758.44, 4758.45, 4758.46, 4758.47, and 4758.48 of the Revised Code. The additional requirements may include internships and practicums.

(c) The period of time that an individual whose registered applicant certificate has expired must wait before applying for a new registered applicant certificate.

(5) For the purpose of section 4758.28 of the Revised Code, requirements for approval of continuing education courses of study for individuals who hold a license, certificate, or endorsement issued under this chapter;

(6) For the purpose of section 4758.30 of the Revised Code, both of the following:

(a) The intervention for and treatment of an individual holding a license, certificate, or endorsement issued under this chapter whose abilities to practice are impaired due to abuse of or dependency on alcohol or other drugs or other physical or mental condition;

(b) Requirements governing reinstatement of a suspended or revoked license, certificate, or endorsement, including requirements for determining the amount of time an individual must wait to apply for reinstatement.

(7) For the purpose of section 4758.31 of the Revised Code, methods of ensuring that all records the board holds pertaining to an investigation remain confidential during the investigation;

(8) Criteria for employees of the board to follow when performing their duties under division (B) of section 4758.35 of the Revised Code;

(9) For the purpose of division (A) of section 4758.39, division (A) of section 4758.40, and division (A) of section 4758.41 of the Revised Code, course requirements for a degree in a behavioral science or nursing that may include specific content areas and minimum hours for course requirements;

(10) For the purpose of division (B) of section 4758.39 of the Revised Code, the number of hours of compensated work or supervised internship experience that an individual must have and the number of those hours that must be in clinical supervisory experience;

(11) For the purpose of division (C) of section 4758.39, division (C) of section 4758.40, division (C) of section 4758.41, and division (A)(3) of section 4758.42 of the Revised Code, both of the following:

(a) The number of hours of training in substance use disorders an individual must have;

(b) Training requirements for substance use disorders that shall, at a minimum, include qualifications for the individuals who provide the training and the content areas covered in the training.

(12) For the purpose of division (B) of section 4758.40, division (B) of section 4758.41, and division (A)(2) of section 4758.42 of the Revised Code, the number of hours of compensated work or supervised internship experience that an individual must have;

(13) For the purpose of division (A) of section 4758.41 of

the Revised Code, course requirements for a degree in a behavioral science or nursing;

(14) For the purpose of section 4758.42 of the Revised Code, both of the following:

(a) Education requirements for substance use disorders;

(b) Requirements for programs that provide practicum experience in substance use disorders.

(15) For the purpose of section 4758.43 of the Revised Code, both of the following:

(a) The number of hours of training in substance use disorder counseling that an individual must have;

(b) Training requirements for substance use disorder counseling that shall, at a minimum, include qualifications for the individuals who provide the training and the content areas covered in the training.

(16) For the purpose of section 4758.44 of the Revised Code, both of the following:

(a) The number of hours of compensated work experience in prevention services that an individual must have and the number of those hours that must be in administering or supervising the services;

(b) The field of study in which an individual must obtain at least a bachelor's degree.

(17) For the purpose of division (C) of section 4758.44, division (C) of section 4758.45, and division (D) of section 4758.46 of the Revised Code, both of the following:

(a) The number of hours of prevention-related education

that an individual must have;

(b) Requirements for prevention-related education.

(18) For the purpose of division (D) of section 4758.44 of the Revised Code, the number of hours of administrative or supervisory education that an individual must have;

(19) For the purpose of section 4758.45 of the Revised Code, both of the following:

(a) The number of hours of compensated or volunteer work, field placement, intern, or practicum experience in prevention services that an individual must have and the number of those hours that must be in planning or delivering the services;

(b) The field of study in which an individual must obtain at least an associate's degree.

(20) For the purpose of division (C) of section 4758.46 of the Revised Code, the number of hours of compensated or volunteer work, field placement, intern, or practicum experience in prevention services that an individual must have;

(21) Standards for the one hundred hours of compensated work or supervised internship in gambling disorder direct clinical experience required by division (B)(2) of section 4758.48 of the Revised Code;

(22) For the purpose of section 4758.51 of the Revised Code, both of the following:

(a) Continuing education requirements for individuals who hold a license, certificate, or endorsement issued under this chapter;

(b) The number of hours of continuing education that an

individual must complete to have an expired license, certificate, or endorsement restored under section 4758.26 of the Revised Code.

(23) For the purpose of divisions (A) and (B) of section 4758.52 of the Revised Code, training requirements for substance use disorder counseling;

(24) The duties, which may differ, of all of the following:

(a) An independent chemical dependency counselor-clinical supervisor licensed under this chapter who supervises a chemical dependency counselor III under section 4758.56 of the Revised Code;

(b) An independent chemical dependency counselor-clinical supervisor, independent chemical dependency counselor, or chemical dependency counselor III licensed under this chapter who supervises a chemical dependency counselor assistant under section 4758.59 of the Revised Code;

(c) A prevention consultant or prevention specialist certified under this chapter who supervises a prevention specialist assistant or registered applicant under section 4758.61 of the Revised Code.

(25) The duties of an independent chemical dependency counselor licensed under this chapter who holds the gambling disorder endorsement who supervises a chemical dependency counselor III with the gambling disorder endorsement under section 4758.62 of the Revised Code.

~~(26) Anything else the board considers necessary to administer this chapter.~~

(B) All rules adopted under this section shall be adopted in accordance with Chapter 119. of the Revised Code and any applicable federal laws and regulations.

(C) When it adopts rules under this section, the board may consider standards established by any national association or other organization representing the interests of those involved in substance use disorder counseling or prevention services.

Sec. 4758.21. (A) In accordance with rules adopted under section 4758.20 of the Revised Code and subject to division (B) of this section, the chemical dependency professionals board shall establish, and may from time to time adjust, fees to be charged for the following:

(1) Admitting an individual to an examination administered pursuant to section 4758.22 of the Revised Code;

(2) Issuing an initial independent chemical dependency counselor-clinical supervisor license, independent chemical dependency counselor license, chemical dependency counselor III license, chemical dependency counselor II license, chemical dependency counselor assistant certificate, prevention consultant certificate, prevention specialist certificate, prevention specialist assistant certificate, or registered applicant certificate;

(3) Issuing an initial gambling disorder endorsement;

(4) Renewing an independent chemical dependency counselor-clinical supervisor license, independent chemical dependency counselor license, chemical dependency counselor III license, chemical dependency counselor II license, chemical dependency counselor assistant certificate, prevention consultant certificate, prevention specialist certificate, or prevention

specialist assistant certificate;

(5) Renewing a gambling disorder endorsement;

(6) Approving continuing education courses under section 4758.28 of the Revised Code~~;~~

~~(7) Doing anything else the board determines necessary to administer this chapter~~.

(B) The fees established under division (A) of this section are nonrefundable. They shall be in amounts sufficient to cover the necessary expenses of the board in administering this chapter and rules adopted under it. The fees for a license, certificate, or endorsement and the renewal of a license, certificate, or endorsement may differ for the various types of licenses, certificates, or endorsements, but shall not exceed one hundred seventy-five dollars each, unless the board determines that amounts in excess of one hundred seventy-five dollars are needed to cover its necessary expenses in administering this chapter and rules adopted under it and the amounts in excess of one hundred seventy-five dollars are approved by the controlling board.

(C) All vouchers of the board shall be approved by the chairperson or executive director of the board, or both, as authorized by the board.

Sec. 4759.05. (A) Except as provided in division (E) of this section, the state medical board shall adopt, amend, or rescind rules pursuant to Chapter 119. of the Revised Code ~~to carry out the provisions of this chapter, including rules~~ governing the following:

(1) Selection and approval of a dietitian licensure examination offered by the commission on dietetic registration

or any other examination;

(2) The examination of applicants for licensure as a dietitian, as required under division (A) of section 4759.06 of the Revised Code;

(3) Requirements for pre-professional dietetic experience of applicants for licensure as a dietitian that are at least equivalent to the requirements adopted by the commission on dietetic registration;

(4) Requirements for a person holding a limited permit under division (G) of section 4759.06 of the Revised Code, including the duration of validity of a limited permit and procedures for renewal;

(5) Continuing education requirements for renewal of a license, including rules providing for pro rata reductions by month of the number of hours of continuing education that must be completed for license holders who have been disabled by illness or accident or have been absent from the country. Rules adopted under this division shall be consistent with the continuing education requirements adopted by the commission on dietetic registration.

(6) Any additional education requirements the board considers necessary, for applicants who have not practiced dietetics within five years of the initial date of application for licensure;

(7) Standards of professional responsibility and practice for persons licensed under this chapter that are consistent with those standards of professional responsibility and practice adopted by the academy of nutrition and dietetics;

(8) Formulation of an application form for licensure or

license renewal;

(9) Procedures for license renewal;

(10) Requirements for criminal records checks of applicants under section 4776.03 of the Revised Code.

(B)(1) The board shall investigate evidence that appears to show that a person has violated any provision of this chapter or any rule adopted under it. Any person may report to the board in a signed writing any information that the person may have that appears to show a violation of any provision of this chapter or any rule adopted under it. In the absence of bad faith, any person who reports information of that nature or who testifies before the board in any adjudication conducted under Chapter 119. of the Revised Code shall not be liable in damages in a civil action as a result of the report or testimony. Each complaint or allegation of a violation received by the board shall be assigned a case number and shall be recorded by the board.

(2) Investigations of alleged violations of this chapter or any rule adopted under it shall be supervised by the supervising member elected by the board in accordance with section 4731.02 of the Revised Code and by the secretary as provided in section 4759.012 of the Revised Code. The president may designate another member of the board to supervise the investigation in place of the supervising member. Upon a vote of the majority of the board to authorize the addition of a consumer member in the supervision of any part of any investigation, the president shall designate a consumer member for supervision of investigations as determined by the president. The authorization of consumer member participation in investigation supervision may be rescinded by a majority vote of

the board. No member of the board who supervises the investigation of a case shall participate in further adjudication of the case.

(3) In investigating a possible violation of this chapter or any rule adopted under this chapter, the board may issue subpoenas, question witnesses, conduct interviews, administer oaths, order the taking of depositions, inspect and copy any books, accounts, papers, records, or documents, and compel the attendance of witnesses and the production of books, accounts, papers, records, documents, and testimony, except that a subpoena for patient record information shall not be issued without consultation with the attorney general's office and approval of the secretary of the board.

Before issuance of a subpoena for patient record information, the secretary shall determine whether there is probable cause to believe that the complaint filed alleges a violation of this chapter or any rule adopted under it and that the records sought are relevant to the alleged violation and material to the investigation. The subpoena may apply only to records that cover a reasonable period of time surrounding the alleged violation.

On failure to comply with any subpoena issued by the board and after reasonable notice to the person being subpoenaed, the board may move for an order compelling the production of persons or records pursuant to the Rules of Civil Procedure.

A subpoena issued by the board may be served by a sheriff, the sheriff's deputy, or a board employee or agent designated by the board. Service of a subpoena issued by the board may be made by delivering a copy of the subpoena to the person named therein, reading it to the person, or leaving it at the person's

usual place of residence, usual place of business, or address on file with the board. When serving a subpoena to an applicant for or the holder of a license or limited permit issued under this chapter, service of the subpoena may be made by certified mail, return receipt requested, and the subpoena shall be deemed served on the date delivery is made or the date the person refuses to accept delivery. If the person being served refuses to accept the subpoena or is not located, service may be made to an attorney who notifies the board that the attorney is representing the person.

A sheriff's deputy who serves a subpoena shall receive the same fees as a sheriff. Each witness who appears before the board in obedience to a subpoena shall receive the fees and mileage provided for under section 119.094 of the Revised Code.

(4) All hearings, investigations, and inspections of the board shall be considered civil actions for the purposes of section 2305.252 of the Revised Code.

(5) A report required to be submitted to the board under this chapter, a complaint, or information received by the board pursuant to an investigation is confidential and not subject to discovery in any civil action.

The board shall conduct all investigations or inspections and proceedings in a manner that protects the confidentiality of patients and persons who file complaints with the board. The board shall not make public the names or any other identifying information about patients or complainants unless proper consent is given.

The board may share any information it receives pursuant to an investigation or inspection, including patient records and

patient record information, with law enforcement agencies, other licensing boards, and other governmental agencies that are prosecuting, adjudicating, or investigating alleged violations of statutes or administrative rules. An agency or board that receives the information shall comply with the same requirements regarding confidentiality as those with which the state medical board must comply, notwithstanding any conflicting provision of the Revised Code or procedure of the agency or board that applies when it is dealing with other information in its possession. In a judicial proceeding, the information may be admitted into evidence only in accordance with the Rules of Evidence, but the court shall require that appropriate measures are taken to ensure that confidentiality is maintained with respect to any part of the information that contains names or other identifying information about patients or complainants whose confidentiality was protected by the state medical board when the information was in the board's possession. Measures to ensure confidentiality that may be taken by the court include sealing its records or deleting specific information from its records.

No person shall knowingly access, use, or disclose confidential investigatory information in a manner prohibited by law.

(6) On a quarterly basis, the board shall prepare a report that documents the disposition of all cases during the preceding three months. The report shall contain the following information for each case with which the board has completed its activities:

(a) The case number assigned to the complaint or alleged violation;

(b) The type of license, if any, held by the individual

against whom the complaint is directed;

(c) A description of the allegations contained in the complaint;

(d) Whether witnesses were interviewed;

(e) Whether the individual against whom the complaint is directed is the subject of any pending complaints;

(f) The disposition of the case.

The report shall state how many cases are still pending and shall be prepared in a manner that protects the identity of each person involved in each case. The report shall be a public record under section 149.43 of the Revised Code.

(7) The board may provide a status update regarding an investigation to a complainant on request if the board verifies the complainant's identity.

(C) The board shall keep records as are necessary to carry out the provisions of this chapter.

(D) The board shall maintain and publish on its internet web site the board's rules and requirements for licensure adopted under division (A) of this section.

(E) The board shall issue a license or limited permit to practice dietetics in accordance with Chapter 4796. of the Revised Code to an applicant if either of the following apply:

(1) The applicant holds a license or permit in another state.

(2) The applicant has satisfactory work experience, a government certification, or a private certification as described in that chapter as a dietitian in a state that does

not issue that license.

Sec. 4759.051. (A) The state medical board shall appoint a dietetics advisory council for the purpose of advising the board on issues relating to the practice of dietetics. The advisory council shall consist of not more than seven individuals knowledgeable in the area of dietetics.

A majority of the council members shall be individuals licensed under this chapter who are actively engaged in the practice of dietetics. The board shall include both of the following on the council:

(1) One educator with a doctoral degree who holds a regular faculty appointment in a program that prepares students to meet the requirements of division (A)(3) of section 4759.06 of the Revised Code;

(2) One individual who is not affiliated with any health care profession, who shall be appointed to represent the interest of consumers.

The Ohio academy of nutrition and dietetics, or its successor organization, may nominate not more than three qualified individuals for consideration by the board in appointing any member of the council.

(B) Not later than ninety days after January 21, 2018, the board shall make initial appointments to the council. Initial members shall serve terms of office of one, two, or three years, as selected by the board. Thereafter, terms of office shall be for three years, with each term ending on the same day of the same month as did the term that it succeeds. A council member shall continue in office subsequent to the expiration date of the member's term until a successor is appointed and takes

office, or until a period of sixty days has elapsed, whichever occurs first. Each council member shall hold office from the date of appointment until the end of the term for which the member was appointed.

(C) Members shall serve without compensation, but shall be reimbursed for actual and necessary expenses incurred in performing their official duties.

(D) The council shall meet at least four times each year and at such other times as may be necessary to carry out its responsibilities.

(E) The council may submit to the board recommendations concerning all of the following:

(1) Requirements for issuing a license to practice as a dietitian or as a limited permit holder, including the educational and experience requirements that must be met to receive the license or permit;

(2) Existing and proposed rules pertaining to the practice of dietetics ~~and the administration and enforcement of this chapter~~;

(3) Standards for the approval of educational programs required to qualify for licensure and continuing education programs for licensure renewal;

(4) Policies related to the issuance and renewal of licenses and limited permits;

(5) Fees for the issuance and renewal of a license to practice dietetics as a licensee or as a limited permit holder;

(6) Standards of practice and ethical conduct in the practice of dietetics;

(7) The safe and effective practice of dietetics, including scope of practice and minimal standards of care.

Sec. 4759.064. (A) An individual who holds a current, valid license issued under this chapter to practice dietetics and who retires voluntarily from practice may request that the state medical board place the individual's license on retired status.

This section does not authorize an individual who holds a limited permit issued under section 4759.06 of the Revised Code to request that the board place the individual's permit on retired status.

(B) An individual seeking to have the individual's license placed on retired status shall file with the board an application in the form and manner prescribed by the board. The application shall be submitted before the end of a biennial renewal period and include all of the following:

(1) The applicant's full name, license number, mailing address, and electronic mail address;

(2) An attestation that the information included in the application is accurate and truthful and that the applicant meets the following qualifications:

(a) That the applicant holds a current, valid license issued under this chapter;

(b) That the applicant has retired voluntarily from the practice of dietetics;

(c) That the applicant does not have any criminal charges pending against the applicant;

(d) That the applicant is not the subject of discipline

by, or an investigation pending with, a regulatory agency of this state, another state, or the United States;

(e) That the applicant does not have any complaints pending with the board;

(f) That the applicant is not, at the time of application, subject to the board's hearing, disciplinary, or compliance processes under the terms of a citation, notice of opportunity for hearing, board order, or consent agreement.

(3) A fee in an amount equal to the restoration fee described in section 4759.062 of the Revised Code.

The board shall not consider an application for retired status complete until the board receives the fee described in this division. On receipt of a fee, the board shall deposit the fee in accordance with section 4731.24 of the Revised Code.

(C) If the board determines that an applicant meets the requirements of division (B) of this section, the board shall place the applicant's license on retired status. The license remains on retired status for the life of the license holder, unless suspended, revoked, or reactivated, and does not require renewal.

(D) During the period in which a license is on retired status, all of the following apply:

(1) The license holder is prohibited from practicing as a dietitian under any circumstance.

(2) The license holder is not required to complete the continuing education required by the board in rules adopted under section 4759.05 of the Revised Code.

(3) The license holder is prohibited from using the

license to obtain a license to practice dietetics in another state, whether by endorsement or reciprocity or through a licensure compact.

(4) The license holder may use a title authorized for the holder's license as described in section 4759.02 of the Revised Code, but only if "retired" also is included in the title.

(E) If a license has been placed on retired status pursuant to this section, it may be reactivated. Subject to section 4759.063 of the Revised Code, the board may reactivate a license placed on retired status if all of the following conditions are satisfied:

(1) The individual seeking to reactivate the license applies to the board in the form and manner prescribed by the board.

(2) The applicant certifies completion of, within the two-year period that ends on the date of the application's submission, the continuing education requirements that must be met for renewal of a license.

(3) The applicant complies with sections 4776.01 to 4776.04 of the Revised Code.

(4) The applicant pays a reactivation fee in an amount equal to the restoration fee described in section 4759.062 of the Revised Code.

The board shall not consider an application to reactivate a license complete until the board receives the fee described in this division. On receipt of a fee, the board shall deposit the fee in accordance with section 4731.24 of the Revised Code.

(F) The board shall reactivate a license placed on retired

status if the conditions of division (E) of this section have been satisfied and the board, in its discretion, determines that the results of the criminal records check conducted pursuant to sections 4776.01 to 4776.04 of the Revised Code do not make the applicant ineligible for active status.

(G) The board may take disciplinary action against an applicant who is seeking to place a license on retired status or to reactivate the license if the applicant commits fraud, misrepresentation, or deception in applying for or securing the retired status or reactivation.

The board also may take disciplinary action against the holder of a license placed on retired status if the holder practices under the license, uses the license to obtain licensure as a dietitian in another state, or uses a title that does not reflect the holder's retired status.

In taking disciplinary action under this section, the board may impose on the applicant or holder any sanction described in section 4759.07 of the Revised Code, but shall do so in accordance with the procedures described in that section.

~~(H) The board may adopt rules to implement and enforce this section. The rules shall be adopted in accordance with Chapter 119. of the Revised Code.~~

Sec. 4760.062. (A) An individual who holds a current, valid license issued under this chapter to practice as an anesthesiologist assistant and who retires voluntarily from practice may request that the state medical board place the individual's license on retired status.

(B) An individual seeking to have the individual's license placed on retired status shall file with the board an

application in the form and manner prescribed by the board. The application shall be submitted before the end of a biennial renewal period and include all of the following:

(1) The applicant's full name, license number, mailing address, and electronic mail address;

(2) An attestation that the information included in the application is accurate and truthful and that the applicant meets the following qualifications:

(a) That the applicant holds a current, valid license issued under this chapter;

(b) That the applicant has retired voluntarily from practice as an anesthesiologist assistant;

(c) That the applicant does not have any criminal charges pending against the applicant;

(d) That the applicant is not the subject of discipline by, or an investigation pending with, a regulatory agency of this state, another state, or the United States;

(e) That the applicant does not have any complaints pending with the board;

(f) That the applicant is not, at the time of application, subject to the board's hearing, disciplinary, or compliance processes under the terms of a citation, notice of opportunity for hearing, board order, or consent agreement.

(3) A fee in an amount equal to the sum of the biennial renewal fee and restoration penalty described in section 4760.06 of the Revised Code.

The board shall not consider an application for retired

status complete until the board receives the fee described in this division. On receipt of a fee, the board shall deposit the fee in accordance with section 4731.24 of the Revised Code.

(C) If the board determines that an applicant meets the requirements of division (B) of this section, the board shall place the applicant's license on retired status. The license remains on retired status for the life of the license holder, unless suspended, revoked, or reactivated, and does not require renewal.

(D) During the period in which a license is on retired status, all of the following apply:

(1) The license holder is prohibited from practicing as an anesthesiologist assistant under any circumstance.

(2) The license holder is prohibited from using the license to obtain a license to practice as an anesthesiologist assistant in another state, whether by endorsement or reciprocity or through a licensure compact.

(3) The license holder may use a title authorized for the holder's license, but only if "retired" also is included in the title.

(E) If a license has been placed on retired status pursuant to this section, it may be reactivated. Subject to section 4760.061 of the Revised Code, the board may reactivate a license placed on retired status if all of the following conditions are satisfied:

(1) The individual seeking to reactivate the license applies to the board in the form and manner prescribed by the board.

(2) The applicant complies with sections 4776.01 to 4776.04 of the Revised Code.

(3) The applicant pays a reactivation fee in an amount equal to the sum of the biennial renewal fee and restoration penalty described in section 4760.06 of the Revised Code.

The board shall not consider an application to reactivate a license complete until the board receives the fee described in this division. On receipt of a fee, the board shall deposit the fee in accordance with section 4731.24 of the Revised Code.

(F) The board shall reactivate a license placed on retired status if the conditions of division (E) of this section have been satisfied and the board, in its discretion, determines that the results of the criminal records check conducted pursuant to sections 4776.01 to 4776.04 of the Revised Code do not make the applicant ineligible for active status.

(G) The board may take disciplinary action against an applicant who is seeking to place a license on retired status or to reactivate the license if the applicant commits fraud, misrepresentation, or deception in applying for or securing the retired status or reactivation.

The board also may take disciplinary action against the holder of a license placed on retired status if the holder practices under the license, uses the license to obtain licensure as an anesthesiologist assistant in another state, or uses a title that does not reflect the holder's retired status.

In taking disciplinary action under this section, the board may impose on the applicant or holder any sanction described in section 4760.13 of the Revised Code, but shall do so in accordance with the procedures described in that section.

~~(H) The board may adopt rules to implement and enforce this section. The rules shall be adopted in accordance with Chapter 119. of the Revised Code.~~

Sec. 4761.03. (A) The state medical board shall regulate the practice of respiratory care in this state and the persons to whom the board issues licenses and limited permits under this chapter. Rules adopted under this chapter that deal with the provision of respiratory care in a hospital, other than rules regulating the issuance of licenses or limited permits, shall be consistent with the conditions for participation under medicare, Title XVIII of the "Social Security Act," 79 Stat. 286 (1965), 42 U.S.C.A. 1395, as amended, and with the respiratory care accreditation standards of the joint commission or the American osteopathic association.

(B) The board shall adopt, and may rescind or amend, rules in accordance with Chapter 119. of the Revised Code ~~to carry out the purposes of this chapter, including rules~~ prescribing the following:

(1) The form and manner for filing applications under sections 4761.05 and 4761.06 of the Revised Code;

(2) Standards for the approval of examinations and reexaminations administered by national organizations for licensure, license renewal, and license reinstatement;

(3) Standards for the approval of educational programs required to qualify for licensure and approval of continuing education programs required for license renewal;

(4) Continuing education courses and the number of hour requirements necessary for license renewal under section 4761.06 of the Revised Code, including rules providing for pro rata

reductions by month of the number of hours of continuing education that must be completed for license holders who are in their first renewal period, have been disabled by illness or accident, or have been absent from the country;

(5) Procedures for the issuance and renewal of licenses and limited permits, including the duties that may be fulfilled by the board's executive director and other board employees;

(6) Procedures for the limitation, suspension, and revocation of licenses and limited permits, the refusal to issue, renew, or reinstate licenses and limited permits, and the imposition of a reprimand or probation under section 4761.09 of the Revised Code;

(7) Standards of ethical conduct for the practice of respiratory care;

(8) The respiratory care tasks that may be performed by an individual practicing as a polysomnographic technologist pursuant to division (B)(3) of section 4761.10 of the Revised Code;

(9) Requirements for criminal records checks of applicants under section 4776.03 of the Revised Code.

(C) The board shall determine the sufficiency of an applicant's qualifications for admission to the licensing examination or a reexamination, and for the issuance or renewal of a license or limited permit.

(D) The board shall determine the respiratory care educational programs that are acceptable for fulfilling the requirements of division (A) of section 4761.04 of the Revised Code.

(E)(1) The board shall investigate evidence that appears to show that a person has violated any provision of this chapter or any rule adopted under it. Any person may report to the board in a signed writing any information that the person may have that appears to show a violation of any provision of this chapter or any rule adopted under it. In the absence of bad faith, any person who reports information of that nature or who testifies before the board in any adjudication conducted under Chapter 119. of the Revised Code shall not be liable in damages in a civil action as a result of the report or testimony. Each complaint or allegation of a violation received by the board shall be assigned a case number and shall be recorded by the board.

(2) Investigations of alleged violations of this chapter or any rule adopted under it shall be supervised by the supervising member elected by the board in accordance with section 4731.02 of the Revised Code and by the secretary as provided in section 4761.012 of the Revised Code. The president may designate another member of the board to supervise the investigation in place of the supervising member. Upon a vote of the majority of the board to authorize the addition of a consumer member in the supervision of any part of any investigation, the president shall designate a consumer member for supervision of investigations as determined by the president. The authorization of consumer member participation in investigation supervision may be rescinded by a majority vote of the board. No member of the board who supervises the investigation of a case shall participate in further adjudication of the case.

(3) In investigating a possible violation of this chapter or any rule adopted under it, the board may issue subpoenas,

administer oaths, question witnesses, conduct interviews, order the taking of depositions, inspect and copy any books, accounts, papers, records, or documents, and compel the attendance of witnesses and production of books, accounts, papers, records, documents, and testimony, except that a subpoena for patient record information shall not be issued without consultation with the attorney general's office and approval of the secretary of the board.

Before issuance of a subpoena for patient record information, the secretary shall determine whether there is probable cause to believe that the complaint filed alleges a violation of this chapter or any rule adopted under it and that the records sought are relevant to the alleged violation and material to the investigation. The subpoena may apply only to records that cover a reasonable period of time surrounding the alleged violation.

On failure to comply with any subpoena issued by the board and after reasonable notice to the person being subpoenaed, the board may move for an order compelling the production of persons or records pursuant to the Rules of Civil Procedure.

A subpoena issued by the board may be served by a sheriff, the sheriff's deputy, or a board employee or agent designated by the board. Service of a subpoena issued by the board may be made by delivering a copy of the subpoena to the person named therein, reading it to the person, or leaving it at the person's usual place of residence, usual place of business, or address on file with the board. When serving a subpoena to an applicant for or the holder of a license or limited permit issued under this chapter, service of the subpoena may be made by certified mail, return receipt requested, and the subpoena shall be deemed

served on the date delivery is made or the date the person refuses to accept delivery. If the person being served refuses to accept the subpoena or is not located, service may be made to an attorney who notifies the board that the attorney is representing the person.

A sheriff's deputy who serves a subpoena shall receive the same fees as a sheriff. Each witness who appears before the board in obedience to a subpoena shall receive the fees and mileage provided for under section 119.094 of the Revised Code.

(4) All hearings, investigations, and inspections of the board shall be considered civil actions for the purposes of section 2305.252 of the Revised Code.

(5) A report required to be submitted to the board under this chapter, a complaint, or information received by the board pursuant to an investigation is confidential and not subject to discovery in any civil action.

The board shall conduct all investigations or inspections and proceedings in a manner that protects the confidentiality of patients and persons who file complaints with the board. The board shall not make public the names or any other identifying information about patients or complainants unless proper consent is given.

The board may share any information it receives pursuant to an investigation or inspection, including patient records and patient record information, with law enforcement agencies, other licensing boards, and other governmental agencies that are prosecuting, adjudicating, or investigating alleged violations of statutes or administrative rules. An agency or board that receives the information shall comply with the same requirements

regarding confidentiality as those with which the state medical board must comply, notwithstanding any conflicting provision of the Revised Code or procedure of the agency or board that applies when it is dealing with other information in its possession. In a judicial proceeding, the information may be admitted into evidence only in accordance with the Rules of Evidence, but the court shall require that appropriate measures are taken to ensure that confidentiality is maintained with respect to any part of the information that contains names or other identifying information about patients or complainants whose confidentiality was protected by the state medical board when the information was in the board's possession. Measures to ensure confidentiality that may be taken by the court include sealing its records or deleting specific information from its records.

No person shall knowingly access, use, or disclose confidential investigatory information in a manner prohibited by law.

(6) On a quarterly basis, the board shall prepare a report that documents the disposition of all cases during the preceding three months. The report shall contain the following information for each case with which the board has completed its activities:

(a) The case number assigned to the complaint or alleged violation;

(b) The type of license or limited permit, if any, held by the individual against whom the complaint is directed;

(c) A description of the allegations contained in the complaint;

(d) Whether witnesses were interviewed;

(e) Whether the individual against whom the complaint is directed is the subject of any pending complaints;

(f) The disposition of the case.

The report shall state how many cases are still pending and shall be prepared in a manner that protects the identity of each person involved in each case. The report shall be a public record under section 149.43 of the Revised Code.

(7) The board may provide a status update regarding an investigation to a complainant on request if the board verifies the complainant's identity.

(F) The board shall keep records of its proceedings and do other things as are necessary and proper to carry out and enforce the provisions of this chapter.

(G) The board shall maintain and publish on its internet web site all of the following:

(1) The requirements for the issuance of licenses and limited permits under this chapter and rules adopted by the board;

(2) A list of the names and locations of the institutions that each year granted degrees or certificates of completion in respiratory care.

Sec. 4761.032. (A) The state medical board shall appoint a respiratory care advisory council for the purpose of advising the board on issues relating to the practice of respiratory care. The advisory council shall consist of not more than seven individuals knowledgeable in the area of respiratory care.

A majority of the council members shall be individuals licensed under this chapter who are actively engaged in the

practice of respiratory care. The board shall include all of the following on the council:

(1) One physician who is a member of the state medical board;

(2) One physician who has clinical training and experience in pulmonary disease;

(3) One individual who is not affiliated with any health care profession, who shall be appointed to represent the interest of consumers.

The Ohio state medical association, or its successor organization, may nominate not more than three individuals for consideration by the board in appointing the physician member described in division (A)(2) of this section.

The Ohio society for respiratory care, or its successor organization, may nominate not more than three individuals for consideration by the board in appointing any member of the council other than the physician members described in divisions (A)(1) and (2) of this section.

(B) Not later than ninety days after January 21, 2018, the board shall make initial appointments to the council. Initial members shall serve terms of office of one, two, or three years, as selected by the board. Thereafter, terms of office shall be for three years, with each term ending on the same day of the same month as the term that it succeeds. A council member shall continue in office subsequent to the expiration date of the member's term until a successor is appointed and takes office, or until a period of sixty days has elapsed, whichever occurs first. Each council member shall hold office from the date of appointment until the end of the term for which the member was

appointed.

(C) Members shall serve without compensation, but shall be reimbursed for actual and necessary expenses incurred in performing their official duties.

(D) The council shall meet at least four times each year and at such other times as may be necessary to carry out its responsibilities.

(E) The council may submit to the board recommendations concerning all of the following:

(1) Requirements for issuing a license to practice as a respiratory care professional or as a limited permit holder, including the educational and experience requirements that must be met to receive the license or permit;

(2) Existing and proposed rules pertaining to the practice of respiratory care ~~and the administration and enforcement of this chapter~~;

(3) Standards for the approval of educational programs required to qualify for licensure and continuing education programs for licensure renewal;

(4) Policies related to the issuance and renewal of licenses and limited permits;

(5) Fees for the issuance and renewal of a license to practice respiratory care as a licensee or as a limited permit holder;

(6) Standards of practice and ethical conduct in the practice of respiratory care;

(7) The safe and effective practice of respiratory care,

including scope of practice and minimal standards of care.

Sec. 4761.062. (A) An individual who holds a current, valid license issued under this chapter to practice respiratory care and who retires voluntarily from practice may request that the state medical board place the individual's license on retired status.

This section does not authorize an individual who holds a limited permit issued under section 4761.05 of the Revised Code to request that the board place the individual's permit on retired status.

(B) An individual seeking to have the individual's license placed on retired status shall file with the board an application in the form and manner prescribed by the board. The application shall be submitted before the end of a biennial renewal period and include all of the following:

(1) The applicant's full name, license number, mailing address, and electronic mail address;

(2) An attestation that the information included in the application is accurate and truthful and that the applicant meets the following qualifications:

(a) That the applicant holds a current, valid license issued under this chapter;

(b) That the applicant has retired voluntarily from the practice of respiratory care;

(c) That the applicant does not have any criminal charges pending against the applicant;

(d) That the applicant is not the subject of discipline by, or an investigation pending with, a regulatory agency of

this state, another state, or the United States;

(e) That the applicant does not have any complaints pending with the board;

(f) That the applicant is not, at the time of application, subject to the board's hearing, disciplinary, or compliance processes under the terms of a citation, notice of opportunity for hearing, board order, or consent agreement.

(3) A fee in an amount equal to the restoration fee described in section 4761.06 of the Revised Code.

The board shall not consider an application for retired status complete until the board receives the fee described in this division. On receipt of a fee, the board shall deposit the fee in accordance with section 4731.24 of the Revised Code.

(C) If the board determines that an applicant meets the requirements of division (B) of this section, the board shall place the applicant's license on retired status. The license remains on retired status for the life of the license holder, unless suspended, revoked, or reactivated, and does not require renewal.

(D) During the period in which a license is on retired status, all of the following apply:

(1) The license holder is prohibited from practicing as a respiratory care professional under any circumstance.

(2) The license holder is not required to complete continuing education as described in section 4761.06 of the Revised Code.

(3) The license holder is prohibited from using the license to obtain a license to practice respiratory care in

another state, whether by endorsement or reciprocity or through a licensure compact.

(4) The license holder may use a title authorized for the holder's license as described in section 4761.10 of the Revised Code, but only if "retired" also is included in the title.

(E) If a license has been placed on retired status pursuant to this section, it may be reactivated. Subject to section 4761.061 of the Revised Code, the board may reactivate a license placed on retired status if all of the following conditions are satisfied:

(1) The holder seeking to reactivate the license applies to the board in the form and manner prescribed by the board.

(2) The applicant certifies completion of, within the two-year period that ends on the date of the application's submission, the continuing education requirements that must be met for renewal of a license.

(3) The applicant complies with sections 4776.01 to 4776.04 of the Revised Code.

(4) The applicant pays a reactivation fee in an amount equal to the restoration fee described in section 4761.06 of the Revised Code.

The board shall not consider an application to reactivate a license complete until the board receives the fee described in this division. On receipt of a fee, the board shall deposit the fee in accordance with section 4731.24 of the Revised Code.

(F) The board shall reactivate a license placed on retired status if the conditions of division (E) of this section have been satisfied and the board, in its discretion, determines that

the results of the criminal records check conducted pursuant to sections 4776.01 to 4776.04 of the Revised Code do not make the applicant ineligible for active status.

(G) The board may take disciplinary action against an applicant who is seeking to place a license on retired status or to reactivate the license if the applicant commits fraud, misrepresentation, or deception in applying for or securing the retired status or reactivation.

The board also may take disciplinary action against the holder of a license placed on retired status if the holder practices under the license, uses the license to obtain licensure as a respiratory care professional in another state, or uses a title that does not reflect the holder's retired status.

In taking disciplinary action under this section, the board may impose on the applicant or holder any sanction described in section 4761.09 of the Revised Code, but shall do so in accordance with the procedures described in that section.

~~(H) The board may adopt rules to implement and enforce this section. The rules shall be adopted in accordance with Chapter 119. of the Revised Code.~~

Sec. 4762.062. (A) An individual who holds a current, valid license issued under this chapter to practice as an acupuncturist and who retires voluntarily from practice may request that the state medical board place the individual's license on retired status.

(B) An individual seeking to have the individual's license placed on retired status shall file with the board an application in the form and manner prescribed by the board. The

application shall be submitted before the end of a biennial renewal period and include all of the following:

(1) The applicant's full name, license number, mailing address, and electronic mail address;

(2) An attestation that the information included in the application is accurate and truthful and that the applicant meets the following qualifications:

(a) That the applicant holds a current, valid license issued under this chapter;

(b) That the applicant has retired voluntarily from practice as an acupuncturist;

(c) That the applicant does not have any criminal charges pending against the applicant;

(d) That the applicant is not the subject of discipline by, or an investigation pending with, a regulatory agency of this state, another state, or the United States;

(e) That the applicant does not have any complaints pending with the board;

(f) That the applicant is not, at the time of application, subject to the board's hearing, disciplinary, or compliance processes under the terms of a citation, notice of opportunity for hearing, board order, or consent agreement.

(3) A fee in an amount equal to the sum of the biennial renewal fee and restoration penalty described in section 4762.06 of the Revised Code.

The board shall not consider an application for retired status complete until the board receives the fee described in

this division. On receipt of a fee, the board shall deposit the fee in accordance with section 4731.24 of the Revised Code.

(C) If the board determines that an applicant meets the requirements of division (B) of this section, the board shall place the applicant's license on retired status. The license remains on retired status for the life of the license holder, unless suspended, revoked, or reactivated, and does not require renewal.

(D) During the period in which a license is on retired status, all of the following apply:

(1) The license holder is prohibited from practicing as an acupuncturist under any circumstance.

(2) The license holder is prohibited from using the license to obtain a license to practice as an acupuncturist in another state, whether by endorsement or reciprocity or through a licensure compact.

(3) The license holder may use a title authorized for the holder's license as described in section 4762.08 of the Revised Code, but only if "retired" also is included in the title.

(E) If a license has been placed on retired status pursuant to this section, it may be reactivated. Subject to section 4762.061 of the Revised Code, the board may reactivate a license placed on retired status if all of the following conditions are satisfied:

(1) The individual seeking to reactivate the license applies to the board in the form and manner prescribed by the board.

(2) The applicant complies with sections 4776.01 to

4776.04 of the Revised Code.

(3) The applicant pays a reactivation fee in an amount equal to the sum of the biennial renewal fee and restoration penalty described in section 4762.06 of the Revised Code.

The board shall not consider an application to reactivate a license complete until the board receives the fee described in this division. On receipt of a fee, the board shall deposit the fee in accordance with section 4731.24 of the Revised Code.

(F) The board shall reactivate a license placed on retired status if the conditions of division (E) of this section have been satisfied and the board, in its discretion, determines that the results of the criminal records check conducted pursuant to sections 4776.01 to 4776.04 of the Revised Code do not make the applicant ineligible for active status.

(G) The board may take disciplinary action against an applicant who is seeking to place a license on retired status or to reactivate the license if the applicant commits fraud, misrepresentation, or deception in applying for or securing the retired status or reactivation.

The board also may take disciplinary action against the holder of a license placed on retired status if the holder practices under the license, uses the license to obtain licensure as an acupuncturist in another state, or uses a title that does not reflect the holder's retired status.

In taking disciplinary action under this section, the board may impose on the applicant or holder any sanction described in section 4762.13 of the Revised Code, but shall do so in accordance with the procedures described in that section.

~~(H) The board may adopt rules to implement and enforce~~

~~this section. The rules shall be adopted in accordance with Chapter 119. of the Revised Code.~~

Sec. 4763.03. (A) In addition to any other duties imposed on the real estate appraiser board under this chapter, the board shall:

(1) Adopt rules, in accordance with Chapter 119. of the Revised Code, in furtherance of ~~this chapter, including, but not limited to,~~ all of the following:

(a) Defining, with respect to state-certified general real estate appraisers, state-certified residential real estate appraisers, and state-licensed residential real estate appraisers, the type of educational experience, appraisal experience, and other equivalent experience that satisfy the requirements of this chapter. The rules shall require that all appraisal experience performed after January 30, 1989, meet the uniform standards of professional practice established by the appraisal foundation.

(b) Establishing the examination specifications for state-certified general real estate appraisers, state-certified residential real estate appraisers, and state-licensed residential real estate appraisers;

(c) Relating to disciplinary proceedings conducted in accordance with section 4763.11 of the Revised Code, including rules governing the reinstatement of certificates, registrations, and licenses that have been suspended pursuant to those proceedings;

(d) Identifying any additional information to be included on the forms specified in division (C) of section 4763.12 of the Revised Code, provided that the rules shall not require any less

information than is required in that division;

(e) Establishing the fees set forth in section 4763.09 of the Revised Code;

(f) Establishing the amount of the assessment required by division (A)(2) of section 4763.05 of the Revised Code. The board annually shall determine the amount due from each applicant for an initial certificate, registration, and license in an amount that will maintain the real estate appraiser recovery fund at the level specified in division (A) of section 4763.16 of the Revised Code. The board may, if the fund falls below that amount, require current certificate holders, registrants, and licensees to pay an additional assessment.

(g) Defining the educational requirements pursuant to division (C) of section 4763.05 of the Revised Code;

(h) Establishing a real estate appraiser assistant program for the registration of real estate appraiser assistants.

(2) Prescribe by rule the requirements for the examinations required by division (D) of section 4763.05 of the Revised Code;

(3) Periodically review the standards for the development and reporting of appraisal reports provided in this chapter and adopt rules explaining and interpreting those standards;

(4) Hear appeals, pursuant to Chapter 119. of the Revised Code, from decisions and orders the superintendent of real estate issues pursuant to this chapter;

(5) Request the initiation by the superintendent of investigations of violations of this chapter or the rules adopted pursuant thereto, as the board determines appropriate;

(6) Determine the appropriate disciplinary actions to be taken against certificate holders, registrants, and licensees under this chapter as provided in section 4763.11 of the Revised Code.

(B) In addition to any other duties imposed on the superintendent of real estate under this chapter, the superintendent shall:

(1) Prescribe the form and content of all applications required by this chapter;

(2) Receive applications for certifications, registrations, and licenses and renewal thereof under this chapter and establish the procedures for processing, approving, and disapproving those applications;

(3) Retain records and all application materials submitted to the superintendent;

(4) Establish the time and place for conducting the examinations required by division (D) of section 4763.05 of the Revised Code;

(5) Issue certificates, registrations, and licenses and maintain a register of the names and addresses of all persons issued a certificate, registration, or license under this chapter;

(6) Perform any other functions and duties, including the employment of staff, necessary to administer this chapter;

(7) Administer this chapter;

(8) Issue all orders necessary to implement this chapter;

(9) Investigate complaints, upon the superintendent's own

motion or upon receipt of a complaint or upon a request of the board, concerning any violation of this chapter or the rules adopted pursuant thereto or the conduct of any person holding a certificate, registration, or license issued pursuant to this chapter;

(10) Establish and maintain an investigation and audit section to investigate complaints and conduct inspections, audits, and other inquiries as in the judgment of the superintendent are appropriate to enforce this chapter. The investigators and auditors have the right to review and audit the business records of certificate holders, registrants, and licensees during normal business hours. The superintendent may utilize the investigators and auditors employed pursuant to division (B)(4) of section 4735.05 of the Revised Code or currently licensed certificate holders or licensees to assist in performing the duties of this division.

(11) Appoint a hearing examiner for any proceeding involving the disciplinary action of a certificate holder, licensee, or registrant under section 4763.11 of the Revised Code;

(12) Administer the real estate appraiser recovery fund;

(13) Conduct the examinations required by division (D) of section 4763.05 of the Revised Code at least four times per year.

(C) The superintendent may do all of the following:

(1) In connection with hearings, investigations, or audits under division (B) of this section, subpoena witnesses as provided in section 4763.04 of the Revised Code;

(2) Apply to the appropriate court to enjoin any violation

of this chapter. Upon a showing by the superintendent that any person has violated or is about to violate this chapter, the court shall grant an injunction, restraining order, or other appropriate relief, or any combination thereof.

(D) All information that is obtained by investigators and auditors performing investigations or conducting inspections, audits, and other inquiries pursuant to division (B)(10) of this section, from certificate holders, registrants, licensees, complainants, or other persons, and all reports, documents, and other work products that arise from that information and that are prepared by the investigators, auditors, or other personnel of the department of commerce, shall be held in confidence by the superintendent, the investigators and auditors, and other personnel of the department.

(E) This section does not prevent the division of real estate and professional licensing from releasing information relating to certificate holders, registrants, and licensees to the superintendent of financial institutions for purposes relating to the administration of Chapter 1322. of the Revised Code, to the commissioner of securities for purposes relating to Chapter 1707. of the Revised Code, to the superintendent of insurance for purposes relating to the administration of Chapter 3953. of the Revised Code, to the attorney general, or to law enforcement agencies and prosecutors. Information released by the division pursuant to this section remains confidential.

(F) Any rule the board adopts shall meet or exceed the requirements specified in federal law or regulations.

Sec. 4763.06. (A) A person licensed, registered, or certified under this chapter may obtain a renewal certificate, registration, or license by filing a renewal application with

and paying the renewal fee set forth in section 4763.09 of the Revised Code and any amount assessed pursuant to division (A)(2) of section 4763.05 of the Revised Code to the superintendent of real estate. The renewal application shall include a statement, signed by the certificate holder, registrant, or licensee, that the certificate holder, registrant, or licensee has not been convicted of or pleaded guilty to any criminal offense described in division (H)(2) of section 4763.05 of the Revised Code since the issuance or renewal of the individual's most recent certificate, registration, or license. The certificate holder, registrant, or licensee shall file the renewal application at least thirty days, but no earlier than one hundred twenty days, prior to expiration of the certificate holder's, registrant's, or licensee's current certificate, registration, or license. The superintendent shall establish a method by which a certificate holder, registrant, or licensee may electronically file the renewal application and pay the fee and the assessed amount required for renewal.

(B) A certificate holder, registrant, or licensee who fails to renew a certificate, registration, or license prior to its expiration is ineligible to obtain a renewal certificate, registration, or license and shall comply with section 4763.05 of the Revised Code in order to regain certification, registration, or licensure, except that a certificate holder, registrant, or licensee may renew the certificate, registration, or license without having to comply with section 4763.05 of the Revised Code by doing either of the following:

(1) Filing a renewal application and submitting payment of all fees for renewal and payment of the late filing fee set forth in section 4763.09 of the Revised Code within three months after the expiration of the certificate holder's, registrant's,

or licensee's certificate, registration, or license;

(2) Obtaining a medical exception under division (C) of this section, filing a renewal application, and submitting payment of all fees for renewal and payment of the late filing fee set forth in section 4763.09 of the Revised Code. A certificate holder, registrant, or licensee who applies for late renewal of the certificate holder's, registrant's, or licensee's certificate, registration, or license may not engage in any activities permitted by the certification, registration, or license being renewed during the three-month period following the certificate's, registration's, or license's normal expiration date, or during the time period for which a medical exception applies, until all renewal fees and the late filing fee have been paid.

(C) The superintendent may grant a medical exception upon application by a person certified, registered, or licensed under this chapter. To receive an exception, the certificate holder, registrant, or licensee shall submit a request to the superintendent with proof satisfactory that a medical exception is warranted. If the superintendent makes a determination that satisfactory proof has not been presented, within fifteen days of the date of the denial of the medical exception the certificate holder, registrant, or licensee may file with the division of real estate a request that the real estate appraiser board review the determination. ~~The board may adopt reasonable rules in accordance with Chapter 119. of the Revised Code to implement this division.~~

Sec. 4763.07. (A)(1) Beginning on and after ~~the effective date of this amendment~~April 9, 2025, every state-certified general real estate appraiser, state-certified residential real

estate appraiser, state-licensed residential real estate appraiser, and state-registered real estate appraiser assistant shall submit proof of successfully completing a minimum of twenty-eight classroom hours of continuing education instruction in courses or seminars approved by the real estate appraiser board. The certificate holder, licensee, or registrant shall have satisfied the twenty-eight-hour continuing education requirements within the two-year period immediately following the issuance of the initial certificate, license, or registration and shall satisfy those requirements every two years thereafter.

(2) Continuing education required under this section does not apply to an appraiser with a certification or license from another state that is temporarily recognized in this state pursuant to division (E)(2) of section 4763.05 of the Revised Code.

(3) A certificate holder, licensee, or registrant who fails to submit proof to the superintendent of meeting these requirements is ineligible to obtain a renewal certificate, license, or registration and shall comply with section 4763.05 of the Revised Code in order to regain a certificate, license, or registration, except that the certificate holder, licensee, or registrant may submit proof to the superintendent of meeting these requirements within three months after the date of expiration of the certificate, license, or registration, or by obtaining a medical exception under division (E) of this section, without having to comply with section 4763.05 of the Revised Code. A certificate holder, licensee, or registrant may not engage in any activities permitted by the certificate, license, or registration during the three-month period following the certificate's, license's, or registration's normal

expiration date or during the time period for which a medical exception applies.

(4) A certificate holder, licensee, or registrant may satisfy all or a portion of the required hours of classroom instruction in the following manner:

(a) Completion of an educational program of study determined by the board to be equivalent, for continuing education purposes, to courses or seminars approved by the board;

(b) Participation, other than as a student, in educational processes or programs approved by the board that relate to real estate appraisal theory, practices, or techniques.

(5) A certificate holder, licensee, or registrant shall present to the superintendent of real estate evidence of the manner in which the certificate holder, licensee, or registrant satisfied the requirements of division (A) of this section.

(B) The board shall adopt rules for implementing a continuing education program for state-certified general real estate appraisers, state-certified residential real estate appraisers, state-licensed residential real estate appraisers, and state-registered real estate appraiser assistants for the purpose of assuring that certificate holders, licensees, and registrants have current knowledge of real estate appraisal theories, practices, and techniques that will provide a high degree of service and protection to members of the public. ~~In addition to any other provisions the board considers appropriate, the~~ The rules adopted by the board shall prescribe the following:

(1) Policies and procedures for obtaining board approval

of courses of instruction and seminars;

(2) Standards, policies, and procedures to be applied in evaluating the alternative methods of complying with continuing education requirements set forth in divisions (A)(4)(a) and (b) of this section;

(3) Standards, monitoring methods, and systems for recording attendance to be employed by course sponsors as a prerequisite to approval of courses for continuing education credit.

(C) No amendment or rescission of a rule the board adopts pursuant to division (B) of this section shall operate to deprive a certificate holder or licensee of credit toward renewal of certification or licensure for any course of instruction completed by the certificate holder or licensee prior to the effective date of the amendment or rescission that would have qualified for credit under the rule as it existed prior to amendment or rescission.

(D) The superintendent of real estate shall not issue a renewal certificate, registration, or license to any person who does not meet applicable minimum criteria for state certification, registration, or licensure prescribed by federal law or rule.

(E) The superintendent may grant a medical exception upon application by a person certified, registered, or licensed under this chapter. To receive an exception, the certificate holder, registrant, or licensee shall submit a request to the superintendent with proof satisfactory that a medical exception is warranted. If the superintendent makes a determination that satisfactory proof has not been presented, within fifteen days

of the date of the denial of the medical exception, the certificate holder, registrant, or licensee may file with the division of real estate a request that the real estate appraiser board review the determination. ~~The board may adopt reasonable rules in accordance with Chapter 119. of the Revised Code to implement this division.~~

Sec. 4763.12. (A) A person licensed or certified under this chapter may be retained or employed to act as a disinterested third party in rendering an unbiased valuation or analysis of real estate or to provide specialized services to facilitate the client or employer's objectives. An appraisal or appraisal report rendered by a certificate holder or licensee shall comply with this chapter. A certified appraisal or certified appraisal report represents to the public that it satisfies the standards set forth in this chapter.

(B) No certificate holder or licensee shall accept a fee for an appraisal assignment that is contingent, in whole or in part, upon the reporting of a predetermined estimate, analysis, or opinion or upon the opinion, conclusion, or valuation reached, or upon consequences resulting from the appraisal assignment. A certificate holder or licensee who enters into an agreement to provide specialized services may charge a fixed fee or a fee that is contingent upon the results achieved by the specialized services, provided that this fact is clearly stated in each oral report rendered pursuant to the agreement, and the existence of the contingent fee arrangement is clearly stated in a prominent place on each written report and in each letter of transmittal and certification statement made by the certificate holder or licensee within that report.

(C) Every written report rendered by a certificate holder

or licensee in conjunction with an appraisal assignment or specialized service performed shall include the following information:

(1) The name of the certificate holder or licensee;

(2) The class of certification or licensure held by and the certification or licensure number of the certificate holder or licensee;

(3) Whether the appraisal or specialized service is performed within the scope of the certificate holder's or licensee's certification or licensure;

(4) Whether the appraisal or specialized service is provided by a certificate holder or licensee as a disinterested and unbiased third party or as a person on an interested and biased basis or as an interested third party on a contingent fee basis;

(5) The signature of the person performing and reporting the appraisal or specialized service;

(6) The license, certificate, or registration number of the appraisal management company that has engaged the appraiser for the assignment within the body of the appraisal report;

(7) If an appraisal report is completed for an appraisal management company, one of the following:

(a) The actual fees paid to the appraiser within the body of the appraisal report;

(b) If the appraiser is employed by the appraisal management company on an employee and employer basis for the performance of appraisals, a statement of that fact and a statement that the appraiser was not paid a fee.

If the certificate holder or licensee provides an oral real estate appraisal report or specialized service, the certificate holder or licensee shall send, within seven days of providing the oral report, a form to the client containing the appropriate information specified in this division ~~and the rules adopted pursuant to this division~~.

(D) Nothing in this chapter shall be construed as requiring a certificate holder or licensee to provide a client with a copy of any writing prepared in support of an oral appraisal report except as provided in division (C) of this section or as agreed to between the certificate holder or licensee and the certificate holder's or licensee's client.

(E) No person, directly or indirectly, shall knowingly compensate, instruct, induce, coerce, or intimidate, or attempt to compensate, instruct, induce, coerce, or intimidate, a certificate holder or licensee for the purpose of corrupting or improperly influencing the independent judgment of the certificate holder or licensee with respect to the value of the dwelling offered as security for repayment of a mortgage loan.

Sec. 4765.11. (A) The state board of emergency medical, fire, and transportation services shall adopt, and may amend and rescind, rules in accordance with Chapter 119. of the Revised Code and divisions (C) and (D) of this section that establish all of the following:

(1) Procedures for its governance and the control of its actions and business affairs;

(2) Standards for the performance of emergency medical services by first responders, emergency medical technicians-basic, emergency medical technicians-intermediate, and emergency

medical technicians-paramedic;

(3) Application fees for certificates of accreditation, certificates of approval, certificates to teach, and certificates to practice, which shall be deposited into the trauma and emergency medical services fund created in section 4513.263 of the Revised Code;

(4) Criteria for determining when the application or renewal fee for a certificate to practice may be waived because an applicant cannot afford to pay the fee;

(5) Procedures for issuance and renewal of certificates of accreditation, certificates of approval, certificates to teach, and certificates to practice, including any measures necessary to implement section 9.79 of the Revised Code and any procedures necessary to ensure that adequate notice of renewal is provided in accordance with division (E) of section 4765.30 of the Revised Code;

(6) Procedures for suspending or revoking certificates of accreditation, certificates of approval, certificates to teach, and certificates to practice;

(7) Grounds for suspension or revocation of a certificate to practice issued under section 4765.30 of the Revised Code and for taking any other disciplinary action against a first responder, EMT-basic, EMT-I, or paramedic;

(8) Procedures for taking disciplinary action against a first responder, EMT-basic, EMT-I, or paramedic;

(9) Standards for certificates of accreditation and certificates of approval;

(10) Qualifications for certificates to teach;

(11) Requirements for a certificate to practice;

(12) The curricula, number of hours of instruction and training, and instructional materials to be used in adult and pediatric emergency medical services training programs and adult and pediatric emergency medical services continuing education programs;

(13) Procedures for conducting courses in recognizing symptoms of life-threatening allergic reactions and in calculating proper dosage levels and administering injections of epinephrine to adult and pediatric patients who suffer life-threatening allergic reactions;

(14) Examinations for certificates to practice;

(15) Procedures for administering examinations for certificates to practice;

(16) Procedures for approving examinations that demonstrate competence to have a certificate to practice renewed without completing an emergency medical services continuing education program;

(17) Procedures for granting extensions and exemptions of emergency medical services continuing education requirements;

(18) Specifications of the emergency medical services that first responders are authorized to perform under section 4765.35 of the Revised Code, that EMTs-basic are authorized to perform under section 4765.37 of the Revised Code, that EMTs-I are authorized to perform under section 4765.38 of the Revised Code, and that paramedics are authorized to perform under section 4765.39 of the Revised Code;

(19) Standards and procedures for implementing the

requirements of section 4765.06 of the Revised Code, including designations of the persons who are required to report information to the board and the types of information to be reported;

(20) Procedures for administering the emergency medical services grant program established under section 4765.07 of the Revised Code;

(21) Procedures consistent with Chapter 119. of the Revised Code for appealing decisions of the board;

(22) Minimum qualifications and peer review and quality improvement requirements for persons who provide medical direction to emergency medical service personnel, including, subject to division (B) of section 4765.42 of the Revised Code, qualifications for a physician to be eligible to serve as the medical director of an emergency medical service organization or a member of its cooperating physician advisory board;

(23) The manner in which a patient, or a patient's parent, guardian, or custodian, may consent to the board releasing identifying information about the patient under division (D) of section 4765.102 of the Revised Code;

(24) Circumstances under which a training program or continuing education program, or portion of either type of program, may be taught by a person who does not hold a certificate to teach issued under section 4765.23 of the Revised Code;

(25) Certification cycles for certificates issued under sections 4765.23 and 4765.30 of the Revised Code and certificates issued by the executive director of the state board of emergency medical, fire, and transportation services under

section 4765.55 of the Revised Code that establish a common expiration date for all certificates;

(26) Procedures by which the holder of a certificate to practice who intends to retire may request the emergency medical service organization for which the holder performs services to direct the board to designate the holder as "retired" in the board's records when the holder retires.

(B) The board may adopt, and may amend and rescind, rules in accordance with Chapter 119. of the Revised Code and divisions (C) and (D) of this section that establish any of the following:

(1) Specifications of information that may be collected under the trauma system registry and incidence reporting system created under section 4765.06 of the Revised Code;

(2) Standards and procedures for implementing any of the recommendations made by any committees of the board or under section 4765.04 of the Revised Code;

(3) Procedures and requirements for conducting background checks on applicants for the issuance and renewal of certificates of accreditation, certificates of approval, certificates to teach, and certificates to practice in accordance with section 109.578 of the Revised Code~~;~~

~~(4) Any other rules necessary to implement this chapter~~.

(C) In developing and administering rules adopted under this chapter, the state board of emergency medical, fire, and transportation services shall consult with regional directors and regional advisory boards appointed under section 4765.05 of the Revised Code and emphasize the special needs of pediatric and geriatric patients.

(D) On and after April 6, 2023, the executive director shall not issue to any new applicant a certificate to practice as an emergency medical services assistant instructor. Any emergency medical services assistant instructor certificate that was issued in accordance with rules adopted under division (A) of this section prior to April 6, 2023, remains valid, subject to any conditions or responsibilities of retaining the validity of that certificate, until the holder of the certificate allows it to expire or lapse. The certificate may be renewed by the holder of that certificate. The board shall adopt, amend, or rescind rules in accordance with Chapter 119. of the Revised Code in order to effectuate this division.

(E) Except as otherwise provided in this division, before adopting, amending, or rescinding any rule under this chapter, the board shall submit the proposed rule to the director of public safety for review. The director may review the proposed rule for not more than sixty days after the date it is submitted. If, within this sixty-day period, the director approves the proposed rule or does not notify the board that the rule is disapproved, the board may adopt, amend, or rescind the rule as proposed. If, within this sixty-day period, the director notifies the board that the proposed rule is disapproved, the board shall not adopt, amend, or rescind the rule as proposed unless at least twelve members of the board vote to adopt, amend, or rescind it.

This division does not apply to an emergency rule adopted in accordance with section 119.03 of the Revised Code.

(F) Notwithstanding any requirement for a certificate issued in accordance with rules adopted by the board under this section, the board, in accordance with Chapter 4796. of the

Revised Code, shall issue a certificate that is a license as defined in section 4796.01 of the Revised Code to an individual if either of the following applies:

(1) The individual holds a license or certificate in another state.

(2) The individual has satisfactory work experience, a government certification, or a private certification as described in that chapter as a first responder, emergency medical technician-basic, emergency medical technician-intermediate, or emergency medical technician-paramedic in a state that does not issue that license or certificate.

Sec. 4765.431. (A) As used in this section:

(1) "Emergency medical technician" and "EMT" have the same meanings as "emergency medical technician-basic" and "EMT-basic," respectively.

(2) "Advanced emergency medical technician" and "AEMT" have the same meanings as "emergency medical technician-intermediate" and "AEMT," respectively.

(3) "Nonemergency transport" means the transport of an individual who requires routine transportation to or from a medical appointment or service, is convalescent or otherwise nonambulatory, and, during transport to the destination facility, does not require medical monitoring, aid, care, or treatment.

(B) When an ambulance is used for the nonemergency transport of a patient, the emergency medical service organization operating the ambulance shall staff the ambulance as follows:

(1) One individual to serve as the driver who meets the requirements established in rules adopted under this section, but is not necessarily an emergency medical technician, advanced emergency medical technician, or paramedic;

(2) In addition to the driver, at least one EMT, AEMT, or paramedic.

~~(C) The state board of emergency medical, fire, and transportation services shall adopt rules necessary to implement this section. The rules shall be adopted in accordance with Chapter 119. of the Revised Code.~~

Sec. 4765.45. (A) If the department of public safety collects any of the following information regarding the administration of overdose reversal drugs, as defined in section 4729.01 of the Revised Code, by emergency medical service personnel or any firefighter or volunteer firefighter, the department of public safety shall report the information for the previous month to the department of health on a monthly basis and in a manner prescribed by the department of health:

(1) The five-digit postal zip code plus four-digit add-on where the overdose reversal drug was administered;

(2) The date on which the overdose reversal drug was administered;

(3) The number of doses administered;

(4) The name of the emergency medical service organization or fire department that administered the overdose reversal drug;

(5) Whether or not an overdose was reversed;

(6) Whether the individual to whom the overdose reversal drug was administered was taken to a hospital;

(7) If known, the individual's age;

(8) If known, the United States postal zip code in which the individual resides.

When reporting to the department of health, the department of public safety shall not include any information that identifies or tends to identify specific individuals to whom overdose reversal drugs were administered.

(B) Each month, the department of health shall compile the information received under division (A) of this section, organize it by county, and forward it to each board of alcohol, drug addiction, and mental health services in this state.

~~(C) The department of health may adopt rules as necessary to implement this section. The rules shall be adopted in accordance with Chapter 119. of the Revised Code.~~

Sec. 4766.03. (A) The state board of emergency medical, fire, and transportation services shall adopt rules, in accordance with Chapter 119. of the Revised Code, ~~implementing the requirements of this chapter. The rules shall include provisions~~ relating to the following:

(1) Requirements for an emergency medical service organization to receive a permit for an ambulance or nontransport vehicle;

(2) Requirements for an emergency medical service organization to receive a license as a basic life-support, intermediate life-support, advanced life-support, or mobile intensive care unit organization;

(3) Requirements for a nonemergency medical service organization to receive a permit for an ambulette vehicle;

(4) Requirements for a nonemergency medical service organization to receive a license for an ambulette service;

(5) Requirements for an air medical service organization to receive a permit for a rotorcraft air ambulance or fixed wing air ambulance;

(6) Requirements for licensure of air medical service organizations;

(7) Forms for applications and renewals of licenses and permits;

(8) Requirements for record keeping of service responses made by licensed emergency medical service organizations;

(9) Fee amounts for licenses and permits, and their renewals;

(10) Inspection requirements for licensees' vehicles or aircraft, records, and physical facilities;

(11) Fee amounts for inspections of ambulances, ambulettes, rotorcraft air ambulances, fixed wing air ambulances, and nontransport vehicles;

(12) Requirements for ambulances and nontransport vehicles used by licensed emergency medical service organizations, for ambulette vehicles used by licensed nonemergency medical service organizations, and for rotorcraft air ambulances or fixed wing air ambulances used by licensed air medical service organizations that specify for each type of vehicle or aircraft the types of equipment that must be carried, the communication systems that must be maintained, and the personnel who must staff the vehicle or aircraft;

(13) The level of care each type of emergency medical

service organization, nonemergency medical service organization, and air medical service organization is authorized to provide;

(14) Eligibility requirements for employment as an ambulette driver, including grounds for disqualification due to the results of a motor vehicle law violation check, chemical test, or criminal records check. The rule may require that an applicant for employment as an ambulette driver provide a set of fingerprints to law enforcement authorities if the applicant comes under final consideration for employment.

(15) Any other rules that the board determines necessary for the implementation and enforcement of this chapter.

(B) In the rules for ambulances and nontransport vehicles adopted under division (A)(12) of this section, the board may establish requirements that vary according to whether the emergency medical service organization using the vehicles is licensed as a basic life-support, intermediate life-support, advanced life-support, or mobile intensive care unit organization.

(C) A mobile intensive care unit that is not dually certified to provide advanced life-support and meets the requirements of the rules adopted under this section is not required to carry immobilization equipment, including board splint kits, traction splints, backboards, backboard straps, cervical immobilization devices, cervical collars, stair chairs, folding cots, or other types of immobilization equipment determined by the board to be unnecessary for mobile intensive care units.

A mobile intensive care unit is exempt from the emergency medical technician staffing requirements of section 4765.43 of

the Revised Code when it is staffed by at least one physician or registered nurse and another person, designated by a physician, who holds a valid license or certificate to practice in a health care profession, and when at least one of the persons staffing the mobile intensive care unit is a registered nurse whose training meets or exceeds the training required for a paramedic.

Sec. 4768.03. The real estate appraiser board shall do all of the following:

(A) Adopt rules, in accordance with Chapter 119. of the Revised Code ~~in furtherance of this chapter, including, but not limited to~~, regarding all of the following:

(1) Procedures for criminal records checks that are required under section 4768.06 of the Revised Code, in accordance with division (L) of section 121.08 and division (C) of section 4768.06 of the Revised Code;

(2) The following nonrefundable fees:

(a) The initial appraisal management company license fee, which shall not exceed two thousand dollars;

(b) The annual renewal fee, which shall not exceed two thousand dollars;

(c) The late filing fee, which shall not exceed one thousand dollars, for the renewal of a license under division (C) of section 4768.07 of the Revised Code.

(3) Requirements for settlement agreements that the superintendent of real estate and professional licensing and an appraisal management company or other person may enter into under division (H) of section 4768.13 or division (C) of section 4768.14 of the Revised Code;

(4) Presumptions of compliance with regard to the customary and reasonable fees required under division (B) of section 4768.12 of the Revised Code. In adopting rules under division (A)(4) of this section, the board shall consider presumptions of compliance promulgated for the same purpose under the federal "Truth in Lending Act," 82 Stat. 146, 15 U.S.C. 1631 et seq.;

(5) Rules regarding consent to service of process for appraisal management companies in accordance with division (A)(6) of section 4768.06 of the Revised Code.

(B) Determine the appropriate disciplinary actions to be taken against a person, including a licensee, under section 4768.13 of the Revised Code;

(C) Hear appeals, pursuant to Chapter 119. of the Revised Code, from decisions and orders that the superintendent issues pursuant to this chapter;

(D) Request that the superintendent initiate an investigation of a violation of this chapter or the rules adopted under it, as the board determines appropriate.

Sec. 4771.05. The Ohio athletic commission, established under section 3773.33 of the Revised Code, shall do all of the following:

(A) Review the application form of an applicant for registration as an athlete agent;

(B) Issue and renew biennial certificates of registration for an athlete agent pursuant to this chapter;

(C) Maintain records of every athlete agent registered in this state, including the agent's business and residential

address, and the date and number of the agent's registration;

(D) Establish an application form to be completed by an individual seeking registration as an athlete agent;

(E) Establish a fee for the registration, and renewal of the registration, of an individual as an athlete agent in an amount necessary to generate sufficient funds to cover the cost of administering and enforcing this chapter~~;~~

~~(F) Adopt rules in accordance with Chapter 119. of the Revised Code to carry out the purposes of this chapter~~.

Sec. 4771.07. (A) Each individual who desires to serve as an athlete agent within this state shall first file an application for registration with the Ohio athletic commission. The applicant shall apply using a form prescribed by the commission and shall provide all the following information:

(1) The name and residential address of the applicant;

(2) The address of the primary location in which the applicant wishes to conduct business as an athlete agent;

(3) The type of business conducted or the occupation held by the applicant during the five years immediately preceding application;

(4) The location and evidence of a trust fund established in accordance with division (B) of section 4771.12 of the Revised Code and rules adopted by the commission;

(5) The name and address of all persons who have a financial interest in the business operation of the applicant, or who are compensated for the solicitation or recruitment of athletes on behalf of the applicant, except for salaried employees who receive no commission or bonus pursuant to any

agent or professional sports services contract;

(6) Any other information deemed necessary by the commission.

(B) The applicant shall submit with the application for registration an affidavit or certificate of completion describing all formal training or practical experience completed by the applicant in any of the following areas:

(1) Contracts;

(2) Contract negotiations;

(3) Complaint resolution;

(4) Arbitration;

(5) Dispute resolution.

An attorney admitted to practice law in this state shall submit with the application a certificate of good standing issued by the supreme court of Ohio in lieu of an affidavit or certificate otherwise required under this division.

(C) An applicant shall submit with the application for registration an application fee in an amount determined by the commission pursuant to division ~~(F)~~ (E) of section 4771.05 of the Revised Code and proof of one of the securities required under section ~~477.11~~ 4771.11 of the Revised Code.

(D) An athlete agent shall notify the commission of any change in business location or address during the period of application for registration or during the period of time the registration of the athlete agent is valid.

Sec. 4771.08. (A) Upon receipt of all the materials required for application for registration under section 4771.07

of the Revised Code, the Ohio athletic commission shall evaluate the information provided and issue a certificate of registration to the applicant, unless the commission finds that the applicant or an employee or representative of the applicant has committed any of the acts described in division (A) of section 4771.18 of the Revised Code.

Notwithstanding the requirements for a certificate of registration under this chapter, the commission shall issue a certificate of registration in accordance with Chapter 4796. of the Revised Code to an applicant if either of the following applies:

(1) The applicant is registered in another state.

(2) The applicant has satisfactory work experience, a government certification, or a private certification as described in that chapter as an athlete agent in a state that does not issue that certificate of registration.

(B) The commission may issue a temporary certificate of registration, effective for a period of up to ninety days after the issuance of the temporary registration, to a nonresident athlete agent who is registered as an athlete agent in another state, or to a person who has not submitted all the material required under section 4771.07 of the Revised Code, but who the commission determines to have submitted sufficient material to warrant the issuance of a temporary certificate. Chapter 4796. of the Revised Code does not apply to a temporary certificate of registration issued under this division.

(C) The registration of an athlete agent with the commission is valid for a period of two years after the date the certificate of registration is issued. An athlete agent shall

file an application for the renewal of a registration with the commission at least thirty days prior to the expiration of the registration of the athlete agent. An application for renewal shall be accompanied by a renewal fee in an amount determined by the commission pursuant to division ~~(F)~~(E) of section 4771.05 of the Revised Code.

(D) Each certificate of registration issued by the commission to an athlete agent shall contain all the following information:

(1) The name of the athlete agent;

(2) The address of the primary location in which the athlete agent is authorized to conduct business as an athlete agent;

(3) A registration number for the athlete agent and the date of issuance of the registration.

(E) No registration or certificate of registration is valid for any individual other than the athlete agent to whom it is issued.

(F) The commission is not liable for the acts of an athlete agent who is registered with the commission.

Sec. 4772.13. (A) Subject to division (B) of this section, a certified mental health assistant may prescribe to a patient a controlled substance only if the controlled substance is one of the following:

(1) Buprenorphine, but only for a patient that is actively engaged in opioid use disorder treatment;

(2) A benzodiazepine, but only in the following circumstances:

(a) For a patient diagnosed by the supervising physician as having a chronic anxiety disorder;

(b) For a patient with acute anxiety or agitation, but only in an amount indicated for a period not to exceed seven days.

(3) A stimulant that has been approved by the federal food and drug administration for the treatment of attention deficit hyperactivity disorder, but only if the supervising physician has diagnosed the patient with, or confirmed the patient's diagnosis of, attention deficit ~~hyper activity~~ hyperactivity disorder.

(B) Except as provided in division (C) of this section, a certified mental health assistant licensed under this chapter who has been granted physician-delegated prescriptive authority by the physician supervising the certified mental health assistant shall comply with all of the following as conditions of prescribing a controlled substance identified in division (A) of this section as part of a patient's course of treatment for a particular condition:

(1) Before initially prescribing the drug, the certified mental health assistant or the certified mental health assistant's delegate shall request from the drug database a report of information related to the patient that covers at least the twelve months immediately preceding the date of the request. If the certified mental health assistant practices primarily in a county of this state that adjoins another state, the certified mental health assistant or delegate also shall request a report of any information available in the drug database that pertains to prescriptions issued or drugs furnished to the patient in the state adjoining that county.

(2) If the patient's course of treatment for the condition continues for more than ninety days after the initial report is requested, the certified mental health assistant or delegate shall make periodic requests for reports of information from the drug database until the course of treatment has ended. The requests shall be made at intervals not exceeding ninety days, determined according to the date the initial request was made. The request shall be made in the same manner provided in division (B)(1) of this section for requesting the initial report of information from the drug database.

(3) On receipt of a report under division (B)(1) or (2) of this section, the certified mental health assistant shall assess the information in the report. The certified mental health assistant shall document in the patient's record that the report was received and the information was assessed.

(C) Division (B) of this section does not apply in any of the following circumstances:

(1) A drug database report regarding the patient is not available, in which case the certified mental health assistant shall document in the patient's record the reason that the report is not available.

(2) The drug is prescribed in an amount indicated for a period not to exceed seven days.

(3) The drug is prescribed to a hospice patient in a hospice care program, as those terms are defined in section 3712.01 of the Revised Code, or any other patient diagnosed as terminally ill.

(4) The drug is prescribed for administration in a hospital, nursing home, or residential care facility.

(5) If the state board of pharmacy no longer maintains the drug database.

(D) The state medical board shall adopt rules in accordance with Chapter 119. of the Revised Code ~~to implement this section, including~~ regarding both of the following:

(1) Standards and procedures to be followed by a certified mental health assistant who has been granted physician-delegated prescriptive authority regarding the review of patient information available through the drug database under division (A)(5) of section 4729.80 of the Revised Code.

The rules adopted under this division do not apply if the state board of pharmacy no longer maintains the drug database.

(2) Standards and procedures to be followed by a certified mental health assistant in the use of buprenorphine for use in medication-assisted treatment, including regarding detoxification, relapse prevention, patient assessment, individual treatment planning, counseling and recovery supports, diversion control, and other topics selected by the board after considering best practices in medication-assisted treatment.

The board may apply the rules to all circumstances in which a certified mental health assistant prescribes drugs for use in medication-assisted treatment or limit the application of the rules to prescriptions for medication-assisted treatment issued for patients being treated in office-based practices or other practice types or locations specified by the board.

The rules adopted under this division shall be consistent with this chapter and, to the extent consistent with this chapter, rules adopted under sections 4723.51, 4730.55, and 4731.056 of the Revised Code.

Sec. 4772.19. ~~(A)~~ The state medical board shall adopt rules in accordance with Chapter 119. of the Revised Code ~~to implement and administer this chapter.~~

~~(B) The rules adopted under this section shall include~~ regarding all of the following:

~~(1)~~ (A) Standards and procedures for issuing and renewing licenses to practice as a certified mental health assistant;

~~(2)~~ (B) Application fees for an initial or renewed license;

~~(3)~~ (C) Rules governing physician-delegated prescriptive authority for certified mental health assistants;

~~(4)~~ (D) Rules establishing quality assurance standards for certified mental health assistants, including a process to be used for all of the following:

~~(a)~~ (1) Routine review by the supervising physician of selected patient record entries made by the certified mental health assistant and selected medical orders issued by the certified mental health assistant;

~~(b)~~ (2) Discussion of complex cases;

~~(c)~~ (3) Discussion of new medical developments relevant to the practice of the supervising physician and certified mental health assistant;

~~(d)~~ (4) Performance of any other quality assurance activities the board considers necessary.

~~(5) Any other standards and procedures the board considers necessary to govern the practice of certified mental health assistants, the supervisory relationship between certified mental health assistants and supervising physicians, and the~~

~~administration and enforcement of this chapter.~~

Sec. 4773.08. The director of health shall adopt rules ~~to implement and administer this chapter. In adopting the rules, the director shall consider~~ considering any recommendations made by the radiation advisory council created under section 3748.20 of the Revised Code. The rules shall be adopted in accordance with Chapter 119. of the Revised Code and shall not be less stringent than any applicable standards specified in 42 C.F.R. 75. The rules shall establish all of the following:

(A) Standards for licensing general x-ray machine operators, radiographers, radiation therapy technologists, and nuclear medicine technologists;

(B) Application, renewal, and reinstatement fees for licenses issued under this chapter that do not exceed the cost incurred in issuing, renewing, and reinstating the licenses;

(C) Standards for accreditation of educational programs and approval of continuing education programs in general x-ray machine operation, radiology, radiation therapy technology, and nuclear medicine technology;

(D) Fees for accrediting educational programs and approving continuing education programs in general x-ray machine operation, radiology, radiation therapy technology, and nuclear medicine technology that do not exceed the cost incurred in accrediting the educational programs;

(E) Fees for issuing conditional licenses under section 4773.05 of the Revised Code that do not exceed the cost incurred in issuing the licenses;

(F) Continuing education requirements that must be met to have a license renewed or reinstated under section 4773.03 of

the Revised Code;

(G) Continuing education requirements that the holder of a conditional license must meet to receive a license issued under section 4773.03 of the Revised Code;

(H) Standards for approving national certifying organizations that certify nuclear medicine technologists or radiation therapy technologists to perform computed tomography;

(I) Standards for performing computed tomography procedures~~;~~

~~(J) Any other rules necessary for the implementation or administration of this chapter~~.

Sec. 4774.062. (A) An individual who holds a current, valid license issued under this chapter to practice as a radiologist assistant and who retires voluntarily from practice may request that the state medical board place the individual's license on retired status.

(B) An individual seeking to have the individual's license placed on retired status shall file with the board an application in the form and manner prescribed by the board. The application shall be submitted before the end of a biennial renewal period and include all of the following:

(1) The applicant's full name, license number, mailing address, and electronic mail address;

(2) An attestation that the information included in the application is accurate and truthful and that the applicant meets the following qualifications:

(a) That the applicant holds a current, valid license issued under this chapter;

(b) That the applicant has retired voluntarily from practice as a radiologist assistant;

(c) That the applicant does not have any criminal charges pending against the applicant;

(d) That the applicant is not the subject of discipline by, or an investigation pending with, a regulatory agency of this state, another state, or the United States;

(e) That the applicant does not have any complaints pending with the board;

(f) That the applicant is not, at the time of application, subject to the board's hearing, disciplinary, or compliance processes under the terms of a citation, notice of opportunity for hearing, board order, or consent agreement.

(3) A fee in an amount equal to the sum of the biennial renewal fee and restoration penalty described in section 4774.06 of the Revised Code.

The board shall not consider an application for retired status complete until the board receives the fee described in this division. On receipt of a fee, the board shall deposit the fee in accordance with section 4731.24 of the Revised Code.

(C) If the board determines that an applicant meets the requirements of division (B) of this section, the board shall place the applicant's license on retired status. The license remains on retired status for the life of the license holder, unless suspended, revoked, or reactivated, and does not require renewal.

(D) During the period in which a license is on retired status, all of the following apply:

(1) The license holder is prohibited from practicing as a radiologist assistant under any circumstance.

(2) The license holder is prohibited from using the license to obtain a license to practice as a radiologist assistant in another state, whether by endorsement or reciprocity or through a licensure compact.

(3) The license holder is not required to complete the continuing education described in section 4774.06 of the Revised Code.

(4) The license holder may use a title authorized for the holder's license as described in section 4774.02 of the Revised Code, but only if "retired" also is included in the title.

(E) If a license has been placed on retired status pursuant to this section, it may be reactivated. Subject to section 4774.061 of the Revised Code, the board may reactivate a license placed on retired status if all of the following conditions are satisfied:

(1) The individual seeking to reactivate the license applies to the board in the form and manner prescribed by the board.

(2) The applicant certifies completion of, within the two-year period that ends on the date of the application's submission, the continuing education requirements that must be met for renewal of a license.

(3) The applicant complies with sections 4776.01 to 4776.04 of the Revised Code.

(4) The applicant pays a reactivation fee in an amount equal to the sum of the biennial renewal fee and restoration

penalty described in section 4774.06 of the Revised Code.

The board shall not consider an application to reactivate a license complete until the board receives the fee described in this division. On receipt of a fee, the board shall deposit the fee in accordance with section 4731.24 of the Revised Code.

(F) The board shall reactivate a license placed on retired status if the conditions of division (E) of this section have been satisfied and the board, in its discretion, determines that the results of the criminal records check conducted pursuant to sections 4776.01 to 4776.04 of the Revised Code do not make the applicant ineligible for active status.

(G) The board may take disciplinary action against an applicant who is seeking to place a license on retired status or to reactivate the license if the applicant commits fraud, misrepresentation, or deception in applying for or securing the retired status or reactivation.

The board also may take disciplinary action against the holder of a license placed on retired status if the holder practices under the license, uses the license to obtain licensure as a radiologist assistant in another state, or uses a title that does not reflect the holder's retired status.

In taking disciplinary action under this section, the board may impose on the applicant or holder any sanction described in section 4774.13 of the Revised Code, but shall do so in accordance with the procedures described in that section.

~~(H) The board may adopt rules to implement and enforce this section. The rules shall be adopted in accordance with Chapter 119. of the Revised Code.~~

Sec. 4774.11. ~~(A)~~ The state medical board shall adopt

rules in accordance with Chapter 119. of the Revised Code ~~to implement and administer this chapter. In adopting the rules, the board shall take~~ regarding all of the following, taking into consideration the guidelines adopted by the American college of radiology, the American society of radiologic technologists, and the American registry of radiologic technologists~~.~~

~~(B) The rules adopted under this section shall include all of the following~~:

~~(1)~~(A) Standards and procedures for issuing and renewing licenses to practice as a radiologist assistant;

~~(2)~~(B) Application fees for an initial or renewed license;

~~(3)~~(C) Any additional radiologic procedures that radiologist assistants may perform pursuant to division (A)(5) of section 4774.08 of the Revised Code and the level of supervision that the supervising radiologist is required to provide pursuant to section 4774.10 of the Revised Code;

~~(4)~~(D) Definitions of "general anesthesia," "deep sedation," "moderate sedation, "and "minimal sedation."~~;~~

~~(5) Any other standards and procedures the board considers necessary to govern the practice of radiologist assistants, the supervisory relationship between radiologist assistants and supervising radiologists, and the administration and enforcement of this chapter.~~

Sec. 4775.04. (A) The motor vehicle repair board shall do all of the following:

(1) Adopt rules in accordance with Chapter 119. of the Revised Code ~~as necessary to carry out the purposes of this~~

~~chapter. The rules shall include~~ regarding requirements for the type of liability insurance required under division (A) of section 4775.07 of the Revised Code. The rules shall permit the use of an insurance policy issued by any insurer authorized to issue that type of insurance in this state.

(2) Appoint an executive director to serve at the pleasure of the board;

(3) Direct the executive director as to how the executive director shall perform the duties imposed under this chapter;

(4) Consider and make recommendations in regard to all matters submitted to the board by the executive director;

(5) Determine whether to refuse to issue or renew a registration certificate or determine whether to waive a suspension of a registration certificate as provided in division (D) of section 4775.07 of the Revised Code;

(6) Do all acts and perform all functions as are necessary for the administration and enforcement of this chapter.

(B) Nothing in this chapter shall be interpreted as granting the board any authority over a motor vehicle collision repair operator concerning the quality of work performed in the repair of, or installation of parts on, motor vehicles.

Sec. 4778.03. (A) Except as provided in division (D) of this section, an individual seeking a license to practice as a genetic counselor shall file with the state medical board an application in a manner prescribed by the board. The application shall include all the information the board considers necessary to process the application, including evidence satisfactory to the board that the applicant meets the requirements specified in division (B) of this section.

At the time an application is submitted, the applicant shall pay the board an application fee of two hundred dollars. No part of the fee shall be returned to the applicant or transferred for purposes of another application.

(B) Except as provided in division (D) of this section, to be eligible to receive a license to practice as a genetic counselor, an applicant shall demonstrate to the board that the applicant meets all of the following requirements:

(1) Is at least eighteen years of age;

(2) Has attained a master's degree or higher degree from a genetic counseling graduate program accredited by the American board of genetic counseling, inc.;

(3) Is a certified genetic counselor~~;~~

~~(4) Has satisfied any other requirements established by the board in rules adopted under section 4778.12 of the Revised Code~~.

(C) The board shall review all applications received under this section. Not later than sixty days after receiving an application it considers complete, the board shall determine whether the applicant meets the requirements for a license to practice as a genetic counselor.

(D) The board shall issue a license to practice as a genetic counselor in accordance with Chapter 4796. of the Revised Code to an applicant if either of the following applies:

(1) The applicant holds a license in another state.

(2) The applicant has satisfactory work experience, a government certification, or a private certification as described in that chapter as a genetic counselor in a state that

does not issue that license.

Sec. 4778.072. (A) An individual who holds a current, valid license issued under this chapter to practice as a genetic counselor and who retires voluntarily from practice may request that the state medical board place the individual's license on retired status.

(B) An individual seeking to have the individual's license placed on retired status shall file with the board an application in the form and manner prescribed by the board. The application shall be submitted before the end of a biennial renewal period and include all of the following:

(1) The applicant's full name, license number, mailing address, and electronic mail address;

(2) An attestation that the information included in the application is accurate and truthful and that the applicant meets the following qualifications:

(a) That the applicant holds a current, valid license issued under this chapter;

(b) That the applicant has retired voluntarily from practice as a genetic counselor;

(c) That the applicant does not have any criminal charges pending against the applicant;

(d) That the applicant is not the subject of discipline by, or an investigation pending with, a regulatory agency of this state, another state, or the United States;

(e) That the applicant does not have any complaints pending with the board;

(f) That the applicant is not, at the time of application, subject to the board's hearing, disciplinary, or compliance processes under the terms of a citation, notice of opportunity for hearing, board order, or consent agreement.

(3) A fee in an amount equal to the sum of the biennial renewal fee and restoration penalty described in section 4778.07 of the Revised Code.

The board shall not consider an application for retired status complete until the board receives the fee described in this division. On receipt of a fee, the board shall deposit the fee in accordance with section 4731.24 of the Revised Code.

(C) If the board determines that an applicant meets the requirements of division (B) of this section, the board shall place the applicant's license on retired status. The license remains on retired status for the life of the license holder, unless suspended, revoked, or reactivated, and does not require renewal.

(D) During the period in which a license is on retired status, all of the following apply:

(1) The license holder is prohibited from practicing as a genetic counselor under any circumstance.

(2) The license holder is not required to complete the continuing education required by section 4778.06 of the Revised Code.

(3) The license holder is prohibited from using the license to obtain a license to practice as a genetic counselor in another state, whether by endorsement or reciprocity or through a licensure compact.

(4) The license holder may use a title authorized for the holder's license as described in section 4778.02 of the Revised Code, but only if "retired" also is included in the title.

(E) If a license has been placed on retired status pursuant to this section, it may be reactivated. Subject to section 4778.071 of the Revised Code, the board may reactivate a license placed on retired status if all of the following conditions are satisfied:

(1) The individual seeking to reactivate the license applies to the board in the form and manner prescribed by the board.

(2) The applicant certifies completion of, within the two-year period that ends on the date of the application's submission, the continuing education requirements for renewal of a license to practice.

(3) The applicant complies with sections 4776.01 to 4776.04 of the Revised Code.

(4) The applicant pays a reactivation fee in an amount equal to the sum of the biennial renewal fee and restoration penalty described in section 4778.07 of the Revised Code.

The board shall not consider an application to reactivate a license complete until the board receives the fee described in this division. On receipt of a fee, the board shall deposit the fee in accordance with section 4731.24 of the Revised Code.

(F) The board shall reactivate a license placed on retired status if the conditions of division (E) of this section have been satisfied and the board, in its discretion, determines that the results of the criminal records check conducted pursuant to sections 4776.01 to 4776.04 of the Revised Code do not make the

applicant ineligible for active status.

(G) The board may take disciplinary action against an applicant who is seeking to place a license on retired status or to reactivate the license if the applicant commits fraud, misrepresentation, or deception in applying for or securing the retired status or reactivation.

The board also may take disciplinary action against the holder of a license placed on retired status if the holder practices under the license, uses the license to obtain licensure as a genetic counselor in another state, or uses a title that does not reflect the holder's retired status.

In taking disciplinary action under this section, the board may impose on the applicant or holder any sanction described in section 4778.14 of the Revised Code, but shall do so in accordance with the procedures described in that section.

~~(H) The board may adopt rules to implement and enforce this section. The rules shall be adopted in accordance with Chapter 119. of the Revised Code.~~

Sec. 4778.12. The state medical board shall adopt rules in accordance with Chapter 119. of the Revised Code ~~to implement and administer this chapter. The rules shall include~~ regarding the following:

(A) Any standards and procedures not addressed in this chapter that the board considers necessary for issuing and renewing licenses under this chapter;

(B) Any standards and procedures the board considers necessary to govern the practice of genetic counselors, the collaborative agreements between genetic counselors and collaborating physicians, and the supervision of genetic

counselors holding supervised practice licenses~~;~~

~~(C) Any other standards and procedures the board considers necessary for the administration and enforcement of this chapter~~.

Sec. 4779.08. (A) The Ohio occupational therapy, physical therapy, and athletic trainers board shall adopt rules in accordance with Chapter 119. of the Revised Code ~~to carry out the purposes of this chapter, including rules~~ prescribing all of the following:

(1) The form and manner of filing of applications to be admitted to examinations and for licensure and license renewal;

(2) Standards and procedures for formulating, evaluating, approving, and administering licensing examinations or recognizing other entities that conduct examinations;

(3) The form, scoring, and scheduling of licensing examinations;

(4) Fees for examinations and applications for licensure and license renewal;

(5) Fees for approval of continuing education courses;

(6) Procedures for issuance, renewal, suspension, and revocation of licenses and the conduct of disciplinary hearings;

(7) The schedule to be used for biennial renewal of licenses;

(8) Standards of ethical and professional conduct in the practice of orthotics, prosthetics, and pedorthics;

(9) Standards for approving national certification organizations in orthotics, prosthetics, and pedorthics;

(10) Fines for violations of this chapter;

(11) Standards for the recognition and approval of educational programs required for licensure, including standards for approving foreign educational credentials;

(12) Standards for continuing education programs required for license renewal;

(13) The amount, scope, and nature of continuing education activities required for license renewal, including waivers of the continuing education requirements;

(14) Provisions for making available the information described in section 4779.22 of the Revised Code;

(15) Requirements for criminal records checks of applicants under section 4776.03 of the Revised Code;

(16) Requirements for an individual who is not licensed under this chapter to practice prosthetics or orthotics and prosthetics to engage in the 3-D printing of open-source prosthetic kits;

(17) Requirements for an applicant to be eligible for an orthotics, prosthetics, or orthotics and prosthetics license because of the applicant's unique and exceptional qualifications based on the recommendations submitted to the board by the orthotics, prosthetics, and pedorthics advisory council under section 4779.35 of the Revised Code, including standards for satisfactory evidence that demonstrate the applicant's qualifications through the applicant's education, experience, or training.

(B) ~~The board may adopt any other rules necessary for the administration of this chapter.~~

~~(C)~~ All fees received by the board under this section shall be deposited in the state treasury to the credit of the occupational licensing and regulatory fund established in section 4743.05 of the Revised Code.

Sec. 4779.32. If any person makes an allegation against an individual who holds a license issued under this chapter, the allegation shall be reduced to writing and verified by a person who is familiar with the facts underlying the allegation. The person making the allegation shall file the allegation with the Ohio occupational therapy, physical therapy, and athletic trainers board. If a person alleges that a license holder is engaging or has engaged in conduct described in division (A) of section 4779.28 of the Revised Code, the board may proceed with an adjudication hearing under Chapter 119. of the Revised Code. The board shall retain the information filed under this section in accordance with rules adopted by the board ~~under section 4779.08 of the Revised Code~~.

Sec. 4781.04. (A) The department of commerce, division of industrial compliance shall adopt rules pursuant to Chapter 119. of the Revised Code to do all of the following:

(1) Establish uniform standards that govern the installation of manufactured housing that are consistent with, and not less stringent than, the model standards for the design and installation of manufactured housing the secretary of the United States department of housing and urban development adopts;

(2) Govern the inspection of the installation of manufactured housing. The rules shall specify that the division of industrial compliance, any building department or personnel of any department, or any private third party, certified

pursuant to section 4781.07 of the Revised Code shall conduct all inspections of the installation of manufactured housing located in manufactured home parks to determine compliance with the uniform installation standards the division of industrial compliance establishes pursuant to this section.

(3) Govern the design, construction, installation, approval, and inspection of foundations and the base support systems for manufactured housing. The rules shall specify that the division of industrial compliance, any building department or personnel of any department, or any private third party, certified pursuant to section 4781.07 of the Revised Code shall conduct all inspections of the installation, foundations, and base support systems of manufactured housing located in manufactured home parks to determine compliance with the uniform installation standards and foundation and base support system design the division of industrial compliance establishes pursuant to this section.

(4) Govern the training, experience, and education requirements for manufactured housing installers;

(5) Establish a code of ethics for manufactured housing installers;

(6) Govern the issuance, revocation, and suspension of licenses to manufactured housing installers;

(7) Establish fees for the issuance and renewal of licenses, for conducting inspections to determine an applicant's compliance with this chapter and the rules adopted pursuant to it, and for the division's expenses incurred in implementing this chapter;

(8) Establish conditions under which a licensee may enter

into contracts to fulfill the licensee's responsibilities;

(9) Govern the investigation of complaints concerning any complaints involving the conduct of any licensed manufactured housing installer or person installing manufactured housing without a license;

(10) Establish a dispute resolution program for the timely resolution of warranty issues involving new manufactured homes, disputes regarding responsibility for the correction or repair of defects in manufactured housing, and the installation of manufactured housing. The rules shall provide for the timely resolution of disputes between manufacturers, manufactured housing dealers, and installers regarding the correction or repair of defects in manufactured housing that are reported by the purchaser of the home during the one-year period beginning on the date of installation of the home. The rules also shall provide that decisions made regarding the dispute under the program are not binding upon the purchaser of the home or the other parties involved in the dispute unless the purchaser so agrees in a written acknowledgement that the purchaser signs and delivers to the program within ten business days after the decision is issued.

(11) Establish the requirements and procedures for the certification of building departments and building department personnel pursuant to section 4781.07 of the Revised Code;

(12) Establish fees to be charged to building departments and building department personnel applying for certification and renewal of certification pursuant to section 4781.07 of the Revised Code;

(13) Develop a policy regarding the maintenance of records

for any inspection authorized or conducted pursuant to this chapter. Any record maintained under division (A)(13) of this section shall be a public record under section 149.43 of the Revised Code.

(B) The division of industrial compliance shall do all of the following:

(1) Prepare and administer a licensure examination to determine an applicant's knowledge of manufactured housing installation and other aspects of installation the division determines appropriate;

(2) Select, provide, or procure appropriate examination questions and answers for the licensure examination and establish the criteria for successful completion of the examination;

(3) Prepare and distribute any application form sections 4781.01 to 4781.11 of the Revised Code require;

(4) Receive applications for licenses and renewal of licenses and issue licenses to qualified applicants;

(5) Establish procedures for processing, approving, and disapproving applications for licensure;

(6) Retain records of applications for licensure, including all application materials submitted and a written record of the action taken on each application;

(7) Review the design and plans for manufactured housing installations, foundations, and support systems;

(8) Inspect a sample of homes at a percentage the division determines to evaluate the construction and installation of manufactured housing installations, foundations, and support

systems to determine compliance with the standards the division adopts;

(9) Investigate complaints concerning violations of this chapter or the rules adopted pursuant to it, or the conduct of any manufactured housing installer;

(10) Determine appropriate disciplinary actions for violations of this chapter;

(11) Conduct audits and inquiries of manufactured housing installers as appropriate for the enforcement of this chapter. The division, or any person the division employs for the purpose, may review and audit the business records of any manufactured housing installer during normal business hours.

(12) Approve an installation training course, which may be offered by the Ohio manufactured homes association or other entity.

(C) Nothing in this section, or in any rule adopted by the division of industrial compliance, shall be construed to limit the authority of a board of health to enforce section 3701.344 or Chapters 3703., 3718., and 3781. of the Revised Code or limit the authority of the department of administrative services to lease space for the use of a state agency and to group together state offices in any city in the state as provided in section 123.01 of the Revised Code.

~~(D) The department of commerce, division of real estate and professional licensing may adopt rules pursuant to Chapter 119. of the Revised Code necessary for administration of the provisions of this chapter related to manufactured home dealers, brokers, and salespersons.~~

Sec. 4783.03. ~~(A)~~ The state board of psychology shall

~~administer and enforce this chapter. The board shall~~ adopt rules under Chapter 119. of the Revised Code establishing all of the following:

~~(1)~~ (A) Procedures and requirements for applying for a certificate issued under section 4783.04 of the Revised Code;

~~(2)~~ (B) Fees for issuance of a certificate;

~~(3)~~ (C) Reductions of the hours of continuing education required by section 4783.05 of the Revised Code for persons in their first certificate period.

~~(B) The board may adopt additional rules in accordance with Chapter 119. of the Revised Code as the board determines are necessary to implement and enforce this chapter.~~

Sec. 4785.08. (A) In accordance with Chapter 119. of the Revised Code, the superintendent of industrial compliance shall adopt rules pertaining to all of the following:

(1) The issuance and renewal of elevator mechanic's licenses and elevator contractor's licenses;

(2) The list of disqualifying offenses required under division (B) of section 9.79 of the Revised Code.

(B) In accordance with Chapter 119. of the Revised Code, the superintendent may adopt rules pertaining to all of the following:

(1) Assisting in the development of public awareness programs;

(2) Classifications or subclassifications of licenses for elevator mechanics and elevator contractors;

(3) Monitoring inspections and testing in order to ensure

satisfactory performance by licensees;

(4) Fee schedules for elevator mechanic and elevator contractor licenses. The fees shall reflect the actual costs and expenses necessary to administer this chapter.

(5) Establishing standards for the approval of license testing agencies, pursuant to division (D)(1)(b) of section 4785.04 of the Revised Code;

(6) Establishing standards for the approval of continuing education and training providers, pursuant to division (B) of section 4785.041 of the Revised Code~~;~~

~~(7) Any other rules necessary to administer and carry out this chapter~~.

(C) Notwithstanding divisions (A) and (B) of this section or Chapter 4105. of the Revised Code, the superintendent shall not adopt rules relating to the construction, maintenance, and repair of elevators, except as pertaining to licensing individuals under this chapter.

(D) The superintendent may exercise such other powers and duties as are necessary to carry out the purpose and intent of this chapter.

(E) Notwithstanding any provision of section 121.95 of the Revised Code to the contrary, the superintendent may adopt rules pertaining to the issuance and renewal of elevator mechanic's licenses and elevator contractor's licenses that contain regulatory restrictions as described in that section without simultaneously removing two or more other existing regulatory restrictions.

Sec. 4796.30. Each licensing authority shall adopt rules

~~as necessary to implement this chapter, including rules~~ regarding issuing restricted or limited licenses or government certifications under section 4796.10 of the Revised Code.

Sec. 4905.06. The public utilities commission has general supervision over all public utilities within its jurisdiction as defined in section 4905.05 of the Revised Code, and may examine such public utilities and keep informed as to their general condition, capitalization, and franchises, and as to the manner in which their properties are leased, operated, managed, and conducted with respect to the adequacy or accommodation afforded by their service, the safety and security of the public and their employees, and their compliance with all laws, orders of the commission, franchises, and charter requirements. The commission has general supervision over all other companies referred to in section 4905.05 of the Revised Code to the extent of its jurisdiction as defined in that section, and may examine such companies and keep informed as to their general condition and capitalization, and as to the manner in which their properties are leased, operated, managed, and conducted with respect to the adequacy or accommodation afforded by their service, and their compliance with all laws and orders of the commission, insofar as any of such matters may relate to the costs associated with the provision of electric utility service by public utilities in this state which are affiliated or associated with such companies. The commission, through the public utilities commissioners or inspectors or employees of the commission authorized by it, may enter in or upon, for purposes of inspection, any property, equipment, building, plant, factory, office, apparatus, machinery, device, and lines of any public utility. The power to inspect includes the power to prescribe any ~~rule or~~ order that the commission finds necessary

for protection of the public safety. In order to assist the commission in the performance of its duties under this chapter, authorized employees of the motor carrier enforcement unit, created under section 5503.34 of the Revised Code in the division of state highway patrol, of the department of public safety may enter in or upon, for inspection purposes, any motor vehicle of any motor carrier.

In order to inspect motor vehicles owned or operated by a motor carrier engaged in the transportation of persons, authorized employees of the motor carrier enforcement unit, division of state highway patrol, of the department of public safety may enter in or upon any property of any motor carrier engaged in the intrastate transportation of persons.

Sec. 4905.301. (A) As used in this section:

(1) "Governmental entity" has the same meaning as in section 9.23 of the Revised Code, except that "governmental entity" excludes a municipal corporation.

(2) "Right of way" means the surface of, and the space within, through, on, across, above, or below any land designated for public use that is owned or controlled by a governmental entity, except that "right of way" includes a public way as defined in section 4939.01 of the Revised Code, and is not a private easement.

(B) A public utility subject to the rate-making jurisdiction of the public utilities commission may file an application with the commission for the accounting authority to classify a cost that meets the requirements of division (C) of this section as a regulatory asset for the purpose of recovering the cost. The commission, by order, shall authorize such

accounting authority as may be reasonably necessary to classify the cost as a regulatory asset.

(C) A cost is eligible for recovery as a regulatory asset under this section if the cost is directly incurred by the public utility on or after ~~the effective date of this section~~ April 3, 2025, as a result of a governmental entity's regulation of the public utility's occupancy or use of a right of way.

(D) If the commission determines, upon an application under division (B) of this section or its own initiative, that classification of a cost described in division (C) of this section as a regulatory asset is not practical or that deferred recovery of that cost would impose a hardship on the public utility or its customers, the commission shall establish a charge and collection mechanism to permit the public utility full recovery of that cost.

(E) Cost recovery authorized as a regulatory asset under this section is not subject to any other provision of law or any agreement establishing price caps, rate freezes, or rate increase moratoria.

(F) The commission shall process applications submitted under this section in the same manner as set forth in divisions (E) and (F) of section 4939.07 of the Revised Code~~ and according to rules adopted under division (G) of that section~~.

Sec. 4905.72. (A) As used in this section:

(1) "Natural gas service" means the sale of natural gas, exclusive of any distribution or ancillary service.

(2) "Public telecommunications service" means the transmission by a telephone company, by electromagnetic or other means, of signs, signals, writings, images, sounds, messages, or

data originating in this state regardless of actual call routing, but does not include a system, including its construction, maintenance, or operation, for the provision of telecommunications service, or any portion of such service, by any entity for the sole and exclusive use of that entity, its parent, a subsidiary, or an affiliated entity, and not for resale, directly or indirectly; the provision of terminal equipment used to originate telecommunications service; broadcast transmission by radio, television, or satellite broadcast stations regulated by the federal government; or cable television service.

(B)(1) No public utility shall request or submit, or cause to be requested or submitted, a change in the provider of natural gas service or public telecommunications service to a consumer in this state, without first obtaining, or causing to be obtained, the verified consent of the consumer in accordance with rules adopted by the public utilities commission pursuant to division (D) of this section.

(2) No public utility shall violate or fail to comply with any provision of a rule adopted by the commission pursuant to division (D) of this section or any provision of an order issued by the commission pursuant to division (B) or (C) of section 4905.73 of the Revised Code.

(C)(1) Division (B) of this section does not apply to the transfer of a customer's natural gas service or public telecommunications service that occurs solely due to the operation of default provisions in the schedule of a public utility filed under section 4905.30 of the Revised Code.

(2) Consistent with the exclusion, under 47 C.F.R. 64.1100 (a)(3), of commercial mobile radio service providers from the

verification requirements adopted in 47 C.F.R. 64.1100, 64.1150, 64.1160, 64.1170, 64.1180, and 64.1190 by the federal communications commission, division (B) of this section does not apply to a provider of commercial mobile radio service insofar as such provider is engaged in the provision of commercial mobile radio service. However, when that exclusion no longer is in effect, division (B) of this section shall apply to such a provider, and the commission shall adopt rules applicable to such a provider in accordance with division (D) of this section.

(D) The commission shall adopt competitively neutral rules prescribing procedures necessary for verifying the consent of a consumer for purposes of division (B)(1) of this section and any procedures necessary for the filing of a security under division (C)(5) of section 4905.73 of the Revised Code~~, and may adopt such other competitively neutral rules as the commission considers necessary to carry out this section and section 4905.73 of the Revised Code~~. With respect to public telecommunications service only, the rules prescribing procedures necessary for verifying consumer consent shall be consistent with the rules of the federal communications commission in 47 C.F.R. 64.1100 and 64.1150.

Sec. 4905.79. Any telephone company, as defined in section 5727.01 of the Revised Code, or, as authorized by the public utilities commission, any affiliate of such a company, that provides any telephone service program implemented after March 27, 1991, to aid persons with communicative impairments in accessing the telephone network shall be allowed a tax credit for the costs of any such program under section 5733.56 of the Revised Code. Relative to any such program, the commission, in accordance with its rules, shall allow interested parties to intervene and participate in any proceeding or part of a

proceeding brought before the commission pursuant to this section. ~~The commission shall adopt rules it considers necessary to carry out this section.~~

Sec. 4905.81. The public utilities commission shall:

(A) Supervise and regulate each motor carrier;

(B) Regulate the safety of operation of each motor carrier, and of each intermodal equipment provider as defined in section 4923.041 of the Revised Code;

(C) Adopt reasonable safety rules applicable to the highway transportation of persons or property in interstate and intrastate commerce by motor carriers;

(D) Adopt safety rules applicable to the transportation and offering for transportation of hazardous materials in interstate and intrastate commerce by motor carriers. The rules shall not be incompatible with the requirements of the United States department of transportation.

(E) Require the filing of reports and other data by motor carriers;

(F) ~~Adopt reasonable rules for the administration and enforcement of this chapter and Chapters 4901., 4903., 4907., 4909., 4921., and 4923. of the Revised Code applying to each motor carrier in this state;~~

~~(G)~~ Supervise and regulate motor carriers in all other matters affecting the relationship between those carriers and the public to the exclusion of all local authorities, except as provided in this section. The commission, in the exercise of the jurisdiction conferred upon it by this chapter and Chapters 4901., 4903., 4907., 4909., 4921., and 4923. of the Revised

Code, may adopt rules affecting motor carriers, notwithstanding the provisions of any ordinance, resolution, license, or permit enacted, adopted, or granted by any township, municipal corporation, municipal corporation and county, or county. In case of conflict between any such ordinance, resolution, license, or permit, the order or rule of the commission shall prevail. Local subdivisions may adopt reasonable local police rules within their respective boundaries not inconsistent with those chapters and rules adopted under them.

The commission has jurisdiction to receive, hear, and determine as a question of fact, upon complaint of any party or upon its own motion, and upon not less than fifteen days' notice of the time and place of the hearing and the matter to be heard, whether any corporation, company, association, joint-stock association, person, firm, or copartnership, or their lessees, legal or personal representatives, trustees, or receivers or trustees appointed by any court, is engaged as a motor carrier. The finding of the commission on such a question is a final order that may be reviewed as provided in section 4923.15 of the Revised Code.

Sec. 4905.84. (A) As used in this section:

(1) "Telecommunications relay service" means intrastate transmission services that provide the ability for an individual who has a hearing or speech impairment to engage in a communication by wire or radio with a hearing individual in a manner that is functionally equivalent to the ability of an individual who does not have a hearing or speech impairment to communicate using voice communication services by wire or radio. "Telecommunications relay service" includes services that enable two-way communication between an individual who uses a

telecommunications device for the deaf or other nonvoice terminal device and an individual who does not use such a device.

(2) "TRS provider" means an entity selected by the public utilities commission as the provider of telecommunications relay service for this state as part of the commission's intrastate telecommunications relay service program certified pursuant to federal law.

(B) For the sole purpose of funding telecommunications relay service, the commission shall, not earlier than January 1, 2009, impose on and collect from each service provider that is required under federal law to provide its customers access to telecommunications relay service an annual assessment to pay for costs incurred by the TRS provider for providing such service in Ohio. The commission shall determine the appropriate service providers to be assessed the telecommunications relay service costs, including telephone companies as defined in division (A) of section 4905.03 of the Revised Code, commercial mobile radio service providers, and providers of advanced services or internet protocol-enabled services that are competitive with or functionally equivalent to basic local exchange service as defined in section 4927.01 of the Revised Code.

(C) The assessment shall be allocated proportionately among the appropriate service providers using a competitively neutral formula established by the commission based on the number of retail intrastate customer access lines or their equivalent. The commission shall annually reconcile the funds collected with the actual costs of providing telecommunications relay service when it issues the assessment and shall either proportionately charge the service providers for any amounts not

sufficient to cover the actual costs or proportionately credit amounts collected in excess of the actual costs. The total amount assessed from all service providers shall not exceed the total telecommunications relay service costs.

Each service provider that pays the assessment shall be permitted to recover the cost of the assessment. The method of recovery may include, but is not limited to, a customer billing surcharge.

The commission shall deposit the money collected in the telecommunications relay service fund, which is hereby created in the state treasury, and shall use the money in that fund solely to compensate the TRS provider.

(D) The commission shall take such measures as it considers necessary to protect the confidentiality of information provided to the commission pursuant to this section by service providers required to pay the assessment.

(E) The commission may assess a forfeiture of not more than one thousand dollars on any service provider failing to comply with this section. Each day's continuance of such failure is a separate offense. The forfeiture shall be recovered in accordance with sections 4905.55 to 4905.60 of the Revised Code.

(F) The jurisdiction and authority granted to the commission by this section is limited to the administration and enforcement of this section. ~~The commission may adopt such rules as it finds necessary to carry out this section.~~ The commission shall adopt rules under section 111.15 of the Revised Code to establish the assessment amounts and procedures.

Sec. 4906.03. The power siting board shall:

(A) Require such information from persons subject to its

jurisdiction as it considers necessary to assist in the conduct of hearings and any investigations or studies it may undertake;

(B) Conduct any studies or investigations that it considers necessary or appropriate to carry out its responsibilities under this chapter;

(C) Adopt rules establishing criteria for evaluating the effects on environmental values of proposed and alternative sites, and projected needs for electric power, and ~~such other rules as are necessary and convenient to implement this chapter, including~~ rules governing application fees, supplemental application fees, and other reasonable fees to be paid by persons subject to the board's jurisdiction. The board shall make an annual accounting of its collection and use of these fees and shall issue an annual report of its accounting, in the form and manner prescribed by its rules, not later than the last day of June of the year following the calendar year to which the report applies.

(D) Approve, disapprove, or modify and approve applications for certificates;

(E) Notwithstanding sections 4906.06 to 4906.14 of the Revised Code, the board may adopt rules to provide for an accelerated review of an application for a construction certificate for construction of a major utility facility related to a coal research and development project as defined in section 1555.01 of the Revised Code, or to a coal development project as defined in section 1551.30 of the Revised Code, submitted to the Ohio coal development office for review under division (B)(7) of section 1551.33 of the Revised Code. Applications for construction certificates for construction of major utility facilities for Ohio coal research and development shall be filed

with the board on the same day as the proposed facility or project is submitted to the Ohio coal development office for review.

The board shall render a decision on an application for a construction certificate within ninety days after receipt of the application and all of the data and information it may require from the applicant. In rendering a decision on an application for a construction certificate, the board shall only consider the criteria and make the findings and determinations set forth in divisions (A)(2), (3), (5), and (7) and division (B) of section 4906.10 of the Revised Code.

(F) Notwithstanding sections 4906.06 to 4906.14 of the Revised Code, the board shall adopt rules to provide for an accelerated review of an application for a construction certificate for any of the following:

(1) An electric transmission line that is:

(a) Not more than two miles in length;

(b) Primarily needed to attract or meet the requirements of a specific customer or specific customers;

(c) Necessary to maintain reliable electric service as a result of the retirement or shutdown of an electric generating facility located within the state; or

(d) A rebuilding of an existing transmission line.

(2) An electric generating facility that uses waste heat or natural gas and is primarily within the current boundary of an existing industrial or electric generating facility;

(3) A gas pipeline that is not more than five miles in length or is primarily needed to meet the requirements of a

specific customer or specific customers.

The board shall adopt rules that provide for the automatic certification to any entity described in this division when an application by any such entity is not suspended by the board, an administrative law judge, or the chairperson or executive director of the board for good cause shown, within ninety days of submission of the application. If an application is suspended, the board shall approve, disapprove, or modify and approve the application not later than ninety days after the date of the suspension.

(G) Notwithstanding sections 4906.06 to 4906.14 of the Revised Code, the board shall adopt rules to provide for the accelerated review of an application for a construction certificate for any of the following that are located in a priority investment area designated and approved under section 122.161 of the Revised Code:

(1) An electric generating plant and associated facilities;

(2) An electric transmission line and associated facilities;

(3) Gas pipeline infrastructure.

The chairperson of the board, not later than forty-five days after receipt of an application submitted under division (G) of this section, shall determine if it complies with all application requirements set by the public utilities commission by rule. If the chairperson does not issue a determination within the time period required by this division, the application shall be deemed in compliance by operation of law.

The board shall render a decision on an application

submitted under this division not later than forty-five days after the application is determined in compliance with all requirements set by the commission. If the board does not render a decision within forty-five days, the application shall be considered approved by operation of law, and the board shall issue a certificate to the applicant.

The board shall adopt rules to implement this division, including rules that prioritize applications for construction on areas negatively impacted by the decline of the coal industry.

(H) Notwithstanding sections 4906.06 to 4906.14 of the Revised Code, the board shall adopt rules to provide for the accelerated review of an application for a construction certificate for a major utility facility if at the time the application is filed the construction will be located on the following:

(1) In whole, on property owned by, or under a lease with a term of twenty-five years or more with, the applicant;

(2) In whole or in part, on an easement or right-of-way;

(3) On any combination of such property, easement, or right-of-way described in divisions (H)(1) and (2) of this section.

No accelerated application shall be granted under the rules adopted under division (H) of this section for construction of a major utility facility, in whole or in part, on property under a lease or an easement or right-of-way, if additional consent for construction on the property, easement, or right-of-way is required by any person or entity other than the power siting board.

The board shall render a decision on an application

submitted under this division not later than sixty days after receipt of the application. If the board does not render a decision within sixty days, the application shall be considered approved by operation of law, and the board shall issue a certificate to the applicant.

Sec. 4909.172. (A) A waterworks company, or a sewage disposal system company, that is a public utility may file an application with the public utilities commission for approval to collect an infrastructure improvement surcharge, determined in accordance with this section, from customers located in the company's affected service areas and subject to affected schedules filed by the company under section 4905.32 of the Revised Code. The application shall be in such form and contain such information as the commission prescribes. At the time of filing, the company shall serve a copy of the application upon the chief executive of each municipal corporation, the board of township trustees of each township, and the board of county commissioners of each county in which affected customers are located. A company for which an infrastructure improvement surcharge is authorized under this section may file an application for another such surcharge not sooner than twelve months after the filing date of its most recent infrastructure improvement surcharge application.

(B) The commission shall provide an opportunity for the filing of comments on an application filed under division (A) of this section. After considering those comments, the commission may authorize an infrastructure improvement surcharge for the company that is just and reasonable and is sufficient, but does not exceed, the revenue requirement necessary to do both of the following:

(1) Cover such infrastructure plant costs of the company as are described in division (C) of this section, incurred after March 1, 2003, and before the date of filing, and not already reflected in the affected schedules filed by the company under section 4905.32 of the Revised Code;

(2) Provide a fair and reasonable rate of return on the filing date valuation of that particular infrastructure plant.

Each infrastructure improvement surcharge chargeable to each affected customer class within any single tariff of the company shall not exceed three per cent, for a sewage disposal system company, and four and one-quarter per cent, for a waterworks company, of the rates and charges applicable to the class and for the tariff in effect on the date the application was filed and, as to the allowed percentage increase, shall be uniform for each such class. The commission shall not authorize a company to have more than three infrastructure improvement surcharges for any single company tariff in effect at any time.

Additionally, the commission shall not authorize an infrastructure improvement surcharge under this section if it determines that the surcharge causes the company to earn an excessive rate of return on its valuation under section 4909.15 of the Revised Code.

(C) For purposes of this section, a company's costs of infrastructure plant may include depreciation expenses. Such infrastructure plant may consist of the following capital improvements that the commission determines are prudent and used and useful in rendering public utility service and that are properly classified in the uniform system of accounts adopted by the National Association of Regulatory Utility Commissioners as identified in rule 4901:1-15-32 of the Administrative Code:

(1) In the case of a waterworks company, replacement of an existing plant included in accounts 323, 324, 325, 326, 327, 328, 332, 342, 343, 345, 346, 347, and 348, as well as main extensions that eliminate dead ends to resolve documented water supply problems presenting significant health or safety issues to then existing customers, and main cleaning or relining;

(2) In the case of a sewage disposal system company, replacement of an existing plant included in accounts 352, 352.1, 352.2, 353, 354, 355, 356, 362, 363, 364, 365, 372, 373, 374, and 375, as well as main extensions that resolve documented sewage disposal problems presenting significant health or safety issues to then existing customers, and main cleaning, inflow and infiltration elimination, or relining;

(3) Unreimbursed capital expenditures made by the waterworks company, or the sewage disposal system company, for waterworks, or sewage disposal, facility relocation required by a governmental entity due to a street or highway project;

(4) Capital expenditures made by the waterworks company or sewage disposal system company to comply with any consent decree, final order, or final rule of the United States environmental protection agency or the Ohio environmental protection agency~~.~~;

(5) Minimum land or land rights acquired by the company as necessary for any service line, equipment, or facility described in divisions (C)(1) to (4) of this section.

As used in divisions (C)(1) and (2) of this section, "replacement of an existing plant" includes replacements that result in an upgrade or improvement of the previously existing plant, provided that the replacement plant is prudent, qualifies

for recovery under this section, and performs the same or similar function or purpose as it did prior to the replacement.

(D)(1) If the commission fails to issue a final order within one hundred eighty days after the date the application is filed under this section, and at the waterworks or sewage disposal company's discretion, a surcharge not to exceed the proposed surcharge shall go into effect upon the filing of the revised affected rate schedules by the company, subject to refund of amounts collected that exceed those authorized by the final order of the commission.

(2) All refunds shall include interest at the rate stated in section 1343.03 of the Revised Code and shall be accomplished in a manner as prescribed by the commission in its final order. The commission may require an undertaking to secure the refund under this division if it finds it is warranted by the financial condition of the waterworks or sewage disposal system company.

(3) This division shall only apply to applications filed by a waterworks or sewage disposal system company that has annual operating revenues of two hundred fifty thousand dollars or more.

(E) During the period that an authorized infrastructure improvement surcharge is in effect, the commission, by order and on its own motion or upon good cause shown, may reduce the amount of or terminate an infrastructure improvement surcharge if it determines that the surcharge causes the company to earn an excessive rate of return on its valuation under section 4909.15 of the Revised Code.

(F) An order issued by the commission deciding an application by a waterworks company or a sewage disposal system

company for an increase in rates and charges pursuant to an application filed by the company under section 4909.18 of the Revised Code shall provide for the termination, as of the earlier of the effective date of the increase or the date specified in division (F) of this section, of any infrastructure improvement surcharges of the company authorized under this section.

(G) All surcharges authorized under this section shall terminate by operation of law not later than December 31, 2036.

(H) The company shall provide notice of any infrastructure improvement surcharge authorized under this section to each affected customer with or on the customer's first bill containing the surcharge.

~~(I) The commission may adopt such rules as it considers necessary to carry out this section.~~

Sec. 4921.25. (A) Any person, firm, copartnership, voluntary association, joint-stock association, company, or corporation, wherever organized or incorporated, that is engaged in the towing of motor vehicles is subject to regulation by the public utilities commission as a for-hire motor carrier under this chapter.

(B) The commission shall adopt rules under Chapter 119. of the Revised Code that do all of the following:

(1) Establish the acceptable scope of public safety regulations applicable to a for-hire motor carrier engaged in the towing of motor vehicles under section 4513.60, 4513.601, or 4513.61 of the Revised Code that a county or township may adopt pursuant to a resolution;

(2) Establish safety standards for the type of equipment

necessary to safely remove and tow vehicles based on the type of vehicle being removed or towed;

(3) Establish standards for the removal of a vehicle from a private tow-away zone by a for-hire motor carrier engaged in the towing of motor vehicles in addition to standards and requirements established under section 4513.601 of the Revised Code. The standards may vary based on whether the private tow-away zone is located on residential, retail, or other commercial property.

(4) Within one year of ~~the effective date of this amendment~~ April 6, 2017, establish maximum fees that may be charged by a for-hire motor carrier engaged in the towing of motor vehicles or a storage facility that accepts such vehicles under sections 4513.60 and 4513.601 of the Revised Code.

With respect to vehicles removed under section 4513.60 of the Revised Code, the fees established under division (B)(4) of this section do not apply to a vehicle that is removed or stored within a municipal corporation that has established fees for vehicle removal and storage.

(5) Establish a process for reviewing the fees established under division (B)(4) of this section every five years, beginning on the five-year anniversary of the date the initial rules are adopted, to determine whether the fees are just, reasonable, and compensatory. If the commission determines that any existing fee is not just, reasonable, or compensatory, the commission shall, by rule, adjust the fee so that it is equal to an amount that the commission determines to be appropriate.

(6) Establish an after-hours retrieval fee that may be charged for purposes of retrieving a vehicle under section

4513.69 of the Revised Code or retrieving personal items under section 4513.60 or 4513.61 of the Revised Code. The rules shall permit an after-hours retrieval fee to be charged only if the entity in possession of a vehicle is not open to the public and is not required to be open under division (A) of section 4513.69 of the Revised Code.

~~(7) Adopt any other rules necessary to carry out the purposes of this section.~~

Sec. 4921.30. Except as otherwise provided in sections 4921.32 to 4921.38 of the Revised Code, a for-hire motor carrier engaged in the transportation of household goods in intrastate commerce:

(A) Is subject to Chapter 4921. of the Revised Code and to all other provisions of the Revised Code applicable to a for-hire motor carrier, including sections ~~4506.22,~~ 4511.78, 5502.01, 5503.02, and 5503.34 of the Revised Code;

(B) Is not a public utility as defined in section 4911.01 of the Revised Code.

Sec. 4927.03. (A) Except as provided in divisions (A) and (B) of section 4927.04 of the Revised Code and except to the extent required to exercise authority under federal law, the public utilities commission has no authority over any interconnected voice over internet protocol-enabled service or any telecommunications service that is not commercially available on September 13, 2010, and that employs technology that became available for commercial use only after September 13, 2010, unless the commission, upon a finding that the exercise of the commission's authority is necessary for the protection, welfare, and safety of the public, adopts rules

specifying the necessary regulation. A consumer purchase of a service that is not commercially available on September 13, 2010, and that employs technology that became available for commercial use only after September 13, 2010, shall constitute a consumer transaction for purposes of sections 1345.01 to 1345.13 of the Revised Code, notwithstanding any provision of those sections to the contrary, unless the commission exercises jurisdiction over the service in accordance with this division. Notwithstanding any contrary provision of Chapter 4911. of the Revised Code, to the extent that the commission adopts rules under division (A) of this section regarding any interconnected voice over internet protocol enabled service provided to residential customers or regarding any telecommunications service that is provided to residential customers, that is not commercially available on September 13, 2010, and that employs technology that became available for commercial use only after September 13, 2010, the office of the consumers' counsel shall have authority to assist and represent residential customers in the implementation and enforcement of those rules.

(B)(1) The commission has no authority over wireless service, resellers of wireless service, or wireless service providers, except as follows:

(a) As provided under section 4905.84 of the Revised Code;

(b) With respect to division (C) of section 4927.15 of the Revised Code;

(c) As provided in divisions (B)(2), (3), and (4) of this section.

(2) The commission has authority over wireless service and wireless service providers as follows, but only to the extent

authorized by federal law, including federal regulations:

(a) To the extent that the commission carries out the acts described in divisions (A), (B), (C), (D), and (F) of section 4927.04 of the Revised Code;

(b) As provided in sections 4927.05, 4927.20, and 4927.21 of the Revised Code.

(3) The requirements of sections 4905.10, 4905.14, and 4911.18 of the Revised Code shall apply to a wireless service provider.

(4) The commission has such authority as is necessary to enforce division (B) of this section.

(C) For purposes of sections 4927.01 to 4927.21 of the Revised Code, sections 4903.02, 4903.03, 4903.24, 4903.25, 4905.04, 4905.05, 4905.06, 4905.13, 4905.15, 4905.16, 4905.17, 4905.22, 4905.26, 4905.27, 4905.28, 4905.29, 4905.31, 4905.32, 4905.33, 4905.35, 4905.37, 4905.38, 4905.39, 4905.48, 4905.54, 4905.55, 4905.56, and 4905.60 of the Revised Code do not apply to a telephone company or, as applicable, to an officer, employee, or agent of such company or provider, except to the extent necessary for the commission to carry out sections 4927.01 to 4927.21 of the Revised Code.

(D) Except as specifically authorized in sections 4927.01 to 4927.21 of the Revised Code, the commission has no authority over the quality of service and the service rates, terms, and conditions of telecommunications service provided to end users by a telephone company.

(E) The commission shall initially adopt the rules required by this chapter not later than one hundred twenty days after September 13, 2010. Subject to the authority granted to

the commission under this chapter, the commission may adopt ~~other rules, including~~ rules regarding the removal from tariffs of services that were required to be filed in tariffs prior to September 13, 2010~~, as it finds necessary to carry out this chapter~~.

Sec. 4927.06. (A) No telephone company shall commit any unfair or deceptive act or practice in connection with the offering or provision of any telecommunications service in this state. A failure to comply with any of the following requirements shall constitute an unfair or deceptive act or practice by a telephone company:

(1) Any communication by the company, including, but not limited to, a solicitation, offer, or contract term or condition, shall be truthful, clear, conspicuous, and accurate in disclosing any material terms and conditions of service and any material exclusions or limitations. The public utilities commission may prescribe, by rule, a commission review process to determine when disclosing such information is not practicable, and therefore nondisclosure does not result in an unfair or deceptive act or practice.

(2) Any written service solicitation, marketing material, offer, contract, or agreement, as well as any written response from the company to a service-related inquiry or complaint that the company receives from a customer or others, shall disclose the company's name and contact information. The commission may prescribe, by rule, a commission review process to determine when disclosing such information is not practicable, and therefore nondisclosure does not result in an unfair or deceptive act or practice.

(3) The company shall inform its customers, as applicable

and in any reasonable manner, of their rights and responsibilities concerning inside wire, the repair and maintenance of customer-owned equipment, and the use of a network interface device, and of any charges that the company imposes for a diagnostic visit, consistent with rules adopted by the public utilities commission.

(4) The company shall not commit any act, practice, or omission that the commission determines, by rulemaking ~~under section 4927.03 of the Revised Code~~ or adjudication under section 4927.21 of the Revised Code, constitutes an unfair or deceptive act or practice in connection with the offering or provision of telecommunications service in this state.

(B) The commission shall provide notice to all telephone companies specifying any act, practice, or omission that it prescribes pursuant to division (A)(4) of this section. No telephone company is liable for any act, practice, or omission absent that notice and adequate time for implementation.

(C) This section does not apply to wireless service. A consumer purchase of wireless service or a related product shall constitute a consumer transaction for purposes of sections 1345.01 to 1345.13 of the Revised Code, notwithstanding any provision of those sections to the contrary.

Sec. 4928.06. (A) Beginning on the starting date of competitive retail electric service, the public utilities commission shall ensure that the policy specified in section 4928.02 of the Revised Code is effectuated. ~~To the extent necessary, the commission shall adopt rules to carry out this chapter.~~ Initial rules necessary for the commencement of the competitive retail electric service under this chapter shall be adopted within one hundred eighty days after the effective date

of this section. Except as otherwise provided in this chapter, the proceedings and orders of the commission under the chapter shall be subject to and governed by Chapter 4903. of the Revised Code.

(B) If the commission determines, on or after the starting date of competitive retail electric service, that there is a decline or loss of effective competition with respect to a competitive retail electric service of an electric utility, which service was declared competitive by commission order issued pursuant to division (A) of section 4928.04 of the Revised Code, the commission shall ensure that that service is provided at compensatory, fair, and nondiscriminatory prices and terms and conditions.

(C) In addition to its authority under section 4928.04 of the Revised Code and divisions (A) and (B) of this section, the commission, on an ongoing basis, shall monitor and evaluate the provision of retail electric service in this state for the purpose of discerning any noncompetitive retail electric service that should be available on a competitive basis on or after the starting date of competitive retail electric service pursuant to a declaration in the Revised Code, and for the purpose of discerning any competitive retail electric service that is no longer subject to effective competition on or after that date. Upon such evaluation, the commission periodically shall report its findings and any recommendations for legislation to the standing committees of both houses of the general assembly that have primary jurisdiction regarding public utility legislation.

(D) In determining, for purposes of division (B) or (C) of this section, whether there is effective competition in the provision of a retail electric service or reasonably available

alternatives for that service, the commission shall consider factors including, but not limited to, all of the following:

(1) The number and size of alternative providers of that service;

(2) The extent to which the service is available from alternative suppliers in the relevant market;

(3) The ability of alternative suppliers to make functionally equivalent or substitute services readily available at competitive prices, terms, and conditions;

(4) Other indicators of market power, which may include market share, growth in market share, ease of entry, and the affiliation of suppliers of services.

The burden of proof shall be on any entity requesting, under division (B) or (C) of this section, a determination by the commission of the existence of or a lack of effective competition or reasonably available alternatives.

(E)(1) Beginning on the starting date of competitive retail electric service, the commission has authority under Chapters 4901. to 4909. of the Revised Code, and shall exercise that authority, to resolve abuses of market power by any electric utility that interfere with effective competition in the provision of retail electric service.

(2) In addition to the commission's authority under division (E)(1) of this section, the commission, beginning the first year after the market development period of a particular electric utility and after reasonable notice and opportunity for hearing, may take such measures within a transmission constrained area in the utility's certified territory as are necessary to ensure that retail electric generation service is

provided at reasonable rates within that area. The commission may exercise this authority only upon findings that an electric utility is or has engaged in the abuse of market power and that that abuse is not adequately mitigated by rules and practices of any independent transmission entity controlling the transmission facilities. Any such measure shall be taken only to the extent necessary to protect customers in the area from the particular abuse of market power and to the extent the commission's authority is not preempted by federal law. The measure shall remain in effect until the commission, after reasonable notice and opportunity for hearing, determines that the particular abuse of market power has been mitigated.

(F) An electric utility, electric services company, electric cooperative, or governmental aggregator subject to certification under section 4928.08 of the Revised Code shall provide the commission with such information, regarding a competitive retail electric service for which it is subject to certification, as the commission considers necessary to carry out this chapter. An electric utility shall provide the commission with such information as the commission considers necessary to carry out divisions (B) to (E) of this section. The commission shall take such measures as it considers necessary to protect the confidentiality of any such information.

The commission shall require each electric utility to file with the commission on and after the starting date of competitive retail electric service an annual report of its intrastate gross receipts and sales of kilowatt hours of electricity, and shall require each electric services company, electric cooperative, and governmental aggregator subject to certification to file an annual report on and after that starting date of such receipts and sales from the provision of

those retail electric services for which it is subject to certification. For the purpose of the reports, sales of kilowatt hours of electricity are deemed to occur at the meter of the retail customer.

Sec. 4928.10. For the protection of consumers in this state, the public utilities commission shall adopt rules ~~under division (A) of section 4928.06 of the Revised Code~~ specifying the necessary minimum service requirements, on or after the starting date of competitive retail electric service, of an electric utility, electric services company, electric cooperative, or governmental aggregator subject to certification under section 4928.08 of the Revised Code regarding the provision directly or through its billing and collection agent of competitive retail electric services for which it is subject to certification. Rules adopted under this section shall include a prohibition against unfair, deceptive, and unconscionable acts and practices in the marketing, solicitation, and sale of such a competitive retail electric service and in the administration of any contract for service, and also shall include additional consumer protections concerning all of the following:

(A) Contract disclosure. The rules shall include requirements that an electric utility, electric services company, electric cooperative, or governmental aggregator subject to certification under section 4928.08 of the Revised Code do both of the following:

(1) Provide consumers with adequate, accurate, and understandable pricing and terms and conditions of service, including any switching fees, and with a document containing the terms and conditions of pricing and service before the consumer enters into the contract for service;

(2) Disclose the conditions under which a customer may rescind a contract without penalty.

(B) Service termination. The rules shall include disclosure of the terms identifying how customers may switch or terminate service, including any required notice and any penalties.

(C) Minimum content of customer bills. The rules shall include all of the following requirements, which shall be standardized:

(1) Price disclosure and disclosures of total billing units for the billing period and historical annual usage;

(2) To the maximum extent practicable, separate listing of each service component to enable a customer to recalculate its bill for accuracy;

(3) Identification of the supplier of each service;

(4) Statement of where and how payment may be made and provision of a toll-free or local customer assistance and complaint number for the electric utility, electric services company, electric cooperative, or governmental aggregator, as well as a consumer assistance telephone number or numbers for state agencies, such as the commission, the office of the consumers' counsel, and the attorney general's office, with the available hours noted;

(5) Other than for the first billing after the starting date of competitive retail electric service, highlighting and clear explanation on each customer bill, for two consecutive billing periods, of any changes in the rates, terms, and conditions of service.

(D) Disconnection and service termination, including requirements with respect to master-metered buildings. The rules shall include policies and procedures that are consistent with sections 4933.121 and 4933.122 of the Revised Code and the commission's rules adopted under those sections, and that provide for all of the following:

(1) Coordination between suppliers for the purpose of maintaining service;

(2) The allocation of partial payments between suppliers when service components are jointly billed;

(3) A prohibition against blocking, or authorizing the blocking of, customer access to a noncompetitive retail electric service when a customer is delinquent in payments to the electric utility or electric services company for a competitive retail electric service;

(4) A prohibition against switching, or authorizing the switching of, a customer's supplier of competitive retail electric service without the prior consent of the customer in accordance with appropriate confirmation practices, which may include independent, third-party verification procedures.

(5) A requirement of disclosure of the conditions under which a customer may rescind a decision to switch its supplier without penalty;

(6) Specification of any required notice and any penalty for early termination of contract.

(E) Minimum service quality, safety, and reliability. However, service quality, safety, and reliability requirements for electric generation service shall be determined primarily through market expectations and contractual relationships.

(F) Generation resource mix and environmental characteristics of power supplies. The rules shall include requirements for determination of the approximate generation resource mix and environmental characteristics of the power supplies and disclosure to the customer prior to the customer entering into a contract to purchase and four times per year under the contract. The rules also shall require that the electric utility, electric services company, electric cooperative, or governmental aggregator provide, or cause its billing and collection agent to provide, a customer with standardized information comparing the projected, with the actual and verifiable, resource mix and environmental characteristics. This disclosure shall occur not less than annually or not less than once during the contract period if the contract period is less than one year, and prior to any renewal of a contract.

(G) Customer information. The rules shall include requirements that the electric utility, electric services company, electric cooperative, or governmental aggregator make generic customer load pattern information available to other electric light companies on a comparable and nondiscriminatory basis, and make customer-specific information available to other electric light companies on a comparable and nondiscriminatory basis unless, as to customer-specific information, the customer objects. The rules shall ensure that each such utility, company, cooperative, or aggregator provide clear and frequent notice to its customers of the right to object and of applicable procedures. The rules shall establish the exact language that shall be used in all such notices.

Sec. 4928.11. (A) For the protection of consumers in this state, the public utilities commission shall adopt rules ~~under~~

~~division (A) of section 4928.06 of the Revised Code~~ that specify minimum service quality, safety, and reliability requirements for noncompetitive retail electric services supplied by an electric utility in this state, to the extent such authority is not preempted by federal law. The rules shall include prescriptive standards for inspection, maintenance, repair, and replacement of the transmission and distribution systems of electric utilities; shall apply to each substantial type of transmission or distribution equipment or facility; shall establish uniform interconnection standards to ensure transmission and distribution system safety and reliability and shall otherwise provide for high quality, safe, and reliable electric service; shall include standards for operation, reliability, and safety during periods of emergency and disaster; and shall include voltage standards for efficient operation of single-phase motors. The rules regarding interconnection shall seek to prevent barriers to new technology and shall not make compliance unduly burdensome or expensive. When questions arise about specific equipment to meet interconnection standards, the commission shall initiate proceedings open to the public to solicit comments from all interested parties. Additionally, rules under this division shall include nondiscriminatory metering standards.

(B) The commission shall require each electric utility to report annually to the commission on and after the starting date of competitive retail electric service, regarding its compliance with the rules required under division (A) of this section. The commission shall make the filed reports available to the public. Periodically as determined by commission rule ~~under division (A) of section 4928.06 of the Revised Code~~ and in a proceeding initiated under division (B) of section 4928.16 of the Revised

Code, the commission shall review a utility's report to determine the utility's compliance and may act pursuant to division (B) of section 4928.16 of the Revised Code to enforce compliance.

Sec. 4928.12. (A) Except as otherwise provided in sections 4928.31 to 4928.40 of the Revised Code, no entity shall own or control transmission facilities as defined under federal law and located in this state on or after the starting date of competitive retail electric service unless that entity is a member of, and transfers control of those facilities to, one or more qualifying transmission entities, as described in division (B) of this section, that are operational.

(B) An entity that owns or controls transmission facilities located in this state complies with division (A) of this section if each transmission entity of which it is a member meets all of the following specifications:

(1) The transmission entity is approved by the federal energy regulatory commission.

(2) The transmission entity effects separate control of transmission facilities from control of generation facilities.

(3) The transmission entity implements, to the extent reasonably possible, policies and procedures designed to minimize pancaked transmission rates within this state.

(4) The transmission entity improves service reliability within this state.

(5) The transmission entity achieves the objectives of an open and competitive electric generation marketplace, elimination of barriers to market entry, and preclusion of control of bottleneck electric transmission facilities in the

provision of retail electric service.

(6) The transmission entity is of sufficient scope or otherwise operates to substantially increase economical supply options for consumers.

(7) The governance structure or control of the transmission entity is independent of the users of the transmission facilities, and no member of its board of directors has an affiliation, with such a user or with an affiliate of a user during the member's tenure on the board, such as to unduly affect the transmission entity's performance. For the purpose of division (B)(7) of this section, a "user" is any entity or affiliate of that entity that buys or sells electric energy in the transmission entity's region or in a neighboring region.

(8) The transmission entity operates under policies that promote positive performance designed to satisfy the electricity requirements of customers.

(9) The transmission entity is capable of maintaining real-time reliability of the electric transmission system, ensuring comparable and nondiscriminatory transmission access and necessary services, minimizing system congestion, and further addressing real or potential transmission constraints.

(C) To the extent that a transmission entity under division (A) of this section is authorized to build transmission facilities, that transmission entity has the powers provided in and is subject to sections 1723.01 to 1723.08 of the Revised Code.

(D) For the purpose of forming or participating in a regional regulatory oversight body or mechanism developed for any transmission entity under division (A) of this section that

is of regional scope and operates within this state:

(1) The commission shall make joint investigations, hold joint hearings, within or outside this state, and issue joint or concurrent orders in conjunction or concurrence with any official or agency of any state or of the United States, whether in the holding of those investigations or hearings, or in the making of those orders, the commission is functioning under agreements or compacts between states, under the concurrent power of states to regulate interstate commerce, as an agency of the United States, or otherwise.

(2) The commission shall negotiate and enter into agreements or compacts with agencies of other states for cooperative regulatory efforts and for the enforcement of the respective state laws regarding the transmission entity.

(E) If a qualifying transmission entity is not operational as contemplated in division (A) of this section, division ~~(A)(13)~~ (A)(12) of section 4928.34 of the Revised Code, or division (G) of section 4928.35 of the Revised Code, the commission by rule or order shall take such measures or impose such requirements on all for-profit entities that own or control electric transmission facilities located in this state as the commission determines necessary and proper to achieve independent, nondiscriminatory operation of, and separate ownership and control of, such electric transmission facilities on or after the starting date of competitive retail electric service.

Sec. 4928.13. Through a periodic filing with the public utilities commission in such form as the commission shall prescribe by rule ~~under division (A) of section 4928.06 of the Revised Code~~, each electric utility that owns nuclear generation

facilities located in this state shall demonstrate compliance with decommissioning requirements of the nuclear regulatory commission and public utilities commission and shall demonstrate adequate financing mechanisms to fund facility decommissioning.

Sec. 4928.14. (A) Except as provided in division (C) of this section, the failure of a supplier to provide retail electric generation service to customers within the certified territory of an electric distribution utility shall result in the supplier's customers, after reasonable notice, defaulting to the utility's standard service offer under sections 4928.141 and 4928.142 of the Revised Code until the customer chooses an alternative supplier.

(B) A supplier is deemed under this section to have failed to provide retail electric generation service if the commission finds, after reasonable notice and opportunity for hearing, that any of the following conditions are met:

(1) The supplier has defaulted on its contracts with customers, is in receivership, or has filed for bankruptcy.

(2) The supplier is no longer capable of providing the service.

(3) The supplier is unable to provide delivery to transmission or distribution facilities for such period of time as may be reasonably specified by commission rule ~~adopted under division (A) of section 4928.06 of the Revised Code~~.

(4) The supplier's certification has been suspended, conditionally rescinded, or rescinded under division (D) of section 4928.08 of the Revised Code.

(C) If an electric distribution utility has an electric security plan that was approved under section 4928.143 of the

Revised Code as that section existed prior to the amendments to this section by ~~this act~~H.B. 15 of the 136th general assembly, the failure of a supplier to provide retail electric generation service to customers within the certified territory of that utility shall result in the supplier's customers, after reasonable notice, defaulting to the utility's standard service offer under that electric security plan until the customer chooses an alternative supplier or until the utility's standard service offer is authorized under section 4928.142 of the Revised Code.

Sec. 4928.16. (A)(1) The public utilities commission has jurisdiction under section 4905.26 of the Revised Code, upon complaint of any person or upon complaint or initiative of the commission on or after the starting date of competitive retail electric service, regarding the provision by an electric utility, electric services company, electric cooperative, or governmental aggregator subject to certification under section 4928.08 of the Revised Code of any service for which it is subject to certification.

(2) The commission also has jurisdiction under section 4905.26 of the Revised Code, upon complaint of any person or upon complaint or initiative of the commission on or after the starting date of competitive retail electric service, to determine whether an electric utility has violated or failed to comply with any provision of sections 4928.01 to 4928.15, any provision of divisions (A) to (D) of section 4928.35 of the Revised Code, or any rule or order adopted or issued under those sections; or whether an electric services company, electric cooperative, or governmental aggregator subject to certification under section 4928.08 of the Revised Code has violated or failed to comply with any provision of sections 4928.01 to 4928.10 of

the Revised Code regarding a competitive retail electric service for which it is subject to certification or any rule or order adopted or issued under those sections.

(3) If a contract between a mercantile commercial customer and an electric services company states that the forum for a commercial dispute involving that company is through a certified commercial arbitration process, that process set forth in the contract and agreed to by the signatories shall be the exclusive forum unless all parties to the contract agree in writing to an amended process. The company shall notify the commission for informational purposes of all matters for which a contract remedy is invoked to resolve a dispute.

(4) The commission, by rule ~~adopted pursuant to division (A) of section 4928.06 of the Revised Code~~, shall adopt alternative dispute resolution procedures for complaints by nonmercantile, nonresidential customers, including arbitration through a certified commercial arbitration process and at the commission. The commission also by such rule may adopt alternative dispute resolution procedures for complaints by residential customers.

(B) In addition to its authority under division (C) of section 4928.08 of the Revised Code and to any other remedies provided by law, the commission, after reasonable notice and opportunity for hearing in accordance with section 4905.26 of the Revised Code, may do any of the following:

(1) Order rescission of a contract, or restitution to customers including damages due to electric power fluctuations, in any complaint brought pursuant to division (A)(1) or (2) of this section;

(2) Order any remedy or forfeiture provided under sections 4905.54 to 4905.60 and 4905.64 of the Revised Code upon a finding under division (A)(2) of this section that the electric utility has violated or failed to comply with any provision of sections 4928.01 to 4928.15, any provision of divisions (A) to (D) of section 4928.35 of the Revised Code, or any rule or order adopted or issued under those sections. in addition, the commission may order any remedy provided under section 4905.22, 4905.37, or 4905.38 of the Revised Code if the violation or failure to comply by an electric utility related to the provision of a noncompetitive retail electric service.

(3) Order any remedy or forfeiture provided under sections 4905.54 to 4905.60 and 4905.64 of the Revised Code upon a finding under division (A)(2) of this section that the electric services company, electric cooperative, or governmental aggregator subject to certification under section 4928.08 of the Revised Code has violated or failed to comply, regarding a competitive retail electric service for which it is subject to certification, with any provision of sections 4928.01 to 4928.10 of the Revised Code or any rule or order adopted or issued under those sections.

(C)(1) In addition to the authority conferred under section 4911.15 of the Revised Code, the consumers' counsel may file a complaint under division (A)(1) or (2) of this section on behalf of residential consumers in this state or appear before the commission as a representative of those consumers pursuant to any complaint filed under division (A)(1) or (2) of this section.

(2) In addition to the authority conferred under section 4911.19 of the Revised Code, the consumers' counsel, upon

reasonable grounds on and after the starting date of competitive retail electric service, may file with the commission under section 4905.26 of the Revised Code a complaint for discovery if the recipient of an inquiry under section 4911.19 of the Revised Code fails to provide a response within the time specified in that section.

(D) Section 4905.61 of the Revised Code applies to a violation by an electric utility of, or to a failure of an electric utility to comply with, any provision of sections 4928.01 to 4928.15, any provision of divisions (A) to (D) of section 4928.35 of the Revised Code, or any rule or order adopted or issued under those sections.

Sec. 4928.17. (A) Except as otherwise provided in sections 4928.141 or 4928.142 or 4928.31 to 4928.40 of the Revised Code, no electric utility shall engage in this state, either directly or through an affiliate, in the businesses of supplying a noncompetitive retail electric service and supplying a product or service other than retail electric service, unless the utility implements and operates under a corporate separation plan that is approved by the public utilities commission under this section, is consistent with the policy specified in section 4928.02 of the Revised Code, and achieves all of the following:

(1) The plan provides, at minimum, for the provision of the nonelectric product or service through a fully separated affiliate of the utility, and the plan includes separate accounting requirements, the code of conduct as ordered by the commission pursuant to a rule it shall adopt ~~under division (A) of section 4928.06 of the Revised Code~~, and such other measures as are necessary to effectuate the policy specified in section 4928.02 of the Revised Code.

(2) The plan satisfies the public interest in preventing the abuse of market power.

(3) The plan is sufficient to ensure that the utility will not extend any undue preference or advantage to any affiliate, division, or part of its own business engaged in the business of supplying the nonelectric product or service, including, but not limited to, utility resources such as trucks, tools, office equipment, office space, supplies, customer and marketing information, advertising, billing and mailing systems, personnel, and training, without compensation based upon fully loaded embedded costs charged to the affiliate; and to ensure that any such affiliate, division, or part will not receive undue preference or advantage from any affiliate, division, or part of the business engaged in business of supplying the noncompetitive retail electric service. No such utility, affiliate, division, or part shall extend such undue preference.

(B) The commission may approve, modify and approve, or disapprove a corporate separation plan filed with the commission under division (A) of this section. As part of the code of conduct required under division (A)(1) of this section, the commission shall adopt rules ~~pursuant to division (A) of section 4928.06 of the Revised Code~~ regarding corporate separation and procedures for plan filing and approval. The rules shall include limitations on affiliate practices solely for the purpose of maintaining a separation of the affiliate's business from the business of the utility to prevent abuse of market power by virtue of that relationship. The rules also shall include an opportunity for any person having a real and substantial interest in the corporate separation plan to file specific objections to the plan and propose specific responses to issues raised in the objections, which objections and responses the

commission shall address in its final order. Prior to commission approval of the plan, the commission shall afford a hearing upon those aspects of the plan that the commission determines reasonably require a hearing. The commission may reject and require refiling of a substantially inadequate plan under this section.

(C) The commission shall issue an order approving or modifying and approving a corporate separation plan under this section, to be effective on the date specified in the order, only upon findings that the plan reasonably complies with the requirements of division (A) of this section and will provide for ongoing compliance with the policy specified in section 4928.02 of the Revised Code. However, for good cause shown, the commission may issue an order approving or modifying and approving a corporate separation plan under this section that does not comply with division (A)(1) of this section but complies with such functional separation requirements as the commission authorizes to apply for an interim period prescribed in the order, upon a finding that such alternative plan will provide for ongoing compliance with the policy specified in section 4928.02 of the Revised Code.

(D) Any party may seek an amendment to a corporate separation plan approved under this section, and the commission, pursuant to a request from any party or on its own initiative, may order as it considers necessary the filing of an amended corporate separation plan to reflect changed circumstances.

Sec. 4928.31. (A) Not later than ninety days after the effective date of this section, an electric utility supplying retail electric service in this state on that date shall file with the public utilities commission a plan for the utility's

provision of retail electric service in this state during the market development period. This transition plan shall be in such form as the commission shall prescribe by rule ~~adopted under division (A) of section 4928.06 of the Revised Code~~ and shall include all of the following:

(1) A rate unbundling plan that specifies, consistent with divisions (A)(1) to ~~(7)~~ (6) of section 4928.34 of the Revised Code~~ and any rules adopted by the commission under division (A) of section 4928.06 of the Revised Code~~, the ~~unbundles~~ unbundled components for electric generation, transmission, and distribution service and such other unbundled service components as the commission requires, to be charged by the utility beginning on the starting date of competitive retail electric service and that includes information the commission requires to fix and determine those components;

(2) A corporate separation plan consistent with section 4928.17 of the Revised Code~~ and any rules adopted by the commission under division (A) of section 4928.06 of the Revised Code~~;

(3) Such plan or plans as the commission requires to address operational support systems and any other technical implementation issues pertaining to competitive retail electric service~~ consistent with any rules adopted by the commission under division (A) of section 4928.06 of the Revised Code~~;

(4) An employee assistance plan for providing severance, retraining, early retirement, retention, outplacement, and other assistance for the utility's employees whose employment is affected by electric industry restructuring under this chapter;

(5) A consumer education plan consistent with former

section 4928.42 of the Revised Code~~ and any rules adopted by the commission under division (A) of section 4928.06 of the Revised Code~~.

A transition plan under this section may include tariff terms and conditions to address reasonable requirements for changing suppliers, length of commitment by a customer for service, and such other matters as are necessary to accommodate electric restructuring. Additionally, a transition plan under this section may include an application for the opportunity to receive transition revenues as authorized under sections 4928.31 to 4928.40 of the Revised Code, which application shall be consistent with those sections~~ and any rules adopted by the commission under division (A) of section 4928.06 of the Revised Code~~. The transition plan also may include a plan for the independent operation of the utility's transmission facilities consistent with section 4928.12 of the Revised Code~~,~~ and division ~~(A)(13)~~(A)(12) of section 4928.34 of the Revised Code~~, and any rules adopted by the commission under division (A) of section 4928.06 of the Revised Code~~.

The commission may reject and require refiling, in whole or in part, of any substantially inadequate transition plan.

(B) The electric utility shall provide public notice of its filing under division (A) of this section, in a form and manner that the commission shall prescribe by rule adopted under division (A) of section 4928.06 of the Revised Code. However, the adoption of rules regarding the public notice under this division, regarding the form of the transition plan under division (A) of this section, and regarding procedures for expedited discovery under division (A) of section 4928.32 of the Revised Code are not subject to division (D) of section 111.15

of the Revised Code.

Sec. 4928.34. (A) The public utilities commission shall not approve or prescribe a transition plan under division (A) or (B) of section 4928.33 of the Revised Code unless the commission first makes all of the following determinations:

(1) The unbundled components for the electric transmission component of retail electric service, as specified in the utility's rate unbundling plan required by division (A)(1) of section 4928.31 of the Revised Code, equal the tariff rates determined by the federal energy regulatory commission that are in effect on the date of the approval of the transition plan under sections 4928.31 to 4928.40 of the Revised Code, as each such rate is determined applicable to each particular customer class and rate schedule by the commission. The unbundled transmission component shall include a sliding scale of charges under division (B) of section 4905.31 of the Revised Code to ensure that refunds determined or approved by the federal energy regulatory commission are flowed through to retail electric customers.

(2) The unbundled components for retail electric distribution service in the rate unbundling plan equal the difference between the costs attributable to the utility's transmission and distribution rates and charges under its schedule of rates and charges in effect on the effective date of this section, based upon the record in the most recent rate proceeding of the utility for which the utility's schedule was established, and the tariff rates for electric transmission service determined by the federal energy regulatory commission as described in division (A)(1) of this section.

(3) All other unbundled components required by the

commission in the rate unbundling plan equal the costs attributable to the particular service as reflected in the utility's schedule of rates and charges in effect on the effective date of this section.

(4) The unbundled components for retail electric generation service in the rate unbundling plan equal the residual amount remaining after the determination of the transmission, distribution, and other unbundled components, and after any adjustments necessary to reflect the effects of the amendment of section 5727.111 of the Revised Code by Sub. S.B. No. 3 of the 123rd general assembly.

(5) All unbundled components in the rate unbundling plan have been adjusted to reflect any base rate reductions on file with the commission and as scheduled to be in effect by December 31, 2005, under rate settlements in effect on the effective date of this section. However, all earnings obligations, restrictions, or caps imposed on an electric utility in a commission order prior to the effective date of this section are void.

(6) Subject to division (A)(5) of this section, the total of all unbundled components in the rate unbundling plan are capped and shall equal during the market development period, except as specifically provided in this chapter, the total of all rates and charges in effect under the applicable bundled schedule of the electric utility pursuant to section 4905.30 of the Revised Code in effect on the day before the effective date of this section, including the transition charge determined under section 4928.40 of the Revised Code, adjusted for any changes in the taxation of electric utilities and retail electric service under Sub. S.B. No. 3 of the 123rd General

Assembly and the percentage of income payment plan rider authorized by section 4928.52 of the Revised Code. For the purpose of this division, the rate cap applicable to a customer receiving electric service pursuant to an arrangement approved by the commission under section 4905.31 of the Revised Code is, for the term of the arrangement, the total of all rates and charges in effect under the arrangement. For any rate schedule filed pursuant to section 4905.30 of the Revised Code or any arrangement subject to approval pursuant to section 4905.31 of the Revised Code, the initial tax-related adjustment to the rate cap required by this division shall be equal to the rate of taxation specified in section 5727.81 of the Revised Code and applicable to the schedule or arrangement. To the extent such total annual amount of the tax-related adjustment is greater than or less than the comparable amount of the total annual tax reduction experienced by the electric utility as a result of the provisions of Sub. S.B. No. 3 of the 123rd general assembly, such difference shall be addressed by the commission through accounting procedures, refunds, or an annual surcharge or credit to customers, or through other appropriate means, to avoid placing the financial responsibility for the difference upon the electric utility or its shareholders. Any adjustments in the rate of taxation specified in section 5727.81 of the Revised Code shall not occur without a corresponding adjustment to the rate cap for each such rate schedule or arrangement. The department of taxation shall advise the commission and self-assessors under section 5727.81 of the Revised Code prior to the effective date of any change in the rate of taxation specified under that section, and the commission shall modify the rate cap to reflect that adjustment so that the rate cap adjustment is effective as of the effective date of the change in the rate of taxation. This division shall be applied, to the extent

possible, to eliminate any increase in the price of electricity for customers that otherwise may occur as a result of establishing the taxes contemplated in section 5727.81 of the Revised Code.

~~(7) The rate unbundling plan complies with any rules adopted by the commission under division (A) of section 4928.06 of the Revised Code.~~

~~(8)~~ The corporate separation plan required by division (A)(2) of section 4928.31 of the Revised Code complies with section 4928.17 of the Revised Code~~ and any rules adopted by the commission under division (A) of section 4928.06 of the Revised Code~~.

~~(9)~~(8) Any plan or plans the commission requires to address operational support systems and any other technical implementation issues pertaining to competitive retail electric service comply with ~~any rules adopted by the~~ commission ~~under division (A) of section 4928.06 of the Revised Code~~requirements.

~~(10)~~(9) The employee assistance plan required by division (A)(4) of section 4928.31 of the Revised Code sufficiently provides severance, retraining, early retirement, retention, outplacement, and other assistance for the utility's employees whose employment is affected by electric industry restructuring under this chapter.

~~(11)~~(10) The consumer education plan required under division (A)(5) of section 4928.31 of the Revised Code complies with former section 4928.42 of the Revised Code~~ and any rules adopted by the commission under division (A) of section 4928.06 of the Revised Code~~.

~~(12)~~(11) The transition revenues for which an electric

utility is authorized a revenue opportunity under sections 4928.31 to 4928.40 of the Revised Code are the allowable transition costs of the utility as such costs are determined by the commission pursuant to section 4928.39 of the Revised Code, and the transition charges for the customer classes and rate schedules of the utility are the charges determined pursuant to section 4928.40 of the Revised Code.

~~(13)~~(12) Any independent transmission plan included in the transition plan filed under section 4928.31 of the Revised Code reasonably complies with section 4928.12 of the Revised Code~~ and any rules adopted by the commission under division (A) of section 4928.06 of the Revised Code~~, unless the commission, for good cause shown, authorizes the utility to defer compliance until an order is issued under division (G) of section 4928.35 of the Revised Code.

~~(14)~~(13) The utility is in compliance with sections 4928.01 to 4928.11 of the Revised Code and any rules or orders of the commission adopted or issued under those sections.

~~(15)~~(14) All unbundled components in the rate unbundling plan have been adjusted to reflect the elimination of the tax on gross receipts imposed by section 5727.30 of the Revised Code.

In addition, a transition plan approved by the commission under section 4928.33 of the Revised Code but not containing an approved independent transmission plan shall contain the express conditions that the utility will comply with an order issued under division (G) of section 4928.35 of the Revised Code.

(B) If the commission finds that any part of the transition plan would constitute an abandonment under sections 4905.20 and 4905.21 of the Revised Code, the commission shall

not approve that part of the transition plan unless it makes the finding required for approval of an abandonment application under section 4905.21 of the Revised Code. Sections 4905.20 and 4905.21 of the Revised Code otherwise shall not apply to a transition plan under sections 4928.31 to 4928.40 of the Revised Code.

Sec. 4928.35. (A) Upon approval of its transition plan under sections 4928.31 to 4928.40 of the Revised Code, an electric utility shall file in accordance with section 4905.30 of the Revised Code schedules containing the unbundled rate components set in the approved plan in accordance with section 4928.34 of the Revised Code. The schedules shall be in effect for the duration of the utility's market development period, shall be subject to the cap specified in division (A)(6) of section 4928.34 of the Revised Code, and shall not be adjusted during that period by the public utilities commission except as otherwise authorized by division (B) of this section or as otherwise authorized by federal law or except to reflect any change in tax law or tax regulation that has a material effect on the electric utility.

(B) Efforts shall be made to reach agreements with electric utilities in matters of litigation regarding property valuation issues. Irrespective of those efforts, the unbundled components for an electric utility's retail electric generation service and distribution service, as provided in division (A) of this section, are not subject to adjustment for the utility's market development period, except that the commission shall order an equitable reduction in those components for all customer classes to reflect any refund a utility receives as a result of the resolution of utility personal property tax valuation litigation that is resolved on or after the effective

date of this section and not later than December 31, 2005. Immediately upon the issuance of that order, the electric utility shall file revised rate schedules under section 4909.18 of the Revised Code to effect the order.

(C) The schedule under division (A) of this section containing the unbundled distribution components shall provide that electric distribution service under the schedule will be available to all retail electric service customers in the electric utility's certified territory and their suppliers on a nondiscriminatory and comparable basis on and after the starting date of competitive retail electric service. The schedule also shall include an obligation to build distribution facilities when necessary to provide adequate distribution service, provided that a customer requesting that service may be required to pay all or part of the reasonable incremental cost of the new facilities, in accordance with rules, policy, precedents, or orders of the commission.

(D) During the market development period, an electric distribution utility shall provide consumers on a comparable and nondiscriminatory basis within its certified territory a standard service offer of all competitive retail electric services necessary to maintain essential electric service to consumers, including a firm supply of electric generation service priced in accordance with the schedule containing the utility's unbundled generation service component. Immediately upon approval of its transition plan, the utility shall file the standard service offer with the commission under section 4909.18 of the Revised Code, during the market development period. The failure of a supplier to deliver retail electric generation service shall result in the supplier's customers, after reasonable notice, defaulting to the utility's standard service

offer filed under this division until the customer chooses an alternative supplier. A supplier is deemed under this section to have failed to deliver such service if any of the conditions specified in section 4928.14 of the Revised Code is met.

(E) An amendment of a corporate separation plan contained in a transition plan approved by the commission under section 4928.33 of the Revised Code shall be filed and approved as a corporate separation plan pursuant to section 4928.17 of the Revised Code.

(F) Any change to an electric utility's opportunity to receive transition revenues under a transition plan approved in accordance with section 4928.33 of the Revised Code shall be authorized only as provided in sections 4928.31 to 4928.40 of the Revised Code.

(G) The commission, by order, shall require each electric utility whose approved transition plan did not include an independent transmission plan as described in division ~~(A)(13)~~ (A)(12) of section 4928.34 of the Revised Code to be a member of, and transfer control of transmission facilities it owns or controls in this state to, one or more qualifying transmission entities, as described in division (B) of section 4928.12 of the Revised Code, that are planned to be operational on and after December 31, 2003. However, the commission may extend that date if, for reasons beyond the control of the utility, a qualifying transmission entity is not planned to be operational on that date. The commission's order may specify an earlier date on which the transmission entity or entities are planned to be operational if the commission considers it necessary to carry out the policy specified in section 4928.02 of the Revised Code or to encourage effective competition in retail electric service

in this state.

Upon the issuance of the order, each such utility shall file with the commission a plan for such independent operation of the utility's transmission facilities consistent with this division. The commission may reject and require refiling of any substantially inadequate plan submitted under this division.

After reasonable notice and opportunity for hearing, the commission shall approve the plan upon a finding that the plan will result in the utility's compliance with the order, this division, and any rules adopted under division (A) of section 4928.06 of the Revised Code. The approved independent transmission plan shall be deemed a part of the utility's transition plan for purposes of sections 4928.31 to 4928.40 of the Revised Code.

Sec. 4928.37. (A)(1) Sections 4928.31 to 4928.40 of the Revised Code provide an electric utility the opportunity to receive transition revenues that may assist it in making the transition to a fully competitive retail electric generation market. An electric Utility for which transition revenues are approved pursuant to sections 4928.31 to 4928.40 of the Revised Code shall receive those revenues through both of the following mechanisms beginning on the starting date of competitive retail electric service and ending on the expiration date of its market development period as determined under section 4928.40 of the Revised Code:

(a) Payment of unbundled rates for retail electric services by each customer that is supplied retail electric generation service during the market development period by the customer's electric distribution utility, which rates shall be specified in schedules filed under section 4928.35 of the

Revised Code;

(b) Payment of a nonbypassable and competitively neutral transition charge by each customer that is supplied retail electric generation service during the market development period by an entity other than the customer's electric distribution utility, as such transition charge is determined under section 4928.40 of the Revised Code. The transition charge shall be payable by each such retail electric distribution service customer in the certified territory of the electric utility for which the transition revenues are approved and shall be billed on each kilowatt hour of electricity delivered to the customer by the electric distribution utility as registered on the customer's meter during the utility's market development period as kilowatt hour is defined in section 4909.161 of the Revised Code or, if no meter is used, as based on an estimate of kilowatt hours used or consumed by the customer. The transition charge for each customer class shall reflect the cost allocation to that class as provided under bundled rates and charges in effect on the day before the effective date of this section. Additionally, as reflected in section 4928.40 of the Revised Code, the transition charges shall be structured to provide shopping incentives to customers sufficient to encourage the development of effective competition in the supply of retail electric generation service. To the extent possible, the level and structure of the transition charge shall be designed to avoid revenue responsibility shifts among the utility's customer classes and rate schedules.

(2)(a) Notwithstanding division (A)(1)(b) of this section, the transition charge shall not be payable on electricity supplied by a municipal electric utility to a retail electric distribution service customer in the certified territory of the

electric utility for which the transition revenues are approved, if the municipal electric utility provides electric transmission or distribution service, or both services, through transmission or distribution facilities singly or jointly owned or operated by the municipal electric utility, and if the municipal electric utility was in existence, operating, and providing service as of January 1, 1999.

(b) The transition charge shall not be payable on electricity supplied or consumed in this state except such electricity as is delivered to a retail customer by an electric distribution utility and is registered on the customer's meter during the utility's market development period or, if no meter is used, is based on an estimate of kilowatt hours used or consumed by the customer. However, no transition charge shall be payable on electricity that is both produced and consumed in this state by a self-generator.

(3) The transition charge shall not be discounted by any party.

(4) Nothing prevents payment of all or part of the transition charge by another party on a customer's behalf if that payment does not contravene sections 4905.33 to 4905.35 of the Revised Code or this chapter.

(B) The electric utility shall separately itemize and disclose, or cause its billing and collection agent to separately itemize and disclose, the transition charge on the customer's bill in accordance with reasonable specifications the commission shall prescribe by rule ~~under division (A) of section 4928.06 of the Revised Code~~.

Sec. 4928.543. The public utilities commission shall adopt

rules to ~~implement sections 4928.54, 4928.541, and 4928.542 of the Revised Code. The rules shall~~ ensure a fair and unbiased auction process and the performance of the winning bidder or bidders under sections 4928.54, 4928.541, and 4928.542 of the Revised Code.

Sec. 4928.62. (A) There is hereby created the advanced energy program, which shall be administered by the director of development. Under the program, the director may authorize the use of moneys in the advanced energy fund for financial, technical, and related assistance for advanced energy projects in this state or for economic development assistance, in furtherance of the purposes set forth in section 4928.63 of the Revised Code.

(1) To the extent feasible given approved applications for assistance, the assistance shall be distributed among the certified territories of electric distribution utilities and participating electric cooperatives, and among the service areas of participating municipal electric utilities, in amounts proportionate to the remittances of each utility and cooperative under division (B)(2) of section 4928.61 of the Revised Code.

(2) The funds described in division (B)(5) of section 4928.61 of the Revised Code shall not be subject to the territorial requirements of division (A)(1) of this section.

(3) The director shall not authorize financial assistance for an advanced energy project under the program unless the director first determines that the project will create new jobs or preserve existing jobs in this state or use innovative technologies or materials.

(B) In carrying out sections 4928.61 to 4928.63 of the

Revised Code, the director may do all of the following to further the public interest in advanced energy projects and economic development:

(1) Award grants, contracts, loans, loan participation agreements, linked deposits, and energy production incentives;

(2) Acquire in the name of the director any property of any kind or character in accordance with this section, by purchase, purchase at foreclosure, or exchange, on such terms and in such manner as the director considers proper;

(3) Make and enter into all contracts and agreements necessary or incidental to the performance of the director's duties and the exercise of the director's powers under sections 4928.61 to 4928.63 of the Revised Code;

(4) Employ or enter into contracts with financial consultants, marketing consultants, consulting engineers, architects, managers, construction experts, attorneys, technical monitors, energy evaluators, or other employees or agents as the director considers necessary, and fix their compensation;

(5) Adopt rules prescribing the application procedures for financial assistance under the advanced energy program; the fees, charges, interest rates, payment schedules, local match requirements, and other terms and conditions of any grants, contracts, loans, loan participation agreements, linked deposits, and energy production incentives; and criteria pertaining to the eligibility of participating lending institutions; ~~and any other matters necessary for the implementation of the program;~~

(6) Do all things necessary and appropriate for the operation of the program.

(C) The department of development may hold ownership to any unclaimed energy efficiency and renewable energy emission allowances provided for in Chapter 3745-14 of the Administrative Code or otherwise, that result from advanced energy projects that receive funding from the advanced energy fund, and it may use the allowances to further the public interest in advanced energy projects or for economic development.

(D) Financial statements, financial data, and trade secrets submitted to or received by the director from an applicant or recipient of financial assistance under sections 4928.61 to 4928.63 of the Revised Code, or any information taken from those statements, data, or trade secrets for any purpose, are not public records for the purpose of section 149.43 of the Revised Code.

(E) Nothing in the amendments of sections 4928.61, 4928.62, and 4928.63 of the Revised Code by Sub. H.B. 251 of the 126th general assembly shall affect any pending or effected assistance, pending or effected purchases or exchanges of property made, or pending or effected contracts or agreements entered into pursuant to division (A) or (B) of this section as the section existed prior to the effective date of those amendments, January 4, 2007, or shall affect the exemption provided under division (C) of this section as the section existed prior to that effective date.

(F) Any assistance a school district receives for an advanced energy project, including a geothermal heating, ventilating, and air conditioning system, shall be in addition to any assistance provided under Chapter 3318. of the Revised Code and shall not be included as part of the district or state portion of the basic project cost under that chapter.

Sec. 4928.70. ~~(A)~~ The public utilities commission may periodically review any green pricing program offered in this state as part of competitive retail electric service. At the conclusion of a review, the commission may make recommendations to improve or expand the program subject of the review.

~~(B) The commission shall adopt rules necessary to carry out purposes of this section.~~

Sec. 4928.73. (A) As used in this section:

(1) "Mercantile customer member" means a mercantile customer connected to a mercantile customer self-power system.

(2) "Mercantile customer self-power system" means one or more electric generation facilities, electric storage facilities, or both, along with any associated facilities, that meet all of the following:

(a) Produce electricity primarily for the consumption of a mercantile customer member or a group of mercantile customer members;

(b) Connect directly to the mercantile customer member's side of the electric meter;

(c) Deliver electricity to the mercantile customer member's side of the electric meter without the use of an electric distribution utility's or electric cooperative's distribution system or transmission system;

(d) Is located on either of the following:

(i) A property owned or controlled by a mercantile customer member or the entity that owns or operates the mercantile customer self-power system;

(ii) Land adjacent to a mercantile customer member if the facilities connect directly with the customer.

(B) The mercantile customer self-power system may be owned or operated by a mercantile customer member, group of mercantile customer members, or an entity that is not a mercantile customer member.

(C) A mercantile customer self-power system may provide electric generation service to one or more mercantile customers.

(D) ~~The public utilities commission shall adopt rules to implement this section that are applicable to electric distribution utilities.~~

~~(E)~~ Nothing in this section prohibits an electric distribution utility or an electric cooperative from charging a mercantile customer for distribution or transmission service used by a mercantile customer.

Sec. 4929.221. (A) If a competitive retail natural gas service supplier offers a residential customer or non-mercantile commercial customer a contract for a fixed introductory rate that converts to a variable rate upon the expiration of the fixed rate, the supplier shall send two notices to each residential customer and non-mercantile commercial customer that enters into such a contract. Each notice shall provide all of the following information to the customer:

(1) The fixed rate that is expiring under the contract;

(2) The expiration date of the contract's fixed rate;

(3) The public utilities commission web site that, as a comparison tool, lists rates offered by competitive retail natural gas service suppliers.

(B) The second notice shall include all the information required under division (A) of this section and shall also identify the initial rate to be charged upon the contract's conversion to a variable rate.

(C) The notices shall be sent by standard United States mail or electronically with a customer's verifiable consent as follows:

(1) The supplier shall send the first notice not earlier than ninety days and not later than sixty days prior to the expiration of the fixed rate.

(2) The supplier shall send the second notice not earlier than forty-five days and not later than fifteen days prior to the expiration of the fixed rate.

(D) A competitive retail natural gas service supplier shall provide an annual notice, by standard United States mail or electronically with a customer's verifiable consent, to each residential customer and non-mercantile commercial customer that has entered into a contract with the supplier that has converted to a variable rate upon the expiration of the contract's fixed introductory rate. The notice shall inform the customer that the customer is currently subject to a variable rate and that other fixed rate contracts are available.

(E) ~~Not later than one hundred fifty days after the effective date of this section, the commission shall adopt rules in order to implement divisions (A) to (D) of this section. The rules, at a minimum, shall include the following requirements regarding the notices required under divisions (A) to (D) of this section:~~

~~(1) To use clear and unambiguous language in order to~~

~~enable the customer to make an informed decision;~~

~~(2) To design the notices in a way to ensure that they cannot be confused with marketing materials.~~

~~(F) Notwithstanding any provision of section 121.95 of the Revised Code to the contrary, a regulatory restriction contained in a rule adopted under section 4929.221 of the Revised Code is not subject to sections 121.95 to 121.953 of the Revised Code.~~

Sec. 4935.04. (A) As used in this chapter:

(1) "Major utility facility" means:

(a) An electric transmission line and associated facilities of a design capacity of one hundred twenty-five kilovolts or more;

(b) A gas or natural gas transmission line and associated facilities designed for, or capable of, transporting gas or natural gas at pressures in excess of one hundred twenty-five pounds per square inch.

"Major utility facility" does not include electric, gas, or natural gas distributing lines and gas or natural gas gathering lines and associated facilities as defined by the public utilities commission; facilities owned or operated by industrial firms, persons, or institutions that produce or transmit gas or natural gas, or electricity primarily for their own use or as a byproduct of their operations; gas or natural gas transmission lines and associated facilities over which an agency of the United States has certificate jurisdiction; facilities owned or operated by a person furnishing gas or natural gas directly to fifteen thousand or fewer customers within this state.

(2) "Person" has the meaning set forth in section 4906.01 of the Revised Code.

(3) "Advanced transmission technologies" has the same meaning as in section 4906.01 of the Revised Code.

(B) Each person owning or operating a gas or natural gas transmission line and associated facilities within this state over which an agency of the United States has certificate jurisdiction shall furnish to the commission a copy of the energy information filed by the person with that agency of the United States.

(C) Each person owning or operating a major utility facility within this state, or furnishing gas, natural gas, or electricity directly to more than fifteen thousand customers within this state shall furnish a report to the commission for its review. The report shall be furnished annually, except that for a gas or natural gas company the report shall be furnished every three years. The report shall be termed the long-term forecast report and shall contain:

(1) A year-by-year, ten-year forecast of annual energy demand, peak load, reserves, and a general description of the resource planning projections to meet demand;

(2) A range of projected loads during the period;

(3) A description of major utility facilities planned to be added or taken out of service in the next ten years, including, to the extent the information is available, prospective sites for transmission line locations;

(4) For gas and natural gas, a projection of anticipated supply, supply prices, and sources of supply over the forecast period;

(5) A description of proposed changes in the transmission system planned for the next five years;

(6) A month-by-month forecast of both energy demand and peak load for electric utilities, and gas sendout for gas and natural gas utilities, for the next two years. The report shall describe the major utility facilities that, in the judgment of such person, will be required to supply system demands during the forecast period. The report from a gas or natural gas utility shall cover the ten- and five-year periods next succeeding the date of the report, and the report from an electric utility shall cover the twenty-, ten-, and five-year periods next succeeding the date of the report. Each report shall be made available to the public and furnished upon request to municipal corporations and governmental agencies charged with the duty of protecting the environment or of planning land use. The report shall be in such form and shall contain such information as may be prescribed by the commission.

Each person not owning or operating a major utility facility within this state and serving fifteen thousand or fewer gas or natural gas, or electric customers within this state shall furnish such information as the commission requires.

(7) For electric transmission, a person shall include an evaluation and report of the potential use of, or investment in, one or more advanced transmission technologies to enable the electric utility to safely, reliably, efficiently, and cost-effectively meet electric system demand through its major utility facilities.

The report shall identify which advanced transmission technologies were considered as a part of the review of the major utility facilities for the next five years. A person shall

also include a cost evaluation comparing costs of traditional transmission investments and costs of advanced transmission technologies for the projects considered on the major utility facilities applied individually, together, or in sequence. The report shall also include an advanced transmission technology congestion mitigation study to cost-effectively maximize the delivery of energy resources in the near term that:

(a) Identifies locations on the entity's transmission system where congestion has occurred for a total of fifty hours per year or more during the last three years or is likely to occur during the next five years, including due to planned transmission outages or other factors;

(b) Estimates the frequency of congestion at each location and the increased cost to ratepayers resulting from the substitution of higher-priced electricity;

(c) Evaluates the technical feasibility and estimates the cost of installing one or more advanced transmission technologies to address each instance of grid congestion identified in division (C)(7)(a) of this section and projects the grid-enhancing technology's efficacy in reducing congestion;

(d) Analyzes the cost-effectiveness of installing grid-enhancing technologies to address each instance of congestion identified in division (C)(7)(a) of this section by using the information developed in division (C)(7)(c) of this section to calculate the payback period of each installation, using a methodology developed by the commission;

(e) Proposes an implementation plan, including a schedule and cost estimate, to install grid-enhancing technologies at each congestion point at which the payback period is less than

or equal to a value determined by the commission, in order to maximize transmission system capacity, and explains the entity's current line rating methodology.

(D) The commission shall:

(1) Review and comment on the reports filed under division (C) of this section, and make the information contained in the reports readily available to the public and other interested government agencies;

(2) Compile and publish each year the general locations of proposed and existing transmission line routes within its jurisdiction as identified in the reports filed under division (C) of this section, identifying the general location of such sites and routes and the approximate year when construction is expected to commence, and to make such information readily available to the public, to each newspaper of daily or weekly circulation within the area affected by the proposed site and route, and to interested federal, state, and local agencies;

(3) Hold a public hearing upon the showing of good cause to the commission by an interested party.

If a hearing is held, the commission shall fix a time for the hearing, which shall be not later than ninety days after the report is filed, and publish notice of the date, time of day, and location of the hearing in a newspaper of general circulation in each county in which the person furnishing the report has or intends to locate a major utility facility and will provide service during the period covered by the report. The notice shall be published not less than fifteen nor more than thirty days before the hearing and shall state the matters to be considered.

(4) Require such information from persons subject to its jurisdiction as necessary to assist in the conduct of hearings and any investigation or studies it may undertake;

(5) Conduct any studies or investigations that are necessary or appropriate to carry out its responsibilities under this section.

(6) Review and evaluate that advanced transmission technologies were properly reported in accordance with division (C)(7) of this section and allow stakeholders to provide comments.

(7) Approve advanced transmission technology congestion mitigation implementation plans, including cost recovery.

(E)(1) The scope of the hearing held under division (D)(3) of this section shall be limited to issues relating to forecasting. The power siting board, the office of consumers' counsel, and all other persons having an interest in the proceedings shall be afforded the opportunity to be heard and to be represented by counsel. The commission may adjourn the hearing from time to time.

(2) The hearing shall include, but not be limited to, a review of:

(a) The projected loads and energy requirements for each year of the period;

(b) The estimated installed capacity and supplies to meet the projected load requirements.

(F) Based upon the report furnished pursuant to division (C) of this section and the hearing record, the commission, within ninety days from the close of the record in the hearing,

shall determine if:

(1) All information relating to current activities, facilities agreements, and published energy policies of the state has been completely and accurately represented;

(2) The load requirements are based on substantially accurate historical information and adequate methodology;

(3) The forecasting methods consider the relationships between price and energy consumption;

(4) The report identifies and projects reductions in energy demands due to energy conservation measures in the industrial, commercial, residential, transportation, and energy production sectors in the service area;

(5) Utility company forecasts of loads and resources are reasonable in relation to population growth estimates made by state and federal agencies, transportation, and economic development plans and forecasts, and make recommendations where possible for necessary and reasonable alternatives to meet forecasted electric power demand;

(6) The report considers plans for expansion of the regional power grid and the planned facilities of other utilities in the state;

(7) All assumptions made in the forecast are reasonable and adequately documented.

(G) The commission shall adopt rules under section 111.15 of the Revised Code to establish criteria for evaluating the long-term forecasts of needs for gas and electric transmission service, to conduct hearings held under this section, and to establish reasonable fees to defray the direct cost of the

hearings and the review process~~, and such other rules as are necessary and convenient to implement this section~~.

(H) The hearing record produced under this section and the determinations of the commission shall be introduced into evidence and shall be considered in determining the basis of need for power siting board deliberations under division (A)(1) of section 4906.10 of the Revised Code. The hearing record produced under this section shall be introduced into evidence and shall be considered by the commission in its initiation of programs, examinations, and findings under section 4905.70 of the Revised Code, and shall be considered in the commission's determinations with respect to the establishment of just and reasonable rates under section 4909.15 of the Revised Code and financing utility facilities and authorizing issuance of all securities under sections 4905.40, 4905.401, 4905.41, and 4905.42 of the Revised Code. The forecast findings also shall serve as the basis for all other energy planning and development activities of the state government where electric and gas data are required.

(I)(1) No court other than the supreme court shall have power to review, suspend, or delay any determination made by the commission under this section, or enjoin, restrain, or interfere with the commission in the performance of official duties. A writ of mandamus shall not be issued against the commission by any court other than the supreme court.

(2) A final determination made by the commission shall be reversed, vacated, or modified by the supreme court on appeal, if, upon consideration of the record, such court is of the opinion that such determination was unreasonable or unlawful.

The proceeding to obtain such reversal, vacation, or

modification shall be by notice of appeal, filed with the commission by any party to the proceeding before it, against the commission, setting forth the determination appealed from and errors complained of. The notice of appeal shall be served, unless waived, upon the commission by leaving a copy at the office of the chairperson of the commission at Columbus. The court may permit an interested party to intervene by cross-appeal.

(3) No proceeding to reverse, vacate, or modify a determination of the commission is commenced unless the notice of appeal is filed within sixty days after the date of the determination.

Sec. 4939.07. (A) As used in this section, "most recent," with respect to any rate proceeding, means the rate proceeding most immediately preceding the date of any final order issued by the public utilities commission under this section.

(B)(1) Notwithstanding any other provision of law or any agreement establishing price caps, rate freezes, or rate increase moratoria, a public utility subject to the rate-making jurisdiction of the commission may file an application with the commission for, and the commission shall then authorize by order, timely and full recovery of a public way fee levied upon and payable by the public utility both after January 1, 2002, and after the test year of the public utility's most recent rate proceeding or the initial effective date of rates in effect but not established through a proceeding for an increase in rates.

(2) Any order issued by the commission pursuant to its consideration of an application under division (B)(1) of this section shall establish a cost recovery mechanism including, but not limited to, an adder, tracker, rider, or percentage

surcharge, for recovering the amount to be recovered; specify that amount; limit the amount to not more and not less than the amount of the total public way fee incurred; and require periodic adjustment of the mechanism based on revenues recovered.

(a) In the case of a cost recovery mechanism for a public way fee levied on and payable by a public utility but determined unreasonable, unjust, unjustly discriminatory, or unlawful by the commission pursuant to division (C) of section 4939.06 of the Revised Code, the mechanism shall provide for recovery, only from those customers of the public utility that receive its service within the municipal corporation, of the difference between that public way fee and the just and reasonable public way fee determined by the commission under division (C) of section 4939.06 of the Revised Code.

(b) In all other cases, recovery shall be from all customers of the public utility generally.

(C) In the case of recovery under division (B)(2)(a) or (b) of this section, the recovery mechanism payable by sale-for-resale or wholesale telecommunications customers shall provide for recovery limited to any public way fee not included in established rates and prices for those customers and to the pro rata share of the public way fee applicable to the portion of the facilities that are sold, leased, or rented to the customers and are located in the public way. The recovery shall be in a nondiscriminatory and competitively neutral manner and prorated on a per-line or per-line equivalent basis among all retail, sale-for-resale, and wholesale telecommunications customers subject to the recovery.

(D)(1) Notwithstanding any other provision of law or any

agreement establishing price caps, rate freezes, or rate increase moratoria, a public utility subject to the rate-making jurisdiction of the commission may file an application with the commission for, and the commission by order shall authorize, such accounting authority as may be reasonably necessary to classify any cost described in division (D)(2) of this section as a regulatory asset for the purpose of recovering that cost.

(2) A cost eligible for recovery under division (D) of this section shall be only such cost as meets both of the following:

(a) The cost is directly incurred by the public utility as a result of municipal corporation regulation of its occupancy or use of a public way or an appropriate allocation and assignment of costs related to implementation of this section, excluding any cost arising from a public way fee levied upon and payable by the public utility.

(b) The cost is incurred by the public utility both after January 1, 2002, and after the test year of the public utility's most recent rate proceeding or the initial effective date of rates in effect but not established through a proceeding for an increase in rates.

(3) If the commission determines, upon an application under division (D)(1) of this section or its own initiative, that classification of a cost described in division (D)(2) of this section as a regulatory asset is not practical or that deferred recovery of that cost would impose a hardship on the public utility or its customers, the commission shall establish a charge and collection mechanism to permit the public utility full recovery of that cost. A hardship shall be presumed for any public utility with less than fifteen thousand bundled sales

service customers in this state and for any public utility for which the annualized aggregate amount of additional cost that otherwise may be eligible for such classification exceeds the greater of five hundred thousand dollars or fifteen per cent of the total costs that are described in division (D)(2)(a) of this section and were considered by the commission for the purpose of establishing rates in the public utility's most recent rate increase proceeding or the rate increase proceeding of the public utility's predecessor, whichever is later.

(E) Any application submitted to the commission under divisions (B) to (D) of this section shall be processed by the commission as an application not for an increase in rates under section 4909.18 of the Revised Code. The application shall include such information as the commission reasonably requires. The commission shall conclude its consideration of the application and issue a final order not later than one hundred twenty days after the date that the application was submitted to the commission. A final order regarding a recovery mechanism authorized pursuant to this section shall provide for such retroactive adjustment as the commission determines appropriate.

(F) A public utility shall not be required to waive any rights under this section as a condition of occupancy or use of a public way.

~~(G) The commission may issue such rules as it considers necessary to carry out this section.~~

Sec. 4981.14. (A) The Ohio rail development commission may exercise all powers necessary or appropriate to carry out its corporate purposes.

(B) The commission may do all of the following:

~~(1) Adopt, and from time to time, ratify, amend, and repeal bylaws necessary and proper for the regulation of its affairs and the conduct of its business and rules to implement and make effective its powers and duties;~~

~~(2)~~ Adopt an official seal;

~~(3)~~ (2) Maintain a principal office in Columbus and, if necessary, regional sub-offices at locations properly designated or provided;

~~(4)~~ (3) Sue and be sued in its own name and plead and be impleaded in its own name, particularly to enforce the obligations and covenants made under this section and sections 4981.13 and 4981.29 of the Revised Code. Any actions against the commission shall be brought in the court of common pleas in Franklin county, in which the principal office of the commission shall be located.

~~(5)~~ (4) Undertake or cause to be undertaken the acquisition, renovation, repair, refunding, operation, maintenance, or construction of any rail service project;

~~(6)~~ (5) Establish and operate a revolving loan fund for the purpose of making loans to qualifying subdivisions, local or regional transportation authorities, or other persons for the acquisition, renovation, repair, refunding, or construction of rail service projects by such qualifying subdivisions, local or regional transportation authorities, and private corporations or organizations, and the repayment thereof from project financing proceeds and revenues; purchase the obligations of counties and municipal corporations issued for the acquisition, renovation, repair, or construction of rail service projects by such qualifying subdivisions and local or regional transportation

authorities; and adopt rules and procedures for making those loans or purchasing those obligations;

~~(7)~~ (6) Issue bonds and notes and refunding obligations of the state, payable as provided in this chapter unless the bonds are refunded by refunding bonds, for the purpose of borrowing money to implement any power granted by divisions ~~(B)(5)~~ (B)(4) and ~~(6)~~ (5) of this section for one or more rail service projects or parts thereof;

~~(8)~~ (7) Acquire by gift or purchase, hold, or dispose of real and personal property in the exercise of its powers and performance of its duties as set forth in this chapter;

~~(9)~~ (8) Make and enter into all contracts and agreements and execute all instruments necessary or incidental to the performance of its duties and the execution of its powers and to employ natural persons to act on behalf of the commission, and to establish the terms and conditions of such employment;

~~(10)~~ (9) Receive and accept from any federal agency or other person, subject to the approval of the governor, grants for or in aid of the construction, repair, renovation, operation, maintenance, or acquisition of rail service projects, and receive and accept aid or contributions from any source of money, property, labor, or other things of value, to be held, used, and applied only for the purposes for which the grants and contributions are made;

~~(11)~~ (10) Purchase property coverage and liability insurance for any rail service project and for any offices of the commission, insurance protecting the commission and its officers and employees against liability, if any, or damage to property or injury to or death of persons arising from its

operations, and any other insurance the commission may agree to provide under any resolution authorizing the issuance of bonds in accordance with sections 4981.11 to 4981.26 of the Revised Code, or in any trust agreement securing the same;

~~(12)~~ (11) Establish or increase reserves from moneys received or to be received by the commission to secure or pay the principal of and interest on bonds, notes, or other obligations issued by the commission pursuant to this chapter or other law. Moneys, funds, and accounts of the commission, however, are subject only to audit by the auditor of state and all moneys, funds, and accounts shall be held in custody or deposited as directed by resolution of the commission and unless otherwise provided by law all moneys of the commission not pledged to the holders of bonds of the commission shall be appropriated by the general assembly.

~~(13)~~ (12) Receive and disburse the proceeds of general obligation or other bonds of the state or agencies thereof as may be allowed by law pursuant to any resolution or act of the general assembly;

~~(14)~~ (13) To the extent permitted under its contracts with the holders of bonds or notes of the commission, consent to modification of the rate of interest, time and payment of installment of principal or interest, security, or any other term of a bond, contract, or agreement of any kind to which the commission is a party;

~~(15)~~ (14) Make grants to counties or municipal corporations, qualifying subdivisions, local or regional transportation authorities, or other persons for one or more rail service projects or parts thereof;

~~(16)~~ (15) Provide consultation services to any qualifying subdivision, local or regional transportation authority, or other person in connection with the acquisition, renovation, repair, or construction of any rail service project;

~~(17)~~ (16) Establish and amend the criteria and qualifications for the making of any loan to or the purchasing of any bond from any qualifying subdivision, local or regional transportation authority, or other person and the terms not inconsistent with this chapter of any loan or bond purchase agreement with any qualifying subdivision, local or regional transportation authority, or other person;

~~(18)~~ (17) Deposit money received from the repayment of loans and recoveries from the sale, lease, or other disposition of property acquired or constructed from amounts loaned by the commission pursuant to section 4981.13 of the Revised Code or division (B) of this section, in an account pledged to secure, and applied to the repayment, without the need for appropriation, of, obligations issued under section 166.08 of the Revised Code to pay the costs of property, facilities, or equipment that qualifies as rail service projects; enter into agreements with the treasurer of state or a corporate trustee for such obligations to provide for the deposit and pledge of such money as specified in the agreement, to permit the withdrawal of money by the treasurer of state or corporate trustee from the account as necessary for application to the payment of debt service on such obligations, and to permit the investment of those amounts, without regard to Chapter 131. or 135. of the Revised Code, pending their application to the payment of debt service; and enter into agreements with persons to provide for the repayment of any amounts paid from any pledged account in connection with obligations issued under

section 166.08 of the Revised Code;

~~(19)~~ (18) Do all acts necessary and proper to carry out the powers expressly granted to the commission in this chapter.

(C) Any instrument by which real property is acquired pursuant to this section shall identify the agency of the state that has the use and benefit of the real property as specified in section 5301.012 of the Revised Code.

Sec. 5101.11. (A) As used in this section:

(1) "Entity" includes an agency, board, commission, or department of the state or a political subdivision of the state; a private, nonprofit entity; a school district; a private school; or a public or private institution of higher education.

(2) "Federal financial participation" means the federal government's share of expenditures made by an entity in implementing a program administered by the department of job and family services.

(B) At the request of any public entity having authority to implement a program administered by the department of job and family services or the department of children and youth, or any private entity under contract with a public entity to implement a program administered by the applicable department, the applicable department may seek to obtain federal financial participation for costs incurred by the entity. Federal financial participation may be sought from programs operated pursuant to Title IV-A of the "Social Security Act," 42 U.S.C. 601 et seq.; Title IV-E of the "Social Security Act," 42 U.S.C. 670 et seq.; the Food and Nutrition Act of 2008, 7 U.S.C. 2011 et seq.; and any other statute or regulation under which federal financial participation may be available, except that federal

financial participation may be sought only for expenditures made with funds for which federal financial participation is available under federal law.

(C) All funds collected by the department of job and family services or the department of children and youth pursuant to division (B) of this section shall be distributed to the entities that incurred the costs, except for any amounts retained by the applicable department pursuant to division (D)(3) of this section.

(D) In distributing federal financial participation pursuant to this section, the department of job and family services or the department of children and youth may either enter into an agreement with the entity that is to receive the funds or distribute the funds in accordance with rules adopted under division (F) of this section. If an agreement to distribute the funds is entered into, the agreement may include terms that do any of the following:

(1) Provide for the whole or partial reimbursement of any cost incurred by the entity in implementing the program;

(2) In the event that federal financial participation is disallowed or otherwise unavailable for any expenditure, require the applicable department or the entity, whichever party caused the disallowance or unavailability of federal financial participation, to assume responsibility for the expenditures;

(3) Permit the applicable department to retain not more than five per cent of the amount of the federal financial participation to be distributed to the entity;

(4) Require the public entity to certify the availability of sufficient unencumbered funds to match the federal financial

participation it receives under this section;

(5) Establish the length of the agreement, which may be for a fixed or a continuing period of time;

(6) Establish any other requirements determined by the applicable department to be necessary for the efficient administration of the agreement.

(E) An entity that receives federal financial participation pursuant to this section for a program aiding children and their families shall establish a process for collaborative planning with the department of job and family services or the department of children and youth for the use of the funds to improve and expand the program.

(F) The director of job and family services and the director of children and youth each shall adopt rules ~~as necessary to implement this section, including rules~~ for the distribution of federal financial participation pursuant to this section. The rules shall be adopted in accordance with Chapter 119. of the Revised Code. Each director may adopt or amend any statewide plan required by the federal government for a program administered by that department, as necessary to implement this section.

(G) Federal financial participation received pursuant to this section shall not be included in any calculation made under section 5101.16 or 5101.161 of the Revised Code.

Sec. 5101.16. (A) As used in this section and sections 5101.161 and 5101.162 of the Revised Code:

(1) "Disability financial assistance" means the financial assistance program established under former Chapter 5115. of the Revised Code.

(2) "Supplemental nutrition assistance program" means the program administered by the department of job and family services pursuant to section 5101.54 of the Revised Code.

(3) "Ohio works first" means the program established by Chapter 5107. of the Revised Code.

(4) "Prevention, retention, and contingency" means the program established by Chapter 5108. of the Revised Code.

(5) "Public assistance expenditures" means expenditures for all of the following:

(a) Ohio works first;

(b) County administration of Ohio works first;

(c) Prevention, retention, and contingency;

(d) County administration of prevention, retention, and contingency;

(e) Disability financial assistance;

(f) County administration of disability financial assistance;

(g) County administration of the supplemental nutrition assistance program;

(h) County administration of medicaid, excluding administrative expenditures for transportation services covered by the medicaid program.

(6) "Title IV-A program" has the same meaning as in section 5101.80 of the Revised Code.

(B) Each board of county commissioners shall pay the county share of public assistance expenditures in accordance

with section 5101.161 of the Revised Code. Except as provided in division (C) of this section, a county's share of public assistance expenditures is the sum of all of the following for state fiscal year 1998 and each state fiscal year thereafter:

(1) The amount that is twenty-five per cent of the county's total expenditures for disability financial assistance and county administration of that program during the state fiscal year ending in the previous calendar year that the department of job and family services determines are allowable.

(2) The amount that is ten per cent, or other percentage determined under division (D) of this section, of the county's total expenditures for county administration of the supplemental nutrition assistance program and medicaid (excluding administrative expenditures for transportation services covered by the medicaid program) during the state fiscal year ending in the previous calendar year that the department determines are allowable, less the amount of federal reimbursement credited to the county under division (E) of this section for the state fiscal year ending in the previous calendar year;

(3) A percentage of the actual amount of the county share of program and administrative expenditures during federal fiscal year 1994 for assistance and services, other than child care, provided under Titles IV-A and IV-F of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 301, as those titles existed prior to the enactment of the "Personal Responsibility and Work Opportunity Reconciliation Act of 1996," 110 Stat. 2105. The department of job and family services shall determine the actual amount of the county share from expenditure reports submitted to the United States department of health and human services. The percentage shall be the percentage established in

rules adopted under division (F) of this section.

(C)(1) If a county's share of public assistance expenditures determined under division (B) of this section for a state fiscal year exceeds one hundred five per cent of the county's share for those expenditures for the immediately preceding state fiscal year, the department of job and family services shall reduce the county's share for expenditures under divisions (B)(1) and (2) of this section so that the total of the county's share for expenditures under division (B) of this section equals one hundred five per cent of the county's share of those expenditures for the immediately preceding state fiscal year.

(2) A county's share of public assistance expenditures determined under division (B) of this section may be increased pursuant to section 5101.163 of the Revised Code and a sanction under section 5101.24 of the Revised Code. An increase made pursuant to section 5101.163 of the Revised Code may cause the county's share to exceed the limit established by division (C)(1) of this section.

(D)(1) If the per capita tax duplicate of a county is less than the per capita tax duplicate of the state as a whole and division (D)(2) of this section does not apply to the county, the percentage to be used for the purpose of division (B)(2) of this section is the product of ten multiplied by a fraction of which the numerator is the per capita tax duplicate of the county and the denominator is the per capita tax duplicate of the state as a whole. The department of job and family services shall compute the per capita tax duplicate for the state and for each county by dividing the tax duplicate for the most recent available year by the current estimate of population prepared by

the development services agency.

(2) If the percentage of families in a county with an annual income of less than three thousand dollars is greater than the percentage of such families in the state and division (D)(1) of this section does not apply to the county, the percentage to be used for the purpose of division (B)(2) of this section is the product of ten multiplied by a fraction of which the numerator is the percentage of families in the state with an annual income of less than three thousand dollars a year and the denominator is the percentage of such families in the county. The department of job and family services shall compute the percentage of families with an annual income of less than three thousand dollars for the state and for each county by multiplying the most recent estimate of such families published by the development services agency, by a fraction, the numerator of which is the estimate of average annual personal income published by the bureau of economic analysis of the United States department of commerce for the year on which the census estimate is based and the denominator of which is the most recent such estimate published by the bureau.

(3) If the per capita tax duplicate of a county is less than the per capita tax duplicate of the state as a whole and the percentage of families in the county with an annual income of less than three thousand dollars is greater than the percentage of such families in the state, the percentage to be used for the purpose of division (B)(2) of this section shall be determined as follows:

(a) Multiply ten by the fraction determined under division (D)(1) of this section;

(b) Multiply the product determined under division (D)(3)

(a) of this section by the fraction determined under division (D)(2) of this section.

(4) The department of job and family services shall determine, for each county, the percentage to be used for the purpose of division (B)(2) of this section not later than the first day of July of the year preceding the state fiscal year for which the percentage is used.

(E) The department of job and family services shall credit to a county the amount of federal reimbursement the department receives from the United States departments of agriculture and health and human services for the county's expenditures for administration of the supplemental nutrition assistance program and medicaid (excluding administrative expenditures for transportation services covered by the medicaid program) that the department determines are allowable administrative expenditures.

(F)(1) The director of job and family services shall adopt rules in accordance with section 111.15 of the Revised Code to establish all of the following:

(a) The method the department is to use to change a county's share of public assistance expenditures determined under division (B) of this section as provided in division (C) of this section;

(b) The allocation methodology and formula the department will use to determine the amount of funds to credit to a county under this section;

(c) The method the department will use to change the payment of the county share of public assistance expenditures from a calendar-year basis to a state fiscal year basis;

(d) The percentage to be used for the purpose of division (B)(3) of this section, which shall, except as provided in section 5101.163 of the Revised Code, meet both of the following requirements:

(i) The percentage shall not be less than seventy-five per cent nor more than eighty-two per cent;

(ii) The percentage shall not exceed the percentage that the state's qualified state expenditures is of the state's historic state expenditures as those terms are defined in 42 U.S.C. 609(a)(7).

~~(e) Other procedures and requirements necessary to implement this section.~~

(2) The director of job and family services may amend the rule adopted under division (F)(1)(d) of this section to modify the percentage on determination that the amount the general assembly appropriates for Title IV-A programs makes the modification necessary. The rule shall be adopted and amended as if an internal management rule and in consultation with the director of budget and management.

Sec. 5101.214. The director of job and family services and the director of children and youth may enter into a written agreement with one or more state agencies, as defined in section 117.01 of the Revised Code, and state universities and colleges to assist in the coordination, provision, or enhancement of the family services duties of a county family services agency or the workforce development activities of a local board, as defined in section 6301.01 of the Revised Code. The directors also may enter into written agreements or contracts with, or issue grants to, private and government entities under which funds are

provided for the enhancement or innovation of family services duties or workforce development activities on the state or local level.

~~The directors may adopt internal management rules in accordance with section 111.15 of the Revised Code to implement this section.~~

Sec. 5101.24. (A) As used in this section, "responsible county grantee" means whichever county grantee, as defined in section 5101.21 of the Revised Code, the director of job and family services and the director of children and youth determine is appropriate to take action against under division (C) of this section.

(B) Regardless of whether a family services duty is performed by a county family services agency, private or government entity pursuant to a contract entered into under section 307.982 of the Revised Code or division (C)(2) of section 5153.16 of the Revised Code, or private or government provider of a family service duty, the department of job and family services or the department of children and youth may take action under division (C) of this section against the responsible county grantee if the department determines any of the following are the case:

(1) A requirement of a grant agreement entered into under section 5101.21 of the Revised Code that includes a grant for the family services duty, including a requirement for grant agreements established by rules adopted under that section, is not complied with;

(2) A county family services agency fails to develop, submit to the department, or comply with a corrective action

plan under division (B) of section 5101.221 of the Revised Code, or the department disapproves the agency's corrective action plan developed under division (B) of section 5101.221 of the Revised Code;

(3) A requirement for the family services duty established by the department or any of the following is not complied with: a federal or state law, state plan for receipt of federal financial participation, grant agreement between the department and a federal agency, or executive order issued by the governor;

(4) The responsible county grantee is solely or partially responsible, as determined by the director of job and family services or the director of children and youth, for an adverse audit finding, adverse quality control finding, final disallowance of federal financial participation, or other sanction or penalty regarding the family services duty.

(C) The department may take one or more of the following actions against the responsible county grantee when authorized by division (B)(1), (2), (3), or (4) of this section:

(1) Require the responsible county grantee to comply with a corrective action plan pursuant to a time schedule specified by the department. The corrective action plan shall be established or approved by the department and shall not require a county grantee to commit resources to the plan.

(2) Require the responsible county grantee to comply with a corrective action plan pursuant to a time schedule specified by the department. The corrective action plan shall be established or approved by the department and require a county grantee to commit to the plan existing resources identified by the agency.

(3) Require the responsible county grantee to do one of the following:

(a) Share with the department a final disallowance of federal financial participation or other sanction or penalty;

(b) Reimburse the department the final amount the department pays to the federal government or another entity that represents the amount the responsible county grantee is responsible for of an adverse audit finding, adverse quality control finding, final disallowance of federal financial participation, or other sanction or penalty issued by the federal government, auditor of state, or other entity;

(c) Pay the federal government or another entity the final amount that represents the amount the responsible county grantee is responsible for of an adverse audit finding, adverse quality control finding, final disallowance of federal financial participation, or other sanction or penalty issued by the federal government, auditor of state, or other entity;

(d) Pay the department the final amount that represents the amount the responsible county grantee is responsible for of an adverse audit finding or adverse quality control finding.

(4) Impose an administrative sanction issued by the department against the responsible county grantee. A sanction may be increased if the department has previously taken action against the responsible entity under this division.

(5) Perform, or contract with a government or private entity for the entity to perform, the family services duty until the department is satisfied that the responsible county grantee ensures that the duty will be performed satisfactorily. If the department performs or contracts with an entity to perform a

family services duty under division (C)(5) of this section, the department may do either or both of the following:

(a) Spend funds in the county treasury appropriated by the board of county commissioners for the duty;

(b) Withhold funds allocated or reimbursements due to the responsible county grantee for the duty and spend the funds for the duty.

(6) Request that the attorney general bring mandamus proceedings to compel the responsible county grantee to take or cease the action that causes division (B)(1), (2), (3), or (4) of this section to apply. The attorney general shall bring mandamus proceedings in the Franklin county court of appeals at the department's request.

(7) If the department takes action under this division because of division (B)(3) of this section, temporarily withhold funds allocated or reimbursement due to the responsible county grantee until the department determines that the responsible county grantee is in compliance with the requirement. The department shall release the funds when the department determines that compliance has been achieved.

(D) If the department proposes to take action against the responsible county grantee under division (C) of this section, the department shall notify the responsible county grantee, director of the appropriate county family services agency, and county auditor. The notice shall be in writing and specify the action the department proposes to take. The department shall send the notice by regular United States mail.

Except as provided by division (E) of this section, the responsible county grantee may request an administrative review

of a proposed action in accordance with administrative review procedures the department shall establish. The administrative review procedures shall comply with all of the following:

(1) A request for an administrative review shall state specifically all of the following:

(a) The proposed action specified in the notice from the department for which the review is requested;

(b) The reason why the responsible county grantee believes the proposed action is inappropriate;

(c) All facts and legal arguments that the responsible county grantee wants the department to consider;

(d) The name of the person who will serve as the responsible county grantee's representative in the review.

(2) If the department's notice specifies more than one proposed action and the responsible county grantee does not specify all of the proposed actions in its request pursuant to division (D)(1)(a) of this section, the proposed actions not specified in the request shall not be subject to administrative review and the parts of the notice regarding those proposed actions shall be final and binding on the responsible county grantee.

(3) In the case of a proposed action under division (C)(1) of this section, the responsible county grantee shall have fifteen calendar days after the department mails the notice to the responsible county grantee to send a written request to the department for an administrative review. If it receives such a request within the required time, the department shall postpone taking action under division (C)(1) of this section for fifteen calendar days following the day it receives the request or

extended period of time provided for in division (D)(5) of this section to allow a representative of the department and a representative of the responsible county grantee an informal opportunity to resolve any dispute during that fifteen-day or extended period.

(4) In the case of a proposed action under division (C)(2), (3), (4), (5), or (7) of this section, the responsible county grantee shall have thirty calendar days after the department mails the notice to the responsible county grantee to send a written request to the department for an administrative review. If it receives such a request within the required time, the department shall postpone taking action under division (C)(2), (3), (4), (5), or (7) of this section for thirty calendar days following the day it receives the request or extended period of time provided for in division (D)(5) of this section to allow a representative of the department and a representative of the responsible county grantee an informal opportunity to resolve any dispute during that thirty-day or extended period.

(5) If the informal opportunity provided in division (D)(3) or (4) of this section does not result in a written resolution to the dispute within the fifteen- or thirty-day period, the director of job and family services or the director of children and youth and representative of the responsible county grantee may enter into a written agreement extending the time period for attempting an informal resolution of the dispute under division (D)(3) or (4) of this section.

(6) In the case of a proposed action under division (C)(3) of this section, the responsible county grantee may not include in its request disputes over a finding, final disallowance of federal financial participation, or other sanction or penalty

issued by the federal government, auditor of state, or entity other than the department.

(7) If the responsible county grantee fails to request an administrative review within the required time, the responsible county grantee loses the right to request an administrative review of the proposed actions specified in the notice and the notice becomes final and binding on the responsible county grantee.

(8) If the informal opportunity provided in division (D)(3) or (4) of this section does not result in a written resolution to the dispute within the time provided by division (D)(3), (4), or (5) of this section, the director shall appoint an administrative review panel to conduct the administrative review. The review panel shall consist of department employees and one director or other representative of the type of county family services agency that is responsible for the kind of family services duty that is the subject of the dispute and serves a different county than the county served by the responsible county grantee. No individual involved in the department's proposal to take action against the responsible county grantee may serve on the review panel. The review panel shall review the responsible county grantee's request. The review panel may require that the department or responsible county grantee submit additional information and schedule and conduct an informal hearing to obtain testimony or additional evidence. A review of a proposal to take action under division (C)(3) of this section shall be limited solely to the issue of the amount the responsible county grantee shall share with the department, reimburse the department, or pay to the federal government, department, or other entity under division (C)(3) of this section. The review panel is not required to make a

stenographic record of its hearing or other proceedings.

(9) After finishing an administrative review, an administrative review panel appointed under division (D)(8) of this section shall submit a written report to the director setting forth its findings of fact, conclusions of law, and recommendations for action. The director may approve, modify, or disapprove the recommendations. If the director modifies or disapproves the recommendations, the director shall state the reasons for the modification or disapproval and the actions to be taken against the responsible county grantee.

(10) The director's approval, modification, or disapproval under division (D)(9) of this section shall be final and binding on the responsible county grantee and shall not be subject to further departmental review.

(E) The responsible county grantee is not entitled to an administrative review under division (D) of this section for any of the following:

(1) An action taken under division (C)(6) of this section;

(2) An action taken under section 5101.242 of the Revised Code;

(3) An action taken under division (C)(3) of this section if the federal government, auditor of state, or entity other than the department has identified the responsible county grantee as being solely or partially responsible for an adverse audit finding, adverse quality control finding, final disallowance of federal financial participation, or other sanction or penalty;

(4) An adjustment to an allocation, cash draw, advance, or reimbursement to a responsible county grantee that the

department determines necessary for budgetary reasons;

(5) Withholding of a cash draw or reimbursement due to noncompliance with a reporting requirement established in rules adopted under section 5101.243 of the Revised Code;

(6) An action taken under division (C)(5) of this section if the department determines that an emergency exists.

(F) This section does not apply to other actions the department takes against the responsible county grantee pursuant to authority granted by another state law unless the other state law requires the department to take the action in accordance with this section.

~~(G) The director of job and family services and children and youth may adopt rules in accordance with Chapter 119. of the Revised Code as necessary to implement this section.~~

Sec. 5101.241. (A) As used in this section:

(1) "Local area" and "chief elected official" have the same meaning as in section 5101.20 of the Revised Code.

(2) "Responsible entity" means the chief elected officials of a local area.

(B) The department of job and family services may take action under division (C) of this section against the responsible entity, regardless of who performs the workforce development activity, if the department determines any of the following are the case:

(1) An entity has failed to comply with the terms and conditions of a grant agreement executed between the department and a local area under section 5101.20 of the Revised Code.

(2) A performance standard for the workforce development activity established by the federal government or the department is not met.

(3) An entity has failed to comply with a workforce development activity requirement established by the department, a federal or state law, a state plan for receipt of federal financial participation, a grant agreement between the department and a federal agency, or an executive order.

(4) The responsible entity is solely or partially responsible, as determined by the director of job and family services, for an adverse audit finding, adverse quality control finding, final disallowance of federal financial participation, or other sanction or penalty regarding the workforce development activity.

(C) The department may take one or more of the following actions against the responsible entity when authorized by division (B)(1), (2), (3), or (4) of this section:

(1) Require the responsible entity to submit to and comply with a corrective action plan, established or approved by the department, pursuant to a time schedule specified by the department;

(2) Require the responsible entity to do one of the following:

(a) Share with the department a final disallowance of federal financial participation or other sanction or penalty;

(b) Reimburse the department the amount the department pays to the federal government or another entity that represents the amount the responsible entity is responsible for of an adverse audit finding, adverse quality control finding, final

disallowance of federal financial participation, or other sanction or penalty issued by the federal government, auditor of state, or other entity;

(c) Pay the federal government or another entity the amount that represents the amount the responsible entity is responsible for of an adverse audit finding, adverse quality control finding, final disallowance of federal financial participation, or other sanction or penalty issued by the federal government, auditor of state, or other entity;

(d) Pay the department the amount that represents the amount the responsible entity is responsible for of an adverse audit finding, adverse quality control finding, or other sanction or penalty issued by the department.

(3) Impose a financial or administrative sanction or adverse audit finding issued by the department against the responsible entity, which may be increased with each subsequent action taken against the responsible entity;

(4) Perform or contract with a government or private entity for the entity to perform the workforce development activity until the department is satisfied that the responsible entity ensures that the activity will be performed to the department's satisfaction. If the department performs or contracts with an entity to perform the workforce development activity under division (C)(4) of this section, the department may withhold funds allocated to or reimbursements due to the responsible entity for the activity and use those funds to implement division (C)(4) of this section.

(5) Request the attorney general to bring mandamus proceedings to compel the responsible entity to take or cease

the actions listed in division (B) of this section. The attorney general shall bring any mandamus proceedings in the Franklin county court of appeals at the department's request.

(6) If the department takes action under this division because of division (B)(3) of this section, withhold funds allocated or reimbursement due to the responsible entity until the department determines that the responsible entity is in compliance with the requirement. The department shall release the funds when the department determines that compliance has been achieved.

(7) Issue a notice of intent to revoke approval of all or part of the local plan effected that conflicts with state or federal law and effectuate the revocation.

(D) The department shall notify the responsible entity and the appropriate county auditor before taking action under division (C) of this section. The notice shall be in writing and specify the proposed action. The department shall send the notice by regular United States mail. Except as provided in division (E) of this section, the responsible entity may request an administrative review of a proposed action in accordance with administrative review procedures the department shall establish. The administrative review procedures shall comply with all of the following:

(1) A request for an administrative review shall state specifically all of the following:

(a) The proposed action specified in the notice from the department for which the review is requested;

(b) The reason why the responsible entity believes the proposed action is inappropriate;

(c) All facts and legal arguments that the responsible entity wants the department to consider;

(d) The name of the person who will serve as the responsible entity's representative in the review.

(2) If the department's notice specifies more than one proposed action and the responsible entity does not specify all of the proposed actions in its request pursuant to division (D)(1)(a) of this section, the proposed actions not specified in the request shall not be subject to administrative review and the parts of the notice regarding those proposed actions shall be final and binding on the responsible entity.

(3) The responsible entity shall have fifteen calendar days after the department mails the notice to the responsible entity to send a written request to the department for an administrative review. The responsible entity and the department shall attempt to resolve informally any dispute and may develop a written resolution to the dispute at any time prior to submitting the written report described in division (D)(7) of this section to the director.

(4) In the case of a proposed action under division (C)(2) of this section, the responsible entity may not include in its request disputes over a finding, final disallowance of federal financial participation, or other sanction or penalty issued by the federal government, auditor of state, or other entity other than the department.

(5) If the responsible entity fails to request an administrative review within the required time, the responsible entity loses the right to request an administrative review of the proposed actions specified in the notice and the notice

becomes final and binding on the responsible entity.

(6) The director of job and family services shall appoint an administrative review panel to conduct the administrative review. The review panel shall consist of department employees who are not involved in the department's proposal to take action against the responsible entity. The review panel shall review the responsible entity's request. The review panel may require that the department or responsible entity submit additional information and schedule and conduct an informal hearing to obtain testimony or additional evidence. A review of a proposal to take action under division (C)(2) of this section shall be limited solely to the issue of the amount the responsible entity shall share with the department, reimburse the department, or pay to the federal government, department, or other entity under division (C)(2) of this section. The review panel is not required to make a stenographic record of its hearing or other proceedings.

(7) After finishing an administrative review, an administrative review panel appointed under division (D)(6) of this section shall submit a written report to the director setting forth its findings of fact, conclusions of law, and recommendations for action. The director may approve, modify, or disapprove the recommendations.

(8) The director's approval, modification, or disapproval under division (D)(7) of this section shall be final and binding on the responsible entity and shall not be subject to further review.

(E) The responsible entity is not entitled to an administrative review under division (D) of this section for any of the following:

(1) An action taken under division (C)(5) or (6) of this section;

(2) An action taken under section 5101.242 of the Revised Code;

(3) An action taken under division (C)(2) of this section if the federal government, auditor of state, or entity other than the department has identified the responsible entity as being solely or partially responsible for an adverse audit finding, adverse quality control finding, final disallowance of federal financial participation, or other sanction or penalty;

(4) An adjustment to an allocation, cash draw, advance, or reimbursement to the responsible entity's local area that the department determines necessary for budgetary reasons;

(5) Withholding of a cash draw or reimbursement due to noncompliance with a reporting requirement established in rules adopted under section 5101.243 of the Revised Code.

(F) This section does not apply to other actions the department takes against the responsible entity pursuant to authority granted by another state law unless the other state law requires the department to take the action in accordance with this section.

(G) ~~The director of job and family services may adopt rules in accordance with Chapter 119. of the Revised Code as necessary to implement this section.~~

~~(H)~~ The governor may decertify a local board for any of the following reasons in accordance with subsection (c)(3) of section 107 of the "Workforce Innovation and Opportunity Act," 29 U.S.C. 3122:

(1) Fraud or abuse;

(2) Failure to carry out the requirements of the federal "Workforce Innovation and Opportunity Act," 29 U.S.C. 3101 et seq.;

(3) Failure to meet local performance accountability measures for the local area for two consecutive program years, as specified in subsection (c)(3)(B) of section 107 of the "Workforce Innovation and Opportunity Act," 29 U.S.C. 3122.

~~(I)(1)~~ (H)(1) If the governor determines that there has been a substantial violation of a specific provision of the "Workforce Innovation and Opportunity Act," 29 U.S.C. 3101 et seq., and that corrective action has not been taken, the governor shall take one of the following actions:

(a) Issue a notice of intent to revoke approval of all or part of a local plan affected by the violation;

(b) Impose a reorganization plan.

(2) A reorganization plan imposed under division ~~(I)(1)~~ (H)(1) of this section may include any of the following:

(a) Decertifying the local board involved in the violation;

(b) Prohibiting the use of eligible providers;

(c) Selecting an alternate entity to administer the program for the local area involved in the violation;

(d) Merging the local area with one or more other local areas;

(e) Making other changes that the governor determines to be necessary to secure compliance with the specific provision.

An action taken by the governor pursuant to this section may be appealed and shall not become effective until the time for appeal has expired or a final decision has been issued on the appeal.

Sec. 5101.244. (A) If the department of job and family services or the department of children and youth determines that a grant awarded to a county grantee in a grant agreement entered into under section 5101.21 of the Revised Code, an allocation, advance, or reimbursement the department makes to a county family services agency, or a cash draw a county family services agency makes exceeds the allowable amount for the grant, allocation, advance, reimbursement, or cash draw, the department may take one or more of the following actions to recover the excess amount:

(1) The department may adjust, offset, withhold, or reduce an allocation, cash draw, advance, reimbursement, or other financial assistance to the county grantee or county family services agency as necessary to recover the excess amount.

(2) The department may enter into an agreement with the county grantee or county family services agency for repayment of the excess amount by the grantee or agency. The department may require that the repayment include interest on the excess amount, calculated from the day that the excess occurred at a rate not exceeding the rate per annum prescribed by section 5703.47 of the Revised Code.

(3) The department may certify a claim to the attorney general under section 131.02 of the Revised Code for the attorney general to take action under that section against the county grantee or county family services agency to recover the excess amount.

(B) In taking an action authorized under this section, the department is not required to take the action in accordance with section 5101.24 of the Revised Code.

~~(C) The director of job and family services and the director of children and youth may adopt rules under section 111.15 of the Revised Code as necessary to implement this section. The directors shall adopt the rules as if they were internal management rules.~~

Sec. 5101.33. (A) As used in this section, "benefits" means any of the following:

(1) Cash assistance paid under Chapter 5107. of the Revised Code;

(2) Supplemental nutrition assistance program benefits provided under section 5101.54 of the Revised Code;

(3) Any other program administered by the department of job and family services or the department of children and youth under which assistance is provided or service rendered;

(4) Any other program, service, or assistance administered by a person or government entity that the department determines may be delivered through the medium of electronic benefit transfer.

(B) The department of job and family services or department of children and youth may make any payment or delivery of benefits to eligible individuals through the medium of electronic benefit transfer by doing all of the following:

(1) Contracting with an agent to supply debit cards to the department of job and family services or the department of children and youth for use by such individuals in accessing

their benefits and to credit such cards electronically with the amounts specified by the director of job and family services or the director of children and youth pursuant to law;

(2) Informing such individuals about the use of the electronic benefit transfer system and furnishing them with debit cards and information that will enable them to access their benefits through the system;

(3) Arranging with specific financial institutions or vendors, county departments of job and family services, or persons or government entities for individuals to have their cards credited electronically with the proper amounts at their facilities;

(4) Periodically preparing vouchers for the payment of such benefits by electronic benefit transfer;

(5) Satisfying any applicable requirements of federal and state law.

(C) The department may enter into a written agreement with any person or government entity to provide benefits administered by that person or entity through the medium of electronic benefit transfer. A written agreement may require the person or government entity to pay to the department either or both of the following:

(1) A charge that reimburses the department for all costs the department incurs in having the benefits administered by the person or entity provided through the electronic benefit transfer system;

(2) A fee for having the benefits provided through the electronic benefit transfer system.

(D) The department may designate which counties will participate in the medium of electronic benefit transfer, specify the date a designated county will begin participation, and specify which benefits will be provided through the medium of electronic benefit transfer in a designated county.

~~(E) The department of job and family services or the department of children and youth may adopt rules in accordance with Chapter 119. of the Revised Code for the efficient administration of this section.~~

Sec. 5101.35. (A) As used in this section:

(1)(a) "Agency" means the following entities that administer a family services program:

(i) The department of job and family services;

(ii) The department of children and youth;

(iii) A county department of job and family services;

(iv) A public children services agency;

(v) A private or government entity administering, in whole or in part, a family services program for or on behalf of the department of job and family services, the department of children and youth, or a county department of job and family services or public children services agency.

(b) If the department of medicaid contracts with the department of job and family services to hear appeals authorized by section 5160.31 of the Revised Code regarding medical assistance programs, "agency" includes the department of medicaid.

(2) "Appellant" means an applicant, participant, former

participant, recipient, or former recipient of a family services program who is entitled by federal or state law to a hearing regarding a decision or order of the agency that administers the program.

(3)(a) "Family services program" means all of the following:

(i) A Title IV-A program as defined in section 5101.80 of the Revised Code;

(ii) Programs that provide assistance under Chapter 5104. of the Revised Code;

(iii) Programs that provide assistance under section 5101.461, 5101.54, 5119.41, 5153.163, 5153.165, or 5180.42 of the Revised Code;

(iv) Title XX social services provided under section 5101.46 of the Revised Code, other than such services provided by the department of mental health and addiction services, the department of developmental disabilities, a board of alcohol, drug addiction, and mental health services, or a county board of developmental disabilities.

(b) If the department of medicaid contracts with the department of job and family services to hear appeals authorized by section 5160.31 of the Revised Code regarding medical assistance programs, "family services program" includes medical assistance programs.

(4) "Medical assistance program" has the same meaning as in section 5160.01 of the Revised Code.

(B) Except as provided by divisions (G) and (H) of this section, an appellant who appeals under federal or state law a

decision or order of an agency administering a family services program shall, at the appellant's request, be granted a state hearing by the department of job and family services or the department of children and youth, as appropriate. This state hearing shall be conducted in accordance with rules adopted under this section. The state hearing shall be recorded, but neither the recording nor a transcript of the recording shall be part of the official record of the proceeding. Except as provided in section 5160.31 of the Revised Code, a state hearing decision is binding upon the agency and department, unless it is reversed or modified on appeal to the director of job and family services, director of children and youth, or a court of common pleas.

(C) Except as provided by division (G) of this section, an appellant who disagrees with a state hearing decision may make an administrative appeal to the director of job and family services or director of children and youth in accordance with rules adopted under this section. This administrative appeal does not require a hearing, but the director or the director's designee shall review the state hearing decision and previous administrative action and may affirm, modify, remand, or reverse the state hearing decision. An administrative appeal decision is the final decision of the department and, except as provided in section 5160.31 of the Revised Code, is binding upon the department and agency, unless it is reversed or modified on appeal to the court of common pleas.

(D) An agency shall comply with a decision issued pursuant to division (B) or (C) of this section within the time limits established by rules adopted under this section. If a county department of job and family services or a public children services agency fails to comply within these time limits, the

department may take action pursuant to section 5101.24 of the Revised Code. If another agency, other than the department of medicaid, fails to comply within the time limits, the department may force compliance by withholding funds due the agency or imposing another sanction established by rules adopted under this section.

(E) An appellant who disagrees with an administrative appeal decision of the director of job and family services, the director of children and youth, or either director's designee issued under division (C) of this section may appeal from the decision to the court of common pleas pursuant to section 119.12 of the Revised Code. The appeal shall be governed by section 119.12 of the Revised Code except that:

(1) The person may apply to the court for designation as an indigent and, if the court grants this application, the appellant shall not be required to furnish the costs of the appeal.

(2) The appellant shall mail the notice of appeal to the department of job and family services or director of children and youth, as appropriate, and file notice of appeal with the court within thirty days after the department mails the administrative appeal decision to the appellant. For good cause shown, the court may extend the time for mailing and filing notice of appeal, but such time shall not exceed six months from the date the department mails the administrative appeal decision. Filing notice of appeal with the court shall be the only act necessary to vest jurisdiction in the court.

(3) The department shall be required to file a transcript of the testimony of the state hearing with the court only if the court orders the department to file the transcript. The court

shall make such an order only if it finds that the department and the appellant are unable to stipulate to the facts of the case and that the transcript is essential to a determination of the appeal. The department shall file the transcript not later than thirty days after the day such an order is issued.

(F) The department of job and family service and department of children and youth, as applicable, shall adopt rules in accordance with Chapter 119. of the Revised Code to implement ~~this section, including rules governing~~ the following:

(1) State hearings under division (B) of this section. The rules shall include provisions regarding notice of eligibility termination and the opportunity of an appellant appealing a decision or order of a county department of job and family services to request a county conference with the county department before the state hearing is held.

(2) Administrative appeals under division (C) of this section;

(3) Time limits for complying with a decision issued under division (B) or (C) of this section;

(4) Sanctions that may be applied against an agency under division (D) of this section.

(G) The department of job and family services and the department of children and youth, as applicable, may adopt rules in accordance with Chapter 119. of the Revised Code establishing an appeals process for an appellant who appeals a decision or order regarding a Title IV-A program identified under division (A)(4)(c), (d), (e), (f), (g), or (h) of section 5101.80 of the Revised Code that is different from the appeals process established by this section. The different appeals process may

include having a state agency that administers the Title IV-A program pursuant to an interagency agreement entered into under section 5101.801 of the Revised Code administer the appeals process.

(H) If an appellant receiving medicaid through a health insuring corporation that holds a certificate of authority under Chapter 1751. of the Revised Code is appealing a denial of medicaid services based on lack of medical necessity or other clinical issues regarding coverage by the health insuring corporation, the person hearing the appeal may order an independent medical review if that person determines that a review is necessary. The review shall be performed by a health care professional with appropriate clinical expertise in treating the recipient's condition or disease. The department shall pay the costs associated with the review.

A review ordered under this division shall be part of the record of the hearing and shall be given appropriate evidentiary consideration by the person hearing the appeal.

(I) The requirements of Chapter 119. of the Revised Code apply to a state hearing or administrative appeal under this section only to the extent, if any, specifically provided by rules adopted under this section.

Sec. 5101.37. (A) The department of job and family services or the department of children and youth and each county department of job and family services and child support enforcement agency may conduct any audits or investigations that are necessary in the performance of their duties, and to that end they shall have the same power as a judge of a county court to administer oaths and to enforce the attendance and testimony of witnesses and the production of books or papers.

The applicable department and each county department and agency shall keep a record of their audits and investigations stating the time, place, charges, or subject; witnesses summoned and examined; and their conclusions.

Witnesses shall be paid the fees and mileage provided for under section 119.094 of the Revised Code.

(B) In conducting hearings pursuant to Chapters 3119., 3121., and 3123. or pursuant to division (B) of section 5101.35 of the Revised Code, the applicable department and each child support enforcement agency have the same power as a judge of a county court to administer oaths and to enforce the attendance and testimony of witnesses and the production of books or papers. The applicable department and each agency shall keep a record of those hearings stating the time, place, charges, or subject; witnesses summoned and examined; and their conclusions.

The issuance of a subpoena by the applicable department or a child support enforcement agency to enforce attendance and testimony of witnesses and the production of books or papers at a hearing is discretionary and the applicable department or agency is not required to pay the fees of witnesses for attendance and travel.

(C) Any judge of any division of the court of common pleas, upon application of the applicable department or a county department or child support enforcement agency, may compel the attendance of witnesses, the production of books or papers, and the giving of testimony before the applicable department, county department, or agency, by a judgment for contempt or otherwise, in the same manner as in cases before those courts.

(D) Until an audit report is formally released by the

applicable department, the audit report or any working paper or other document or record prepared by the applicable department and related to the audit that is the subject of the audit report is not a public record under section 149.43 of the Revised Code.

~~(E) The director of job and family services or director of children and youth may adopt rules as necessary to implement this section. The rules shall be adopted in accordance with section 111.15 of the Revised Code as if they were internal management rules.~~

Sec. 5101.46. (A) As used in this section:

(1) "Title XX" means Title XX of the "Social Security Act," 88 Stat. 2337 (1974), 42 U.S.C.A. 1397, as amended.

(2) "Respective local agency" means, with respect to the department of job and family services and the department of children and youth, a county department of job and family services; with respect to the department of mental health and addiction services, a board of alcohol, drug addiction, and mental health services; and with respect to the department of developmental disabilities, a county board of developmental disabilities.

(3) "Federal poverty guidelines" means the poverty guidelines as revised annually by the United States department of health and human services in accordance with section 673(2) of the "Omnibus Budget Reconciliation Act of 1981," 95 Stat. 511, 42 U.S.C.A. 9902, as amended, for a family size equal to the size of the family of the person whose income is being determined.

(B) The departments of job and family services, children and youth, mental health, and developmental disabilities, with

their respective local agencies, shall administer the provision of social services funded through grants made under Title XX. The social services furnished with Title XX funds shall be directed at the following goals:

(1) Achieving or maintaining economic self-support to prevent, reduce, or eliminate dependency;

(2) Achieving or maintaining self-sufficiency, including reduction or prevention of dependency;

(3) Preventing or remedying neglect, abuse, or exploitation of children and adults unable to protect their own interests, or preserving, rehabilitating, or reuniting families;

(4) Preventing or reducing inappropriate institutional care by providing for community-based care, home-based care, or other forms of less intensive care;

(5) Securing referral or admission for institutional care when other forms of care are not appropriate, or providing services to individuals in institutions.

(C)(1) All federal funds received under Title XX shall be appropriated as follows:

(a) Seventy-two and one-half per cent to the department of job and family services and the department of children and youth;

(b) Twelve and ninety-three one-hundredths per cent to the department of mental health and addiction services;

(c) Fourteen and fifty-seven one-hundredths per cent to the department of developmental disabilities.

(2) Each of the state departments shall, subject to the

approval of the controlling board, develop a formula for the distribution of the Title XX funds appropriated to the department to its respective local agencies. The formula developed by each state department shall take into account all of the following for each of its respective local agencies:

(a) The total population of the area that is served by the respective local agency;

(b) The percentage of the population in the area served that falls below the federal poverty guidelines;

(c) The respective local agency's history of and ability to utilize Title XX funds.

(3) Each of the state departments shall expend for state administrative costs not more than three per cent of the Title XX funds appropriated to the department.

Each state department shall establish for each of its respective local agencies the maximum percentage of the Title XX funds distributed to the respective local agency that the respective local agency may expend for local administrative costs. The percentage shall be established by rule and shall comply with federal law governing the use of Title XX funds. The rules shall be adopted in accordance with section 111.15 of the Revised Code as if they were internal management rules.

(4) The department of job and family services and the department of children and youth, as applicable, shall expend for the training of the following not more than two per cent of the Title XX funds appropriated to the department:

(a) Employees of county departments of job and family services;

(b) Providers of services under contract with the state departments' respective local agencies;

(c) Employees of a public children services agency directly engaged in providing Title XX services.

(5) Title XX funds distributed for the purpose of providing family planning services shall be distributed by the respective local agencies according to the same order of priority that applies to the department of job and family services under section 5101.101 of the Revised Code.

(D) The department of job and family services and the department of children and youth shall prepare an annual comprehensive Title XX social services plan on the intended use of Title XX funds. The departments shall develop a method for obtaining public comment during the development of the plan and following its completion.

For each federal fiscal year, the department of job and family services and the department of children and youth shall prepare a report on the actual use of Title XX funds. The department shall make the annual report available for public inspection.

The departments of mental health and addiction services and developmental disabilities shall prepare and submit to the department of job and family services the portions of each annual plan and report that apply to services for mental health and developmental disabilities. Each respective local agency of the three state departments shall submit information as necessary for the preparation of annual plans and reports.

(E) Each county department of job and family services shall adopt a county profile for the administration and

provision of Title XX social services in the county. In developing its county profile, the county department shall take into consideration the comments and recommendations received from the public by the county family services planning committee pursuant to section 329.06 of the Revised Code. As part of its preparation of the county profile, the county department may prepare a local needs report analyzing the need for Title XX social services.

The county department shall submit the county profile to the board of county commissioners for its review. Once the county profile has been approved by the board, the county department shall file a copy of the county profile with the department of job and family services. The department shall approve the county profile if the department determines the profile provides for the Title XX social services to meet the goals specified in division (B) of this section.

(F) Any of the three state departments and their respective local agencies may require that an entity under contract to provide social services with Title XX funds submit to an audit on the basis of alleged misuse or improper accounting of funds. If an audit is required, the social services provider shall reimburse the state department or respective local agency for the cost it incurred in conducting the audit or having the audit conducted.

If an audit demonstrates that a social services provider is responsible for one or more adverse findings, the provider shall reimburse the appropriate state department or its respective local agency the amount of the adverse findings. The amount shall not be reimbursed with Title XX funds received under this section. The three state departments and their

respective local agencies may terminate or refuse to enter into a Title XX contract with a social services provider if there are adverse findings in an audit that are the responsibility of the provider.

(G) ~~Except with respect to the matters for which each of the state departments must adopt rules under division (C)(3) of this section, the department of job and family services and the department of children and youth may adopt any rules they consider necessary to implement and carry out the purposes of this section.~~ Rules ~~governing~~ adopted under this section that govern financial and operational matters of the departments or matters between the departments and county departments of job and family services shall be adopted as internal management rules in accordance with section 111.15 of the Revised Code. Rules ~~governing~~ adopted under this section that govern eligibility for services, program participation, and other matters pertaining to applicants and participants shall be adopted in accordance with Chapter 119. of the Revised Code.

Sec. 5101.461. (A) As used in this section:

(1) "Title IV-A" means Title IV-A of the "Social Security Act," 110 Stat. 2113 (1996), 42 U.S.C. 601, as amended.

(2) "Title XX" has the same meaning as in section 5101.46 of the Revised Code.

(B) To the extent authorized by federal law, the department of job and family services or the department of children and youth may use funds received through the Title IV-A temporary assistance for needy families block grant for purposes of providing Title XX social services. The amount used under this section shall not exceed the maximum amount permitted by

federal law. The funds and provision of Title XX social services with the funds are not subject to section 5101.46 of the Revised Code.

Funds distributed under this section for the purpose of providing family planning services shall be distributed by a county department of job and family services according to the same order of priority that applies to the department of job and family services under section 5101.101 of the Revised Code.

(C) The department and any county department of job and family services may require an entity under contract to provide Title XX social services with funds used under this section to submit to an audit on the basis of alleged misuse or improper accounting of funds. If an audit is required, the social services provider shall reimburse the state department or county department for the cost it incurred in conducting the audit or having the audit conducted.

If an audit demonstrates that a social services provider is responsible for one or more adverse findings, the provider shall reimburse the state department or county department the amount of the adverse findings. The amount shall not be reimbursed with funds received under this section. The state department and county departments may terminate or refuse to enter into a contract with a social services provider to provide services with funds available pursuant to this section if there are adverse findings in an audit that are the responsibility of the provider.

(D) ~~The state department of job and family services or the department of children and youth may adopt rules to implement and carry out the purposes of this section.~~ Rules ~~governing~~ adopted under this section that govern financial and operational

matters of the department or matters between the department and county departments of job and family services shall be adopted as internal management rules in accordance with section 111.15 of the Revised Code. Rules ~~governing~~ adopted under this section that govern eligibility for services, program participation, and other matters pertaining to applicants and participants shall be adopted in accordance with Chapter 119. of the Revised Code.

Sec. 5101.47. (A) Except as provided in divisions (B) and (C) of this section, both of the following apply to the department of job and family services:

(1) The department shall accept applications, determine eligibility, redetermine eligibility, and perform related administrative activities for the supplemental nutrition assistance program administered by the department pursuant to section 5101.54 of the Revised Code.

The department may assign the duties described in division (A)(1) of this section to any county department of job and family services.

(2) The department may accept applications, determine eligibility, redetermine eligibility, and perform related administrative activities for either of the following:

(a) Programs administered by the department that the director of job and family services determines are supportive of children, adults, or families;

(b) Other programs administered by the department regarding which the director determines administrative cost savings and efficiency may be achieved through the department accepting applications, determining eligibility, redetermining eligibility, or performing related administrative activities.

(B) If federal law requires a face-to-face interview to complete an eligibility determination for a program specified in or pursuant to division (A) of this section, the face-to-face interview shall not be conducted by the department of job and family services.

(C) Subject to division (B) of this section, if the department is required or elects to accept applications, determine eligibility, redetermine eligibility, and perform related administrative activities for a program specified in or pursuant to division (A) of this section, both of the following apply:

(1) An individual seeking services under the program may apply for the program to the department or to the entity that state law governing the program authorizes to accept applications for the program.

(2) The department is subject to federal statutes and regulations and state statutes and rules that require, permit, or prohibit an action regarding accepting applications, determining or redetermining eligibility, and performing related administrative activities for the program.

(D)(1) The department of children and youth may accept applications, determine eligibility, redetermine eligibility, and perform related administrative activities for publicly funded child care provided under Chapter 5104. of the Revised Code.

(2) If the department elects to accept applications, determine eligibility, redetermine eligibility, and perform related administrative activities for publicly funded child care, both of the following apply:

(a) An individual seeking publicly funded child care may apply to the department or to the entity that state law governing the program authorizes to accept applications for publicly funded child care.

(b) The department is subject to federal statutes and regulations and state statutes and rules that require, permit, or prohibit an action regarding accepting applications, determining or redetermining eligibility, and performing related administrative activities for publicly funded childcare.

~~(E) The director of job and family services and the director of children and youth may adopt rules as necessary to implement this section.~~

Sec. 5101.48. The department of job and family services shall administer the distribution of food commodities received under the "Agricultural Adjustment Act," 48 Stat. 31, 7 U.S.C.A. 612c, as amended. ~~The director of job and family services may adopt rules in accordance with section 111.15 of the Revised Code and issue appropriate orders as necessary for administration of the distribution program.~~

Sec. 5101.49. The department of job and family services shall administer funds received under the "Refugee Act of 1980," 94 Stat. 102, 8 U.S.C.A. 1521, as amended. In administering the funds, the department may establish a refugee cash assistance program and a state legalization impact assistance program. ~~The director of job and family services may adopt rules in accordance with section 111.15 of the Revised Code and issue appropriate orders as necessary for administration of these funds and programs.~~

Sec. 5101.544. If the benefits of a household are reduced

under a federal, state, or local means-tested public assistance program for failure of a member of the household to perform an action required under the program, the household may not receive, for the duration of the reduction, an increased allotment of supplemental nutrition assistance program benefits as the result of a decrease in the income of the household to the extent that the decrease is the result of the reduction.

~~The department of job and family services shall adopt rules in accordance with Chapter 119. of the Revised Code to implement this section. The rules shall be consistent with 7 U.S.C. 2017(d) and federal regulations.~~

Sec. 5101.61. (A) The county departments of job and family services shall implement sections 5101.60 to 5101.71 of the Revised Code.

(B) The director of job and family services may adopt rules ~~in accordance with section 111.15 of the Revised Code to carry out the purposes of sections 5101.60 to 5101.71 of the Revised Code. The rules adopted pursuant to this division may include a requirement~~ requiring that the county departments provide on forms prescribed by the rules a plan of proposed expenditures, and a report of actual expenditures, of funds necessary to implement sections 5101.60 to 5101.71 of the Revised Code and other requirements for intake procedures, investigations, case management, and the provision of protective services.

Sec. 5101.71. (A) If it appears that an adult in need of protective services has the financial means sufficient to pay for such services, the county department of job and family services shall make an evaluation regarding such means. If the evaluation establishes that the adult has such financial means,

the department shall initiate procedures for reimbursement— ~~pursuant to rules adopted under section 5101.61 of the Revised Code~~. If the evaluation establishes that the adult does not have such financial means, the services shall be provided in accordance with the policies and procedures established by the department of job and family services for the provision of welfare assistance. An adult shall not be required to pay for court-ordered protective services unless the court determines that the adult is financially able to pay and the court orders the adult to pay.

(B) Whenever the county department of job and family services or the county prosecutor has petitioned the court to authorize the provision of protective services and the adult who is the subject of the petition is indigent, the court shall appoint legal counsel.

Sec. 5101.741. (A) The elder abuse commission shall formulate and recommend strategies on all of the following:

(1) Increasing awareness of and improving education on elder abuse;

(2) Increasing research on elder abuse;

(3) Improving policy, funding, and programming related to elder abuse, including estimated funding necessary to implement specific recommendations;

(4) Improving the judicial response to elder abuse victims;

(5) Identifying ways to coordinate statewide efforts to address elder abuse.

(B) The commission shall prepare and issue a biennial

report on a plan of action that may be used by local communities to aid in the development of efforts to combat elder abuse. The report shall include the commission's recommendations made under division (A) of this section.

~~(C) The attorney general may adopt rules as necessary for the commission to carry out its duties. The rules shall be adopted in accordance with section 111.15 of the Revised Code.~~

Sec. 5101.801. (A) Except as otherwise provided by the law enacted by the general assembly or executive order issued by the governor establishing the Title IV-A program, a Title IV-A program identified under division (A)(4)(c), (d), (e), (f), (g), or (h) of section 5101.80 of the Revised Code shall provide benefits and services that are not "assistance" as defined in 45 C.F.R. 260.31(a) and are benefits and services that 45 C.F.R. 260.31(b) excludes from the definition of assistance.

(B)(1) Except as otherwise provided by the law enacted by the general assembly or executive order issued by the governor establishing the Title IV-A program, the department of job and family services or the department of children and youth, as appropriate, shall do either of the following regarding a Title IV-A program identified under division (A)(4)(c), (d), (e), (f), (g), or (h) of section 5101.80 of the Revised Code:

(a) Administer the program or supervise a county family services agency's administration of the program;

(b) Enter into an interagency agreement with a state agency for the state agency to administer the program under the department's supervision.

(2) The department of job and family services and the department of children and youth may enter into an agreement

with a government entity and, to the extent permitted by federal law, a private, not-for-profit entity for the entity to receive funding for a project under the Title IV-A demonstration program created under section 5101.803 of the Revised Code.

(3) To the extent permitted by federal law, the department of children and youth may enter into an agreement with a private, not-for-profit entity for the entity to receive funds under the Ohio parenting and pregnancy program created under section 5180.71 of the Revised Code.

(4) To the extent permitted by federal law, the department of children and youth may enter into an agreement with a private, not-for-profit entity for the entity to receive funds as recommended by the Ohio commission on fatherhood under section 5180.704 of the Revised Code.

(C) The department of job and family services and the department of children and youth, may adopt rules ~~governing Title IV-A programs identified under divisions (A)(4)(c), (d), (e), (f), (g), and (h) of section 5101.80 of the Revised Code. Rules governing~~ that govern financial and operational matters of either department or between either department and county family services agencies shall be adopted as internal management rules adopted in accordance with section 111.15 of the Revised Code. All other rules shall be adopted in accordance with Chapter 119. of the Revised Code.

(D) If the department of job and family services or the department of children and youth, enters into an agreement regarding a Title IV-A program identified under division (A)(4)(c), (e), (f), (g), or (h) of section 5101.80 of the Revised Code pursuant to division (B)(1)(b) or (2) of this section, the agreement shall include at least all of the following:

(1) A requirement that the state agency or entity comply with the requirements for the program or project, including all of the following requirements established by federal statutes and regulations, state statutes and rules, the United States office of management and budget, and the Title IV-A state plan prepared under section 5101.80 of the Revised Code:

(a) Eligibility;

(b) Reports;

(c) Benefits and services;

(d) Use of funds;

(e) Appeals for applicants for, and recipients and former recipients of, the benefits and services;

(f) Audits.

(2) A complete description of all of the following:

(a) The benefits and services that the program or project is to provide;

(b) The methods of program or project administration;

(c) The appeals process under section 5101.35 of the Revised Code for applicants for, and recipients and former recipients of, the program or project's benefits and services;

(d) Other requirements that the department of job and family services or the department of children and youth, as applicable, requires be included.

(3) Procedures for the department of job and family services or the department of children and youth, as applicable, to approve a policy, established by rule or otherwise, that the state agency or entity establishes for the program or project

before the policy is established;

(4) Provisions regarding how the department of job and family services or the department of children and youth, as applicable, is to reimburse the state agency or entity for allowable expenditures under the program or project that the applicable department approves, including all of the following:

(a) Limitations on administrative costs;

(b) The department of job and family services or the department of children and youth, as applicable, at its discretion, doing either of the following:

(i) Withholding no more than five per cent of the funds that the department of job and family services or the department of children and youth, as applicable, would otherwise provide to the state agency or entity for the program or project;

(ii) Charging the state agency or entity for the costs to the department of job and family services or the department of children and youth, as applicable, of performing, or contracting for the performance of, audits and other administrative functions associated with the program or project.

(5) If the state agency or entity arranges by contract, grant, or other agreement for another entity to perform a function the state agency or entity would otherwise perform regarding the program or project, the state agency or entity's responsibilities for both of the following:

(a) Ensuring that the other entity complies with the agreement between the state agency or entity and the department of job and family services or the department of children and youth, as applicable and federal statutes and regulations and state statutes and rules governing the use of funds for the

program or project;

(b) Auditing the other entity in accordance with requirements established by the United States office of management and budget.

(6) The state agency or entity's responsibilities regarding the prompt payment, including any interest assessed, of any adverse audit finding, final disallowance of federal funds, or other sanction or penalty imposed by the federal government, auditor of state, department of job and family services or the department of children and youth, as applicable, a court, or other entity regarding funds for the program or project;

(7) Provisions for the department of job and family services or the department of children and youth, as applicable, to terminate the agreement or withhold reimbursement from the state agency or entity if either of the following occur:

(a) The federal government disapproves the program or project or reduces federal funds for the program or project;

(b) The state agency or entity fails to comply with the terms of the agreement.

(8) Provisions for both of the following:

(a) The department of job and family services or the department of children and youth, as applicable, and state agency or entity determining the performance outcomes expected for the program or project;

(b) An evaluation of the program or project to determine its success in achieving the performance outcomes determined under division (D)(8)(a) of this section.

(E) To the extent consistent with the law enacted by the general assembly or executive order issued by the governor establishing the Title IV-A program and subject to the approval of the director of budget and management, the director of job and family services or the director of children and youth, as applicable, may terminate a Title IV-A program identified under division (A)(4)(c), (d), (e), (f), (g), or (h) of section 5101.80 of the Revised Code or reduce funding for the program if the applicable director determines that federal or state funds are insufficient to fund the program. If the director of budget and management approves the termination or reduction in funding for such a program, the director of job and family services or the department of children and youth, as applicable, shall issue instructions for the termination or funding reduction. If a Title IV-A administrative agency is administering the program, the agency is bound by the termination or funding reduction and shall comply with the applicable director's instructions.

~~(F) The director of job and family services and the director of children and youth may adopt internal management rules in accordance with section 111.15 of the Revised Code as necessary to implement this section. The rules are binding on each Title IV-A administrative agency.~~

Sec. 5101.83. (A) As used in this section:

(1) "Assistance group" has the same meaning as in section 5107.02 of the Revised Code, except that it also means a group provided benefits and services under the prevention, retention, and contingency program or the comprehensive case management and employment program.

(2) "Fraudulent assistance" means assistance and services, including cash assistance, provided under the Ohio works first

program established under Chapter 5107., or benefits and services provided under the prevention, retention, and contingency program established under Chapter 5108. of the Revised Code or under the comprehensive case management and employment program established under Chapter 5116. of the Revised Code, to or on behalf of an assistance group that is provided as a result of fraud by a member of the assistance group, including an intentional violation of the program's requirements. "Fraudulent assistance" does not include assistance or services to or on behalf of an assistance group that is provided as a result of an error that is the fault of a county department of job and family services, the Ohio department of job and family services, or the department of children and youth.

(B) If a county director of job and family services determines that an assistance group has received fraudulent assistance, the assistance group is ineligible to participate in the Ohio works first program, the prevention, retention, and contingency program, or the comprehensive case management and employment program until a member of the assistance group repays the cost of the fraudulent assistance. If a member repays the cost of the fraudulent assistance and the assistance group otherwise meets the eligibility requirements for the Ohio works first program, the prevention, retention, and contingency program, or the comprehensive case management and employment program, the assistance group shall not be denied the opportunity to participate in the program.

This section does not limit the ability of a county department of job and family services to recover erroneous payments under section 5107.76 of the Revised Code.

~~The Ohio department of job and family services and the department of children and youth shall adopt rules in accordance with Chapter 119. of the Revised Code to implement this section.~~

Sec. 5101.971. The department of job and family services shall adopt rules in accordance with Chapter 119. of the Revised Code to ~~govern the implementation of individual development account programs under sections 329.11 to 329.14 of the Revised Code by county departments of job and family services, which shall include rules covering~~ do both of the following:

(A) ~~Imposing~~ Impose a penalty for unauthorized use of matching contributions;

(B) ~~Specifying~~ Specify the responsibilities of a fiduciary organization under an individual development account program established under section 329.12 of the Revised Code. The rules shall be consistent with section 404(h) of the "Social Security Act" as amended by the "Personal Responsibility and Work Opportunity Reconciliation Act of 1996," 42 U.S.C. 604(h).

The responsibilities of a fiduciary organization may include marketing; soliciting matching contributions; counseling account holders; conducting verification, compliance, and evaluation activities; and any other responsibilities considered appropriate by the state department.

Sec. 5103.03. ~~(A) The director of children and youth shall adopt rules as necessary for the adequate and competent management and certification of institutions or associations. The director shall ensure that foster care home study rules adopted under this section align any home study content, time period, and process with any home study content, time period, and process required by rules adopted under section 3107.033 of~~

~~the Revised Code.~~

~~(B)(1)~~(A)(1) Except for facilities under the control of the department of youth services, places of detention for children established and maintained pursuant to sections 2152.41 to 2152.44 of the Revised Code, and child care centers subject to Chapter 5104. of the Revised Code, the department of children and youth shall pass upon the fitness of every institution and association that receives, or desires to receive and care for children, or places children in private homes, at a frequency established ~~by rules adopted under division (A) of this section~~in rule.

(2) When the department of children and youth is satisfied as to the care given such children, and that the requirements of the statutes and rules covering the management of such institutions and associations are being complied with, it shall issue to the institution or association a certificate to that effect. A certificate is valid for a length of time determined ~~by rules adopted under division (A) of this section~~in rule. When determining whether an institution or association meets a particular requirement for certification, the department may consider the institution or association to have met the requirement if the institution or association shows to the department's satisfaction that it has met a comparable requirement to be accredited by a nationally recognized accreditation organization.

(3) The department may issue a temporary certificate valid for less than one year authorizing an institution or association to operate until minimum requirements have been met.

(4) An institution or association that knowingly makes a false statement that is included as a part of certification

under this section is guilty of the offense of falsification under section 2921.13 of the Revised Code and the department shall not certify that institution or association.

(5) The department shall not issue a certificate to a prospective foster home or prospective specialized foster home pursuant to this section if the prospective foster home or prospective specialized foster home operates as a type A family child care home pursuant to Chapter 5104. of the Revised Code. The department shall not issue a certificate to a prospective specialized foster home if the prospective specialized foster home operates a type B family child care home pursuant to Chapter 5104. of the Revised Code.

~~(C)~~ (B) The department may revoke a certificate pursuant to an adjudication under Chapter 119. of the Revised Code if it finds that the institution or association is in violation of law or rule. No juvenile court shall commit a child to an association or institution that is required to be certified under this section if its certificate has been revoked or, if after revocation, the date of reissue is less than fifteen months prior to the proposed commitment.

~~(D)~~ (C) On a frequency specified by the department ~~by rules adopted under division (A) of this section~~, each institution or association desiring certification shall submit to the department a report showing its condition, management, competency to care adequately for the children who have been or may be committed to it or to whom it provides care or services, the system of visitation it employs for children placed in private homes, and other information the department requires.

~~(E)~~ (D) The department shall, not less than once each year, send a list of certified institutions and associations to each

juvenile court and certified association or institution.

~~(F)~~ (E) No person shall receive children or receive or solicit money on behalf of such an institution or association not so certified or whose certificate has been revoked.

~~(G)(1)~~ (F)(1) The director may delegate by rule any duties imposed on it by this section to inspect and approve family foster homes and specialized foster homes to public children services agencies, private child placing agencies, or private noncustodial agencies.

(2) The director shall adopt rules that require a foster caregiver or other individual certified to operate a foster home under this section to notify the recommending agency that the foster caregiver or other individual is licensed to operate a type B family child care home under Chapter 5104. of the Revised Code.

~~(H)~~ (G) If the director of children and youth determines that an institution or association that cares for children is operating without a certificate, the director may petition the court of common pleas in the county in which the institution or association is located for an order enjoining its operation. The court shall grant injunctive relief upon a showing that the institution or association is operating without a certificate.

~~(I)~~ (H) If both of the following are the case, the director of children and youth may petition the court of common pleas of any county in which an institution or association that holds a certificate under this section operates for an order, and the court may issue an order, preventing the institution or association from receiving additional children into its care or an order removing children from its care:

(1) The department has evidence that the life, health, or safety of one or more children in the care of the institution or association is at imminent risk.

(2) The department has issued a proposed adjudication order pursuant to Chapter 119. of the Revised Code to revoke the certificate of the institution or association.

Sec. 5103.035. A public children services agency, private child placing agency, or private noncustodial agency acting as a recommending agency for a foster caregiver shall develop and implement a written needs assessment and continuing training plan for the foster caregiver in accordance with associated rules ~~adopted under section 5103.0316 of the Revised Code~~.

Sec. 5103.037. (A) Prior to employing or appointing a person as board president, or as an administrator or officer, an institution or association shall do the following regarding the person:

(1) Request a summary report of a search of the uniform statewide automated child welfare information system in accordance with divisions (A) and (B) of section 5103.18 of the Revised Code;

(2) Request a certified search of the findings for recovery database;

(3) Conduct a database review at the federal web site known as the system for award management;

(4) Conduct a search of the United States department of justice national sex offender public web site.

(B) The institution or association may refuse to hire or appoint a person as board president, or as an administrator or

officer as follows:

(1) Based solely on the findings of the summary report described in division (B)(1)(a) of section 5103.18 of the Revised Code or the results of the search described in division (A)(4) of this section;

(2) Based on the results of a certified search or database review described in division (A)(2) or (3) of this section, when considered within the totality of circumstances.

~~(C) The director of children and youth shall adopt rules in accordance with Chapter 119. of the Revised Code necessary for the implementation and execution of this section.~~

Sec. 5103.038. (A) Every other year by a date specified in rules~~ adopted under section 5103.0316 of the Revised Code~~, each private child placing agency and private noncustodial agency that seeks to operate a preplacement training program or continuing training program under section 5103.034 of the Revised Code shall submit to the department of children and youth a proposal outlining the program. The proposal may be the same as, a modification of, or different from, a model design developed by the department.

(B) Not later than thirty days after receiving a proposal under division (A) of this section, the department shall either approve or disapprove the proposed program. The department shall approve a proposed preplacement training program if it complies with rules adopted under ~~section 5103.0316~~ Chapter 119. of the Revised Code, as appropriate, and, in the case of a proposal submitted by an agency operating a preplacement training program at the time the proposal is submitted, the department is satisfied with the agency's operation of the program. The

department shall approve a proposed continuing training program if it complies with rules adopted under ~~section 5103.0316~~ Chapter 119. of the Revised Code and, in the case of a proposal submitted by an agency operating a continuing training program at the time the proposal is submitted, the department is satisfied with the agency's operation of the program. If the department disapproves a proposal, it shall provide the reason for disapproval to the agency that submitted the proposal and advise the agency of how to revise the proposal so that the department can approve it.

(C) The department's approval under division (B) of this section of a proposed preplacement training program or continuing training program is valid only for two years following the year the proposal for the program is submitted to the department under division (A) of this section.

Sec. 5103.0310. (A) Prior to employing a person or engaging a subcontractor, intern, or volunteer, an institution or association, as defined in division (A)(1)(a) of section 5103.02 of the Revised Code, that is a residential facility, as defined in division (A)(8) of section 5103.05 of the Revised Code, shall do the following regarding the person, subcontractor, intern, or volunteer:

(1) Obtain a search of the United States department of justice national sex offender public web site regarding the person;

(2) Obtain a summary report of a search of the uniform statewide automated child welfare information system in accordance with divisions (A) and (B) of section 5103.18 of the Revised Code.

(B) An institution or association, as defined in division (A)(1)(a) of section 5103.02 of the Revised Code, that is not a residential facility, as defined in division (A)(8) of section 5103.05 of the Revised Code, shall obtain the search and summary report described in division (A) of this section before hiring a person, or engaging a subcontractor, intern, or volunteer, who will have access to children.

(C) If, at the time of September 30, 2021, the institution or association has not obtained a report required under division (A) or (B) of this section for the person, subcontractor, intern, or volunteer, the institution or association shall obtain the report.

(D) The institution or association may refuse to employ the person or engage the subcontractor, intern, or volunteer based solely on the results of the search described in division (A)(1) or (B) of this section or the findings of the summary report described in division (B)(1)(a) of section 5103.18 of the Revised Code.

~~(E) The director of children and youth shall adopt rules in accordance with Chapter 119. of the Revised Code necessary for the implementation and execution of this section.~~

Sec. 5103.0312. A public children services agency, private child placing agency, or private noncustodial agency acting as a recommending agency for a foster caregiver shall reimburse the foster caregiver in a lump sum for attending a preplacement training program operated under section 5103.034 or 5103.30 of the Revised Code and shall reimburse the foster caregiver a stipend for attending a continuing training program operated under section 5103.034 or 5103.30 of the Revised Code. The amount of the lump sum reimbursement and the stipend rate shall

be established by the department of children and youth and shall be the same regardless of the type of recommending agency from which the foster caregiver seeks a recommendation. The department shall, pursuant to rules adopted under ~~section 5103.0316~~ Chapter 119. of the Revised Code, reimburse the recommending agency for stipend reimbursements it makes in accordance with this section. The department shall adopt rules under Chapter 119. of the Revised Code regarding the release of lump sum stipends to an individual for attending a preplacement training program.

Sec. 5103.0316. The department of children and youth shall adopt rules in accordance with Chapter 119. of the Revised Code ~~as necessary for the efficient administration of sections 5103.031 to 5103.0316 of the Revised Code. The rules shall~~ that provide for all of the following:

(A) For the purpose of section 5103.038 of the Revised Code, the date by which a private child placing agency or private noncustodial agency that seeks to operate a preplacement training program or continuing training program under section 5103.034 of the Revised Code must submit to the department a proposal outlining the program;

(B) Requirements governing the department's compensation of private child placing agencies and private noncustodial agencies under sections 5103.0312 and 5103.0313 of the Revised Code, including the allowance to reimburse the agencies for the cost of providing the training under sections 5103.031, 5103.032, and 5103.033 of the Revised Code;

(C) Requirements governing the continuing training required by sections 5103.032 and 5103.033 of the Revised Code;

(D) The amount of training hours necessary for preplacement training and continuing training for purposes of sections 5103.031, 5103.032, and 5103.033 of the Revised Code;

(E) Courses necessary to meet the preplacement and continuing training requirements for foster homes under sections 5103.031, 5103.032, and 5103.033 of the Revised Code;

(F) Criteria used to create a written needs assessment and continuing training plan for each foster caregiver as required by section 5103.035 of the Revised Code;

(G) The amount of preplacement and continuing training hours that may be completed online~~;~~

~~(H) Any other matter the department considers appropriate~~.

Sec. 5103.0323. (A) As used in this section, "American institute of certified public accountants auditing standards" and "AICPA auditing standards" mean the auditing standards published by the American institute of certified public accountants.

(B) Not later than two years after the date of certification, and at least every two years thereafter, a private child placing agency or private noncustodial agency shall provide the department of children and youth evidence of an independent financial statement audit performed by a licensed public accounting firm following applicable AICPA auditing standards for the two most recent fiscal years.

(C) The independent audits must demonstrate that the agency operated in a fiscally accountable manner as determined by the department of children and youth.

(D) The director of children and youth may adopt rules ~~as~~

~~necessary to implement this section. The director shall adopt the rules~~ in accordance with section 119.03 of the Revised Code regarding the independent financial statement audits required under this section.

Sec. 5103.0329. A recommending agency may submit a request to the department of children and youth, on a case-by-case basis only, to waive any non-safety standards for a kinship caregiver seeking foster home certification. Non-safety standards include training hours and other requirements under sections 5103.031 and 5103.032 of the Revised Code and standards established by rules ~~adopted under sections 5103.03 and 5103.0316 of the Revised Code,~~ in accordance with 42 U.S.C. 671 (a)(10).

Sec. 5103.05. (A) As used in sections 5103.05 to 5103.0513 of the Revised Code:

(1) "Children's residential center" means a facility that is operated by a private child placing agency, private noncustodial agency, or public children services agency, that has been certified by the department of children and youth to operate a children's residential center, and in which eleven or more children, including the children of any staff residing at the facility, are given nonsecure care and supervision twenty-four hours a day.

(2) "Children's crisis care facility" has the same meaning as in section 5103.13 of the Revised Code.

(3) "County children's home" means a facility established under section 5153.21 of the Revised Code.

(4) "District children's home" means a facility established under section 5153.42 of the Revised Code.

(5) "First responder" means an EMT, EMT-basic, AEMT, EMT-

I, paramedic, firefighter, or volunteer firefighter.

(6) "Group home for children" means any public or private facility that is operated by a private child placing agency, private noncustodial agency, or public children services agency, that has been certified by the department to operate a group home for children, and that meets all of the following criteria:

(a) Gives, for compensation, a maximum of ten children, including the children of the operator or any staff who reside in the facility, nonsecure care and supervision twenty-four hours a day by a person or persons who are unrelated to the children by blood or marriage, or who is not the appointed guardian of any of the children;

(b) Is not certified as a foster home;

(c) Receives or cares for children for two or more consecutive weeks.

"Group home for children" does not include any facility that provides care for children from only a single-family group, placed at the facility by the children's parents or other relative having custody.

(7) "Law enforcement officer" means a sheriff, deputy sheriff, constable, police officer of a township or joint police district, marshal, deputy marshal, municipal police officer, or state highway patrol trooper.

(8) "Residential facility" means a group home for children, children's crisis care facility, children's residential center, residential parenting facility that provides twenty-four-hour child care, county children's home, or district children's home. A foster home is not a residential facility.

(9) "Residential parenting facility" means a facility operated by a private child placing agency, private noncustodial agency, or public children services agency, that has been certified by the department to operate a residential parenting facility, in which teenage mothers and their children reside for the purpose of keeping mother and child together, teaching parenting and life skills to the mother, and assisting teenage mothers in obtaining educational or vocational training and skills.

(10) "Nonsecure care and supervision" means care and supervision of a child in a residential facility that does not confine or prevent movement of the child within the facility or from the facility.

(11) "Volunteer firefighter" has the same meaning as in section 146.01 of the Revised Code.

(B) In its application for a certificate, the operator of a residential facility shall demonstrate, to the satisfaction of the department of children and youth, that the proposed residential facility meets all applicable local planning and zoning requirements. A residential facility shall maintain compliance with all applicable local planning and zoning requirements in order for the facility's certificate to remain in good standing.

(C) Prior to the commencement of operations of a residential facility, the operator of the facility shall provide to the board of township trustees or the legislative authority of the municipal corporation wherein the facility will be located notification that the facility will be in operation.

(D) Divisions (B) and (C) of this section shall apply only

to a residential facility that is operated by a public children services agency, private noncustodial agency, private child placing agency, or superintendent of a county or district children's home for the placement of foster children.

(E) Within ten days after the commencement of operations at a residential facility, the facility shall provide the following to all county, municipal, or township law enforcement agencies, emergency management agencies, and fire departments with jurisdiction over the facility:

(1) Written notice that the facility is located and will be operating in the agency's or department's jurisdiction. The written notice shall provide the address of the facility, identify the facility as a group home for children, children's crisis care facility, children's residential center, residential parenting facility, county children's home, or district children's home, and provide contact information for the facility.

(2) A copy of the facility's procedures for emergencies and disasters established pursuant to rules ~~adopted under section 5103.03 of the Revised Code~~;

(3) A copy of the facility's medical emergency plan established pursuant to rules ~~adopted under section 5103.03 of the Revised Code~~;

(4) A copy of the facility's community engagement plan established pursuant to rules adopted under section 5103.051 of the Revised Code.

(F) Within ten days of any change to the facility's information described in divisions (E)(2), (3), and (4) of this section, the facility shall provide to all county, municipal, or

township law enforcement agencies, emergency management agencies, and fire departments with jurisdiction over the facility updated copies of the information required to be provided under divisions (E)(2), (3), and (4) of this section.

(G) A residential facility that is operated by a public children services agency, private noncustodial agency, private child placing agency, or superintendent of a county or district children's home for the placement of foster children also shall provide the information described in divisions (E) and (F) of this section to the board of township trustees or the legislative authority of the municipal corporation wherein the facility will be located.

~~(H) The department may adopt rules in accordance with Chapter 119. of the Revised Code necessary to implement this section.~~

Sec. 5103.053. (A) The appointing or hiring officer of a residential facility that appoints or employs any person in the residential facility shall request the superintendent of BCII to conduct a criminal records check with respect to any person who is under final consideration for appointment or employment in the residential facility. The request shall be made at the time of initial application for appointment or employment and every four years thereafter.

(B)(1) When the appointing or hiring officer requests, at the time of initial application for appointment or employment, a criminal records check for a person subject to division (A) of this section, the officer shall request that the superintendent of BCII obtain information from the federal bureau of investigation as part of the criminal records check, including fingerprint-based checks of national crime information databases

as described in 42 U.S.C. 671, for the person subject to the criminal records check. In all other cases in which the appointing or hiring officer requests a criminal records check for a person pursuant to division (A) of this section, the officer may request that the superintendent of BCII obtain information from the federal bureau of investigation as part of the criminal records check, including fingerprint-based checks of national crime information databases as described in 42 U.S.C. 671, for the person subject to the criminal records check.

(2) An appointing or hiring officer required by division (A) of this section to request a criminal records check shall provide to each person subject to a criminal records check a copy of the form prescribed pursuant to division (C)(1) of section 109.572 of the Revised Code and a standard impression sheet to obtain fingerprint impressions prescribed pursuant to division (C)(2) of section 109.572 of the Revised Code, obtain the completed form and impression sheet from the person, and forward the completed form and impression sheet to the superintendent of BCII at the time the criminal records check is requested.

(3) Any person subject to a criminal records check who receives pursuant to division (B)(2) of this section a copy of the form prescribed pursuant to division (C)(1) of section 109.572 of the Revised Code and a copy of an impression sheet prescribed pursuant to division (C)(2) of that section and who is requested to complete the form and provide a set of fingerprint impressions shall complete the form or provide all the information necessary to complete the form and shall provide the impression sheet with the impressions of the person's fingerprints. If a person subject to a criminal records check,

upon request, fails to provide the information necessary to complete the form or fails to provide impressions of the person's fingerprints, the appointing or hiring officer shall not appoint or employ the person in the residential facility.

(C)(1) No appointing or hiring officer shall appoint or employ a person in the residential facility if the person previously has been convicted of or pleaded guilty to any of the violations described in division (A)(4) of section 109.572 of the Revised Code, unless the person meets rehabilitation standards established in rules adopted under division (F) of this section.

(2) If the federal government approves a waiver requested by the director of children and youth to allow conditional appointment or employment in a residential facility, an appointing or hiring officer may appoint or employ conditionally a person before obtaining the results of a criminal records check regarding the person, provided that the officer shall request a criminal records check regarding the person under division (A) of this section before the commencement of the conditional appointment or employment and the person has no direct contact with or access to children during the period of conditional appointment or employment.

(3) An appointing or hiring officer that appoints or employs a person conditionally under division (C)(2) of this section shall terminate the person's appointment or employment if the results of the criminal records check requested under division (A) of this section, other than the results of any request for information from the federal bureau of investigation, are not obtained within the period ending sixty days after the date the request is made. Regardless of when the

results of the criminal records check are obtained, if the results indicate that the person has been convicted of or pleaded guilty to any of the violations described in division (A)(4) of section 109.572 of the Revised Code, the officer shall terminate the person's appointment or employment unless the person meets rehabilitation standards established in rules adopted under division (F) of this section. Termination under this division shall be considered just cause for discharge for purposes of division (D)(2) of section 4141.29 of the Revised Code if the person makes any attempt to deceive the appointing or hiring officer about the person's criminal record.

(D) The appointing or hiring officer shall pay to the bureau of criminal identification and investigation the fee prescribed pursuant to division (C)(3) of section 109.572 of the Revised Code for each criminal records check conducted in accordance with that section upon a request pursuant to division (A) of this section. The officer may charge the person subject to the criminal records check a fee for the costs the officer incurs in obtaining the criminal records check. A fee charged under this division shall not exceed the amount of fees the officer pays for the criminal records check. If a fee is charged under this division, the officer shall notify the person who is the applicant at the time of the person's initial application for appointment or employment of the amount of the fee and that, unless the fee is paid, the person who is the applicant will not be considered for appointment or employment.

(E) The report of any criminal records check conducted by the bureau of criminal identification and investigation in accordance with section 109.572 of the Revised Code and pursuant to a request made under division (A) of this section is not a public record for the purposes of section 149.43 of the Revised

Code and shall not be made available to any person other than the following:

(1) The person who is the subject of the criminal records check or the person's representative;

(2) The appointing or hiring officer requesting the criminal records check or the officer's representative;

(3) The department of children and youth, a county department of job and family services, or a public children services agency;

(4) Any court, hearing officer, or other necessary individual involved in a case dealing with the denial of employment.

(F) Not later than ninety days after ~~the effective date of this section~~April 3, 2025, the director of children and youth shall adopt rules in accordance with Chapter 119. of the Revised Code ~~to implement this section. The rules shall include~~ regarding the rehabilitation standards a person who has been convicted of or pleaded guilty to an offense listed in division (A)(4) of section 109.572 of the Revised Code must meet for an appointing or hiring officer to appoint or employ the person in the residential facility and, to the extent permitted under federal law, guidelines regarding conditional appointment or employment during the pendency of a criminal records check.

(G) An appointing or hiring officer required by division (A) of this section to request a criminal records check shall inform each person who is the applicant, at the time of the person's initial application for appointment or employment that the person subject to the criminal records check is required to provide a set of impressions of the person's fingerprints and

that a criminal records check is required to be conducted and satisfactorily completed in accordance with section 109.572 of the Revised Code.

(H) As used in this section:

(1) "Criminal records check" has the same meaning as in section 109.572 of the Revised Code.

(2) "Person subject to a criminal records check" means a person who is under final consideration for appointment or employment in the residential facility;

(3) "Superintendent of BCII" means the superintendent of the bureau of criminal identification and investigation.

Sec. 5103.07. The department of children and youth shall administer funds received under Title IV-B of the "Social Security Act," 81 Stat. 821 (1967), 42 U.S.C.A. 620, as amended, and the "Child Abuse Prevention and Treatment Act," 88 Stat. 4 (1974), 42 U.S.C.A. 5101, as amended. In administering these funds, the department may establish a child welfare services program and a child abuse and neglect prevention and adoption reform program. The department has all powers necessary, except for the adoption of rules, for the adequate administration of these funds and programs. ~~The director of children and youth may adopt rules as necessary to carry out the purposes of this section.~~

Sec. 5103.18. (A)(1) Prior to certification as a foster home under section 5103.03 of the Revised Code, a recommending agency shall obtain a summary report of a search of the uniform statewide automated child welfare information system, established under section 5180.40 of the Revised Code, from an entity listed in section 5180.402 of the Revised Code.

(2) Whenever a prospective foster parent or any other person eighteen years of age or older who resides with a prospective foster parent has resided in another state within the five-year period immediately prior to the date on which a criminal records check is requested for the person under division (A) of section 2151.86 of the Revised Code, the recommending agency shall request a check of the central registry of abuse and neglect of this state from the department of children and youth regarding the prospective foster parent or the person eighteen years of age or older who resides with the prospective foster parent to enable the agency to check any child abuse and neglect registry maintained by that other state. The recommending agency shall make the request and shall review the results of the check before the prospective foster parent may be finally approved for placement of a child. Information received pursuant to such a request shall be considered for purposes of this chapter as if it were a summary report required under division (A) of this section. The department of children and youth shall comply with any request to check the central registry that is similar to the request described in this division and that is received from any other state.

(B)(1) The summary report required under division (A) of this section shall contain, if applicable, a chronological list of abuse and neglect determinations or allegations of which a person seeking to become a foster caregiver of a child is subject and in regards to which a public children services agency has done one of the following:

(a) Determined that abuse or neglect occurred;

(b) Initiated an investigation, and the investigation is ongoing;

(c) Initiated an investigation, and the agency was unable to determine whether abuse or neglect occurred.

(2) The summary report required under division (A) of this section shall not contain any of the following:

(a) An abuse and neglect determination of which a person seeking to become a foster caregiver of a child is subject and in regards to which a public children services agency determined that abuse or neglect did not occur;

(b) Information or reports the dissemination of which is prohibited by, or interferes with eligibility under, the "Child Abuse Prevention and Treatment Act," 88 Stat. 4 (1974), 42 U.S.C. 5101 et seq., as amended;

(c) The name of the person who or entity that made, or participated in the making of, the report of abuse or neglect.

(C)(1) A foster home certification may be denied based on a summary report containing the information described under division (B)(1)(a) of this section, when considered within the totality of the circumstances.

(2) A foster home certification shall not be denied solely based on a summary report containing the information described under division (B)(1)(b) or (c) of this section.

~~(D) The director of children and youth shall adopt rules in accordance with Chapter 119. of the Revised Code necessary for the implementation and execution of this section.~~

Sec. 5103.181. ~~(A)~~ Prior to certification of a foster home under section 5103.03 of the Revised Code, a recommending agency shall conduct a search of the United States department of justice national sex offender public web site regarding the

prospective or current foster caregiver and all persons eighteen years of age or older who reside with the prospective or current foster caregiver. Certification may be denied based solely on the results of the search.

~~(B) The director of children and youth shall adopt rules in accordance with Chapter 119. of the Revised Code necessary for the implementation and execution of this section.~~

Sec. 5104.013. (A)(1) As used in this section:

(a) "Applicant" means either of the following:

(i) A person who is under final consideration for appointment to or employment in a position with a licensed preschool program or licensed school child program that provides publicly funded child care, authorized private before and after school care program, child care center, type A family child care home, licensed type B family child care home, or child day camp;

(ii) A person who would serve in any position with a licensed preschool program or licensed school child program that provides publicly funded child care, authorized private before and after school care program, child care center, type A family child care home, licensed type B family child care home, or child day camp pursuant to a contract with another entity.

(b) "Authorized private before and after school care program" has the same meaning as in section 3301.52 of the Revised Code.

(c) "Criminal records check" has the same meaning as in section 109.572 of the Revised Code.

(2) Regarding an authorized private before and after school care program only, "director" means an individual who is

responsible for ensuring compliance with this section and any rules adopted under it.

(B)(1) At the times specified in division (B)(2)(a) of this section, the director of children and youth shall request the superintendent of the bureau of criminal identification and investigation to conduct a criminal records check for each of the following persons:

(a) Any owner or licensee of a child care center;

(b) Any owner or licensee of a type A family child care home or licensed type B family child care home and any person eighteen years of age or older who resides in the home;

(c) Any owner of an approved child day camp;

(d) Any director of a licensed preschool program or licensed school child program that provides publicly funded child care;

(e) Any owner or director of an authorized private before and after school care program;

(f) Any in-home aide;

(g) Any applicant or employee, including an administrator, of a child care center, type A family child care home, licensed type B family child care home, approved child day camp, licensed preschool program or licensed school child program that provides publicly funded child care, or authorized private before and after school care program.

(2)(a) The director shall request a criminal records check at the following times:

(i) In the case of an owner or licensee of child care

center or an owner or licensee of a type A family child care home or licensed type B family child care home or a resident of such a home, at the time of initial application for licensure and every five years thereafter;

(ii) In the case of an owner of an approved child day camp, at the time of initial application for approval and every five years thereafter;

(iii) In the case of a director of a licensed child care program or licensed school child program, at the time of initial application to provide publicly funded child care and every five years thereafter;

(iv) In the case of an owner or director of an authorized private before and after school care program, at the time of initial application for licensure and every five years thereafter;

(v) In the case of an in-home aide, at the time of initial application for certification and every five years thereafter;

(vi) Except as provided in division (B)(2)(a)(vii) of this section, in the case of an applicant or employee, at the time of initial application for employment and every five years thereafter;

(vii) In the case of an applicant who has been determined eligible for employment after a review of a criminal records check within the past five years and who has been employed by a licensed preschool program or licensed school child program that provides publicly funded child care, authorized private before and after school care program, child care center, type A family child care home, licensed type B family child care home, or approved child day camp within the past one hundred eighty

consecutive days, every five years after the date of the initial determination.

(b) A criminal records check requested at the time of initial application shall include a request that the superintendent of the bureau of criminal identification and investigation obtain information from the federal bureau of investigation as part of the criminal records check for the person, including fingerprint-based checks of national crime information databases as described in 42 U.S.C. 671 for the person subject to the criminal records check.

(c) A criminal records check requested at any time other than the time of initial application may include a request that the superintendent of the bureau of criminal identification and investigation obtain information from the federal bureau of investigation as part of the criminal records check for the person, including fingerprint-based checks of national crime information databases as described in 42 U.S.C. 671 for the person subject to the criminal records check.

(3) With respect to a criminal records check requested for a person described in division (B)(1) of this section, the director of children and youth shall do all of the following:

(a) Provide to the person a copy of the form prescribed pursuant to division (C)(1) of section 109.572 of the Revised Code and a standard impression sheet to obtain fingerprint impressions prescribed pursuant to division (C)(2) of that section;

(b) Obtain the completed form and impression sheet from the person;

(c) Forward the completed form and impression sheet to the

superintendent of the bureau of criminal identification and investigation;

(d) Review the results of the criminal records check.

(4) A person who receives from the director a copy of the form and standard impression sheet and who is requested to complete the form and provide a set of fingerprint impressions shall complete the form or provide all of the information necessary to complete the form and shall provide the impression sheet with the impressions of the person's fingerprints. If the person, upon request, fails to provide the information necessary to complete the form or fails to provide impressions of the person's fingerprints, the director of children and youth or a county director of job and family services may consider the failure a reason to deny licensure, approval, or certification or to determine an employee ineligible for employment.

(5) Except as provided in rules adopted under division ~~(F)~~ (G) of this section:

(a) The director of children and youth shall refuse to issue a license to or approve a center, type A home, type B home, child day camp, preschool program, school child program, or authorized private before and after school care program, and shall revoke a license or approval, and a county director of job and family services shall not certify an in-home aide and shall revoke a certification, if a person for whom a criminal records check was required under divisions (B)(1)(a) to (B)(1)(f) of this section has been convicted of or pleaded guilty to any of the violations described in division (A)(5) of section 109.572 of the Revised Code.

(b) The director of children and youth shall not issue a

license to a type A home or type B home if a resident of the type A home or type B home is under eighteen years of age and has been adjudicated a delinquent child for committing either a violation of any section listed in division (A)(5) of section 109.572 of the Revised Code or an offense of another state or the United States that is substantially equivalent to an offense listed in division (A)(5) of section 109.572 of the Revised Code.

(c) The director shall determine an applicant or employee ineligible for employment if the person has been convicted of or pleaded guilty to any of the violations described in division (A)(5) of section 109.572 of the Revised Code.

(6) Each child care center, type A home, type B home, approved child day camp, licensed child care program, licensed school child program, authorized private before and after school care program, and in-home aide shall pay to the bureau of criminal identification and investigation the fee prescribed pursuant to division (C)(3) of section 109.572 of the Revised Code for each criminal records check conducted in accordance with that section upon a request made pursuant to division (B) of this section.

A center, home, camp, preschool program, school child program, or authorized private before and after school care program may charge an applicant a fee for the costs it incurs in obtaining a criminal records check under this section. A fee charged under this division shall not exceed the amount the center, home, camp, or program pays under this section. If a fee is charged, the center, home, camp, or program shall notify the applicant at the time of the applicant's initial application for employment of the amount of the fee and that, unless the fee is

paid, the center, home, camp, or program will not consider the applicant for employment.

(7) The report of any criminal records check conducted by the bureau of criminal identification and investigation in accordance with section 109.572 of the Revised Code and pursuant to a request made under division (B) of this section is confidential and not a public record for the purposes of section 149.43 of the Revised Code. The report shall not be made available to any person other than the person who is the subject of the criminal records check or the person's representative, the director of children and youth, the director of a county department of job and family services, and any court, hearing officer, or other necessary individual involved in a case dealing with a denial or revocation of licensure, approval, or certification related to the criminal records check.

(C)(1) At the times specified in division (C)(2) of this section, the director of children and youth shall search the uniform statewide automated child welfare information system for information concerning any abuse or neglect report made pursuant to section 2151.421 of the Revised Code of which any of the following persons is a subject:

(a) Any owner or licensee of a child care center;

(b) Any owner or licensee of a type A family child care home or licensed type B family child care home and any person eighteen years of age or older who resides in the home;

(c) Any owner of an approved child day camp;

(d) Any director of a licensed preschool program or licensed school child program that provides publicly funded child care;

(e) Any owner or director of an authorized private before and after school care program;

(f) Any in-home aide;

(g) Any applicant or employee, including an administrator, of a child care center, type A family child care home, licensed type B family child care home, approved child day camp, licensed preschool program or licensed school child program that provides publicly funded child care, or authorized private before and after school care program.

(2) The director shall search the information system at the following times:

(a) In the case of an owner or licensee of child care center or an owner or licensee of a type A family child care home or licensed type B family child care home or a resident of such a home, at the time of initial application for licensure and every five years thereafter;

(b) In the case of an owner of an approved child day camp, at the time of initial application for approval and every five years thereafter;

(c) In the case of a director of a licensed child care program or licensed school child program, at the time of initial application to provide publicly funded child care and every five years thereafter;

(d) In the case of an owner or director of an authorized private before and after school care program, at the time of initial application for licensure and every five years thereafter;

(e) In the case of an in-home aide, at the time of initial

application for certification and every five years thereafter;

(f) Except as provided in division (C)(2)(g) of this section, in the case of an applicant or employee, at the time of initial application for employment and every five years thereafter;

(g) In the case of an applicant who has been determined eligible for employment after a search of the uniform statewide automated child welfare information system within the past five years and who has been employed by a licensed preschool program or licensed school child program that provides publicly funded child care, authorized private before and after school care program, child care center, type A family child care home, licensed type B family child care home, or approved child day camp within the past one hundred eighty consecutive days, every five years after the date of the initial determination.

(3) The director shall consider any information discovered pursuant to division (C)(1) of this section or that is provided by a public children services agency pursuant to section 5153.175 of the Revised Code. If the director determines that the information, when viewed within the totality of the circumstances, reasonably leads to the conclusion that the person may directly or indirectly endanger the health, safety, or welfare of children, the director of children and youth or county director of job and family services shall do any of the following:

(a) Refuse to issue a license to or approve a center, type A home, type B home, child day camp, preschool program, school child program, or authorized private before and after school care program;

(b) Revoke a license or approval;

(c) Refuse to certify an in-home aide or revoke a certification;

(d) Determine an applicant or employee ineligible for employment with the center, type A home, licensed type B home, child day camp, preschool program, school child program, or authorized private before and after school care program.

(4) Any information obtained under division (C) of this section is confidential and not a public record for the purposes of section 149.43 of the Revised Code. The information shall not be made available to any person other than the person who is the subject of the search or the person's representative, the director of children and youth, the director of a county department of job and family services, and any court, hearing officer, or other necessary individual involved in a case dealing with a denial or revocation of licensure, approval, or certification related to the search.

(D)(1) At the times specified in division (D)(2) of this section, the director of children and youth shall inspect the state registry of sex offenders and child-victim offenders established under section 2950.13 of the Revised Code and the national sex offender registry as described in 42 U.S.C. 16901 to determine if any of the following persons is registered or required to be registered as an offender:

(a) Any owner or licensee of a child care center;

(b) Any owner or licensee of a type A family child care home or licensed type B family child care home and any person eighteen years of age or older who resides in the home;

(c) Any owner of an approved child day camp;

(d) Any director of a licensed preschool program or licensed school child program that provides publicly funded child care;

(e) Any owner or director of an authorized private before and after school care program;

(f) Any in-home aide;

(g) Any applicant or employee, including an administrator, of a child care center, type A family child care home, licensed type B family child care home, approved child day camp, licensed preschool program or licensed school child program that provides publicly funded child care, or authorized private before and after school care program.

(2) The director shall inspect each registry at the following times:

(a) In the case of an owner or licensee of child care center or an owner or licensee of a type A family child care home or type B family child care home or a resident of such a home, at the time of initial application for licensure and every five years thereafter;

(b) In the case of an owner of an approved child day camp, at the time of initial application for approval and every five years thereafter;

(c) In the case of a director of a licensed child care program or licensed school child program, at the time of initial application to provide publicly funded child care;

(d) In the case of an owner or director of an authorized private before and after school care program, at the time of initial application for licensure and every five years

thereafter;

(e) In the case of an in-home aide, at the time of initial application for certification and every five years thereafter;

(f) Except as provided in division (D)(2)(g) of this section, in the case of an applicant or employee, at the time of initial application for employment and every five years thereafter;

(g) In the case of an applicant who has been determined eligible for employment after an inspection of the state registry of sex offenders and child-victim offenders established under section 2950.13 of the Revised Code and the national sex offender registry as described in 42 U.S.C. 16901 within the past five years and who has been employed by a licensed preschool program or licensed school child program that provides publicly funded child care, authorized private before and after school care program, child care center, type A family child care home, licensed type B family child care home, or approved child day camp within the past one hundred eighty consecutive days, every five years after the date of the initial determination.

(3) If the director determines that the person is registered or required to be registered on either registry, the director of children and youth or county director of job and family services shall do any of the following:

(a) Refuse to issue a license to or approve a center, type A home, type B home, child day camp, preschool program, school child program, or authorized private before and after school care program;

(b) Revoke a license or approval;

(c) Refuse to certify an in-home aide or revoke a

certification;

(d) Determine an applicant or employee ineligible for employment with the center, type A home, licensed type B home, child day camp, preschool program, school child program, or authorized private before and after school care program.

(4) Any information obtained under division (D) of this section is confidential and not a public record for the purposes of section 149.43 of the Revised Code. The information shall not be made available to any person other than the person who is the subject of the inspection or the person's representative, the director of children and youth, the director of a county department of job and family services, and any court, hearing officer, or other necessary individual involved in a case dealing with a denial or revocation of licensure, approval, or certification related to the search.

(E) Whenever the director of children and youth determines a person ineligible for employment under division (B), (C), or (D) of this section, the director shall as soon as practicable notify the following of that determination: the licensed preschool program or licensed school child program that provides publicly funded child care, authorized private before and after school care program, child care center, type A family child care home, licensed type B family child care home, or approved child day camp that is considering the person for appointment or employment. A licensed preschool program or licensed school child program that provides publicly funded child care, authorized private before and after school care program, child care center, type A family child care home, licensed type B family child care home, or approved child day camp shall not employ a person who is determined under this section to be

ineligible for employment.

(F)(1) An administrator of a child day camp, other than an approved child day camp shall request the superintendent of the bureau of criminal identification and investigation to conduct a criminal records check for any applicant or employee, including an administrator, of the child day camp. The request shall be made at the time of initial application for employment and every five years thereafter.

(2) A criminal records check requested at the time of initial application shall include a request that the superintendent of the bureau of criminal identification and investigation obtain information from the federal bureau of investigation as part of the criminal records check for the person, including fingerprint-based checks of national crime information databases as described in 42 U.S.C. 671 for the person subject to the criminal records check.

(3) A criminal records check requested at any time other than the time of initial application may include a request that the superintendent of the bureau of criminal identification and investigation obtain information from the federal bureau of investigation as part of the criminal records check for the person, including fingerprint-based checks of national crime information databases as described in 42 U.S.C. 671 for the person subject to the criminal records check.

(4) With respect to a criminal records check requested under division (F) of this section, the administrator shall do all of the following:

(a) Provide to the applicant or employee a copy of the form prescribed pursuant to division (C)(1) of section 109.572

of the Revised Code and a standard impression sheet to obtain fingerprint impressions prescribed pursuant to division (C)(2) of that section;

(b) Obtain the completed form and impression sheet from the applicant or employee;

(c) Forward the completed form and impression sheet to the superintendent of the bureau of criminal identification and investigation;

(d) Review the results of the criminal records check.

(5) An applicant or employee who receives from the administrator a copy of the form and standard impression sheet and who is requested to complete the form and provide a set of fingerprint impressions shall complete the form or provide all of the information necessary to complete the form and shall provide the impression sheet with the impressions of the person's fingerprints. If the applicant or employee, upon request, fails to provide the information necessary to complete the form or fails to provide impressions of the person's fingerprints, the administrator may consider the failure a reason to determine an applicant or employee ineligible for employment.

(6) A child day camp, other than an approved child day camp, may employ an applicant or continue to employ an employee until the criminal records check required by this section is completed and the camp receives the results of the check. Until the administrator has reviewed the results of the criminal records check and determines that the applicant or employee is eligible for employment, the camp shall not grant the applicant or employee sole responsibility for the care, custody, or

control of a child. If the results indicate that the applicant or employee is ineligible for employment, the camp shall immediately release the applicant or employee from employment.

(7) Except as provided in rules adopted under this section, the administrator shall determine an applicant or employee ineligible for employment if the person has been convicted of or pleaded guilty to any of the violations described in division (A)(5) of section 109.572 of the Revised Code. If the applicant or employee is determined ineligible, the child day camp shall not employ the applicant or employee or contract with another entity for the services of the applicant or employee.

(8) Each child day camp shall pay to the bureau of criminal identification and investigation the fee prescribed pursuant to division (C)(3) of section 109.572 of the Revised Code for each criminal records check conducted in accordance with that section upon a request made pursuant to division (F) of this section. A camp may charge an applicant or employee a fee for the costs it incurs in obtaining a criminal records check under division (F) of this section. A fee charged under this division shall not exceed the fees the camp pays under this section. If a fee is charged, the camp shall notify the applicant at the time of the applicant's initial application for employment of the amount of the fee and that, unless the fee is paid, the camp will not consider the applicant for employment.

(9) The report of any criminal records check conducted by the bureau of criminal identification and investigation in accordance with section 109.572 of the Revised Code and pursuant to a request made under division (F) of this section is confidential and not a public record for the purposes of section

149.43 of the Revised Code. The report shall not be made available to any person other than the person who is the subject of the criminal records check or the person's representative, the director of children and youth, the administrator, and any court, hearing officer, or other necessary individual involved in a case dealing with a denial or revocation of registration related to the criminal records check.

(G) The director of children and youth shall adopt rules ~~as necessary to implement this section. The rules shall be adopted~~ in accordance with Chapter 119. of the Revised Code~~. The rules shall~~ to specify exceptions to the prohibitions in divisions (B), (E), and (F) of this section for a person who has been convicted of or pleaded guilty to a criminal offense listed in division (A)(5) of section 109.572 of the Revised Code but who meets standards in regard to rehabilitation set by the director.

(H)(1) Whenever the director of children and youth requests a criminal records check, searches the uniform statewide automated child welfare information system, or inspects the state registry of sex offenders and child-victim offenders and national sex offender registry as required by this section and finds that a person who is subject to the requirements of division (B), (C), or (D) of this section resided in another state during the previous five years, the director shall request the following from the other state: a criminal records check and information from the uniform statewide automated child welfare information system or state registry of sex offenders.

(2) Whenever the director receives from an agency of another state a request for a criminal records check or for

information from the uniform statewide automated child welfare information system or state registry of sex offenders that is related to a child care license or the provision of publicly funded child care, the director shall provide to that other state's agency the results of the records check and information from the system and registry.

Sec. 5104.015. The director of children and youth shall adopt rules in accordance with Chapter 119. of the Revised Code governing the operation of child care centers, including parent cooperative centers, part-time centers, and drop-in centers. The rules shall reflect the various forms of child care and the needs of children receiving child care or publicly funded child care and shall include specific rules for school-age child care centers that are developed in consultation with the department of education and workforce. The rules shall include the following:

(A) Submission of a site plan and descriptive plan of operation to demonstrate how the center proposes to meet the requirements of this chapter and rules adopted pursuant to this chapter for the initial license application;

(B) Standards for ensuring that the physical surroundings of the center are safe and sanitary including the physical environment, the physical plant, and the equipment of the center;

(C) Standards for the supervision, care, and discipline of children receiving child care or publicly funded child care in the center;

(D) Standards for a program of activities, and for play equipment, materials, and supplies, to enhance the development

of each child; however, any educational curricula, philosophies, and methodologies that are developmentally appropriate and that enhance the social, emotional, intellectual, and physical development of each child shall be permissible. As used in this division, "program" does not include instruction in religious or moral doctrines, beliefs, or values that is conducted at child care centers owned and operated by churches and does include methods of disciplining children at child care centers.

(E) Admissions policies and procedures;

(F) Health care policies and procedures, including procedures for the isolation of children with communicable diseases;

(G) First aid and emergency procedures;

(H) Procedures for discipline and supervision of children;

(I) Standards for the provision of nutritious meals and snacks;

(J) Procedures for screening children that may include any necessary physical examinations and shall include immunizations in accordance with section 5104.014 of the Revised Code;

(K) Procedures for screening employees that may include any necessary physical examinations and immunizations;

(L) Methods for encouraging parental participation in the center and methods for ensuring that the rights of children, parents, and employees are protected and that responsibilities of parents and employees are met;

(M) Procedures for ensuring the safety and adequate supervision of children traveling off the premises of the center while under the care of a center employee;

(N) Procedures for record keeping, organization, and administration;

(O) Procedures for issuing, denying, and revoking a license that are not otherwise provided for in Chapter 119. of the Revised Code;

(P) Inspection procedures;

(Q) Procedures and standards for setting initial license application fees;

(R) Procedures for receiving, recording, and responding to complaints about centers;

(S) Procedures for enforcing section 5104.04 of the Revised Code;

(T) Minimum qualifications for employment as an administrator or child care staff member, which shall not include requiring an administrator or child care staff member to hold or obtain a bachelor's, master's, or doctoral degree;

(U) Requirements for the training of administrators and child care staff members, including training in first aid, in prevention, recognition, and management of communicable diseases, and in child abuse recognition and prevention;

(V) Standards providing for the needs of children who have disabilities or who require treatment for health conditions while the child is receiving child care or publicly funded child care in the center;

(W) A procedure for reporting of injuries of children that occur at the center;

(X) Standards for licensing child care centers for

children with short-term illnesses and other temporary medical conditions;

(Y) Minimum requirements for instructional time for child care centers rated through the step up to quality program established pursuant to section 5104.29 of the Revised Code~~;~~

~~(Z) Any other procedures and standards necessary to carry out the provisions of this chapter regarding child care centers~~.

Sec. 5104.017. The director of children and youth shall adopt rules pursuant to Chapter 119. of the Revised Code governing the operation of type A family child care homes, including parent cooperative type A homes, part-time type A homes, and drop-in type A homes. The rules shall reflect the various forms of child care and the needs of children receiving child care. The rules shall include the following:

(A) Submission of a site plan and descriptive plan of operation to demonstrate how the type A home proposes to meet the requirements of this chapter and rules adopted pursuant to this chapter for the initial license application;

(B) Standards for ensuring that the physical surroundings of the type A home are safe and sanitary, including the physical environment, the physical plant, and the equipment of the type A home;

(C) Standards for the supervision, care, and discipline of children receiving child care or publicly funded child care in the type A home;

(D) Standards for a program of activities, and for play equipment, materials, and supplies, to enhance the development of each child; however, any educational curricula, philosophies, and methodologies that are developmentally appropriate and that

enhance the social, emotional, intellectual, and physical development of each child shall be permissible;

(E) Admissions policies and procedures;

(F) Health care policies and procedures, including procedures for the isolation of children with communicable diseases;

(G) First aid and emergency procedures;

(H) Procedures for discipline and supervision of children;

(I) Standards for the provision of nutritious meals and snacks;

(J) Procedures for screening children, including any necessary physical examinations and the immunizations required pursuant to section 5104.014 of the Revised Code;

(K) Procedures for screening employees, including any necessary physical examinations and immunizations;

(L) Methods for encouraging parental participation in the type A home and methods for ensuring that the rights of children, parents, and employees are protected and that the responsibilities of parents and employees are met;

(M) Procedures for ensuring the safety and adequate supervision of children traveling off the premises of the type A home while under the care of a type A home employee;

(N) Procedures for record keeping, organization, and administration;

(O) Procedures for issuing, denying, and revoking a license that are not otherwise provided for in Chapter 119. of the Revised Code;

(P) Inspection procedures;

(Q) Procedures and standards for setting initial license application fees;

(R) Procedures for receiving, recording, and responding to complaints about type A homes;

(S) Procedures for enforcing section 5104.04 of the Revised Code;

(T) A standard requiring the inclusion of a current department of children and youth toll-free telephone number on each type A home license that any person may use to report a suspected violation by the type A home of this chapter or rules adopted pursuant to this chapter;

(U) Requirements for the training of administrators and child care staff members in first aid, in prevention, recognition, and management of communicable diseases, and in child abuse recognition and prevention;

(V) Standards providing for the needs of children who have disabilities or who require treatment for health conditions while the child is receiving child care or publicly funded child care in the type A home;

(W) Standards for the maximum number of children per child care staff member;

(X) Requirements for the amount of usable indoor floor space for each child;

(Y) Requirements for safe outdoor play space;

(Z) Qualifications and training requirements for administrators and for child care staff members, which shall not

include requiring an administrator or child care staff member to hold or obtain a bachelor's, master's, or doctoral degree;

(AA) Procedures for granting a parent who is the residential parent and legal custodian, or a custodian or guardian access to the type A home during its hours of operation;

(BB) Minimum requirements for instructional time for type A homes rated through the step up to quality program established pursuant to section 5104.29 of the Revised Code~~;~~

~~(CC) Any other procedures and standards necessary to carry out the provisions of this chapter regarding type A homes~~.

Sec. 5104.018. The director of children and youth shall adopt rules in accordance with Chapter 119. of the Revised Code governing the licensure of type B family child care homes. The rules shall provide for safeguarding the health, safety, and welfare of children receiving child care or publicly funded child care in a licensed type B family child care home and shall include all of the following:

(A) Requirements for the type B home to notify parents with children in the type B home that the type B home is certified as a foster home under section 5103.03 of the Revised Code;

(B) Standards for ensuring that the type B home and the physical surroundings of the type B home are safe and sanitary, including physical environment, physical plant, and equipment;

(C) Standards for the supervision, care, and discipline of children receiving child care or publicly funded child care in the home;

(D) Standards for a program of activities, and for play equipment, materials, and supplies to enhance the development of each child; however, any educational curricula, philosophies, and methodologies that are developmentally appropriate and that enhance the social, emotional, intellectual, and physical development of each child shall be permissible;

(E) Admission policies and procedures;

(F) Health care, first aid and emergency procedures;

(G) Procedures for the care of sick children;

(H) Procedures for discipline and supervision of children;

(I) Nutritional standards;

(J) Procedures for screening children, including any necessary physical examinations and the immunizations required pursuant to section 5104.014 of the Revised Code;

(K) Procedures for screening administrators and employees, including any necessary physical examinations and immunizations;

(L) Methods of encouraging parental participation and ensuring that the rights of children, parents, and administrators are protected and the responsibilities of parents and administrators are met;

(M) Standards for the safe transport of children when under the care of administrators;

(N) Procedures for issuing, denying, or revoking licenses;

(O) Procedures for the inspection of type B homes that require, at a minimum, that each type B home be inspected prior to licensure to ensure that the home is safe and sanitary;

(P) Procedures for record keeping and evaluation;

(Q) Procedures for receiving, recording, and responding to complaints;

(R) Standards providing for the needs of children who have disabilities or who receive treatment for health conditions while the child is receiving child care or publicly funded child care in the type B home;

(S) Requirements for the amount of usable indoor floor space for each child;

(T) Requirements for safe outdoor play space;

(U) Qualification and training requirements for administrators and employees, which shall not include requiring an administrator or employee to hold or obtain a bachelor's, master's, or doctoral degree;

(V) Procedures for granting a parent who is the residential parent and legal custodian, or a custodian or guardian access to the type B home during its hours of operation;

(W) Requirements for the type B home to notify parents with children in the type B home that the type B home is certified as a foster home under section 5103.03 of the Revised Code;

(X) Minimum requirements for instructional time for type B homes rated through the step up to quality program established pursuant to section 5104.29 of the Revised Code~~;~~

~~(Y) Any other procedures and standards necessary to carry out the provisions of this chapter regarding licensure of type B homes~~.

Sec. 5104.019. The director of children and youth shall

adopt rules in accordance with Chapter 119. of the Revised Code governing the certification of in-home aides. The rules shall provide for safeguarding the health, safety, and welfare of children receiving publicly funded child care in their own home and shall include the following:

(A) Standards for ensuring that the child's home and the physical surroundings of the child's home are safe and sanitary, including physical environment, physical plant, and equipment;

(B) Standards for the supervision, care, and discipline of children receiving publicly funded child care in their own home;

(C) Standards for a program of activities, and for play equipment, materials, and supplies to enhance the development of each child; however, any educational curricula, philosophies, and methodologies that are developmentally appropriate and that enhance the social, emotional, intellectual, and physical development of each child shall be permissible;

(D) Health care, first aid, and emergency procedures, procedures for the care of sick children, procedures for discipline and supervision of children, nutritional standards, and procedures for screening children and in-home aides, including any necessary physical examinations and immunizations;

(E) Methods of encouraging parental participation and ensuring that the rights of children, parents, and in-home aides are protected and the responsibilities of parents and in-home aides are met;

(F) Standards for the safe transport of children when under the care of in-home aides;

(G) Procedures for issuing, renewing, denying, refusing to renew, or revoking certificates;

(H) Procedures for inspection of homes of children receiving publicly funded child care in their own homes;

(I) Procedures for record keeping and evaluation;

(J) Procedures for receiving, recording, and responding to complaints;

(K) Qualifications and training requirements for in-home aides;

(L) Standards providing for the needs of children who have disabilities or who receive treatment for health conditions while the child is receiving publicly funded child care in the child's own home~~;~~

~~(M) Any other procedures and standards necessary to carry out the provisions of this chapter regarding certification of in-home aides~~.

Sec. 5104.041. (A) All type A family child care homes and licensed type B family child care homes shall procure and maintain one of the following:

(1) Liability insurance issued by an insurer authorized to do business in this state under Chapter 3905. of the Revised Code insuring the type A or type B family child care home against liability arising out of, or in connection with, the operation of the family child care home. The insurance procured shall cover any cause for which the type A or type B family child care home would be liable, in the amount of at least one hundred thousand dollars per occurrence and three hundred thousand dollars in the aggregate.

(2) A written statement signed by the parent, guardian, or custodian of each child receiving child care from the type A or

type B family child care home that states all of the following:

(a) The family child care home does not carry liability insurance described in division (A)(1) of this section;

(b) If the licensee of a type A family child care home or a type B family child care home is not the owner of the real property where the family child care home is located, the liability insurance, if any, of the owner of the real property may not provide for coverage of any liability arising out of, or in connection with, the operation of the family child care home.

(B) If the licensee of a type A family child care home or a type B family child care home is not the owner of the real property where the family child care home is located and the family child care home procures liability insurance described in division (A)(1) of this section, that licensee shall name the owner of the real property as an additional insured party on the liability insurance policy if all of the following apply:

(1) The owner of the real property requests the licensee or provider, in writing, to add the owner of the real property to the liability insurance policy as an additional insured party.

(2) The addition of the owner of the real property does not result in cancellation or nonrenewal of the insurance policy procured by the type A or type B family child care home.

(3) The owner of the real property pays any additional premium assessed for coverage of the owner of the real property.

(C) Proof of insurance or written statement required under division (A) of this section shall be maintained at the type A or type B family child care home and made available for review during inspection or investigation as required under this

chapter.

~~(D) The director of children and youth shall adopt rules for the enforcement of this section.~~

Sec. 5104.043. (A) If the department of children and youth determines that an act or omission of a child care center, type A family child care home, or licensed type B family child care home constitutes a serious risk noncompliance, the licensee shall notify the caretaker parent of each child receiving care in the center or home of the department's determination.

(B) With respect to the notice required by division (A) of this section, all of the following apply:

(1) The licensee shall notify caretaker parents not later than fifteen business days after the department informs the licensee of the department's determination. If the licensee requests a review of the department's determination, the licensee shall notify caretaker parents not later than five business days after the department has completed its review.

(2) The notice shall include a statement informing each caretaker parent of the web site maintained by the department and the location of further information regarding the determination.

(3) The licensee may provide written or electronic notice to caretaker parents.

(4) The licensee shall provide a copy of the notice to the department.

(C) ~~The director of children and youth shall adopt rules to enforce this section.~~

~~(D)~~ The requirements of this section do not apply if the

department suspends the license of a child care center, type A family child care home, or licensed type B family child care home pursuant to section 5104.042 of the Revised Code.

Sec. 5104.30. (A) The department of children and youth is hereby designated as the state agency responsible for administration and coordination of federal and state funding for publicly funded child care in this state. Publicly funded child care shall be provided to the following:

(1) Recipients of transitional child care as provided under section 5104.34 of the Revised Code;

(2) Participants in the Ohio works first program established under Chapter 5107. of the Revised Code;

(3) Individuals who would be participating in the Ohio works first program if not for a sanction under section 5107.16 of the Revised Code and who continue to participate in a work activity, developmental activity, or alternative work activity pursuant to an assignment under section 5107.42 of the Revised Code;

(4) A family receiving publicly funded child care on October 1, 1997, until the family's income reaches one hundred fifty per cent of the federal poverty line;

(5) Subject to available funds, other individuals determined eligible in accordance with rules adopted under section 5104.38 of the Revised Code.

The department shall apply to the United States department of health and human services for authority to operate a coordinated program for publicly funded child care, if the director of children and youth determines that the application is necessary. For purposes of this section, the department of

children and youth may enter into agreements with other state agencies that are involved in regulation or funding of child care. The department shall consider the special needs of migrant workers when it administers and coordinates publicly funded child care and shall develop appropriate procedures for accommodating the needs of migrant workers for publicly funded child care.

(B) The department of children and youth shall distribute state and federal funds for publicly funded child care, including appropriations of state funds for publicly funded child care and appropriations of federal funds available under the child care block grant act, Title IV-A, and Title XX. The department may use any state funds appropriated for publicly funded child care as the state share required to match any federal funds appropriated for publicly funded child care.

(C) In the use of federal funds available under the child care block grant act, all of the following apply:

(1) The department may use the federal funds to hire staff to prepare any rules required under this chapter and to administer and coordinate federal and state funding for publicly funded child care.

(2) Not more than five per cent of the aggregate amount of the federal funds received for a fiscal year may be expended for administrative costs.

(3) The department shall allocate and use at least four per cent of the federal funds for the following:

(a) Activities designed to provide comprehensive consumer education to parents and the public;

(b) Activities that increase parental choice;

(c) Activities, including child care resource and referral services, designed to improve the quality, and increase the supply, of child care;

(d) Establishing the step up to quality program pursuant to section 5104.29 of the Revised Code.

(4) The department shall ensure that the federal funds will be used only to supplement, and will not be used to supplant, federal, state, and local funds available on the effective date of the child care block grant act for publicly funded child care and related programs. If authorized by rules adopted by the department pursuant to section 5104.42 of the Revised Code, county departments of job and family services may purchase child care from funds obtained through any other means.

(D) The department shall encourage the development of suitable child care throughout the state, especially in areas with high concentrations of recipients of public assistance and families with low incomes. The department shall encourage the development of suitable child care designed to accommodate the special needs of migrant workers. On request, the department, through its employees or contracts with state or community child care resource and referral service organizations, shall provide consultation to groups and individuals interested in developing child care. The department of children and youth may enter into interagency agreements with the department of education and workforce, the chancellor of higher education, the department of development, and other state agencies and entities whenever the cooperative efforts of the other state agencies and entities are necessary for the department of children and youth to fulfill its duties and responsibilities under this chapter.

The department shall develop and maintain a registry of

persons providing child care. The director shall adopt rules in accordance with Chapter 119. of the Revised Code establishing procedures and requirements for the registry's administration.

(E)(1) The director shall adopt rules in accordance with Chapter 119. of the Revised Code establishing both of the following:

(a) Payment rates for providers of publicly funded child care not later than the first day of July in each odd-numbered year;

(b) A procedure for paying providers of publicly funded child care.

(2) In establishing payment rates under division (E)(1)(a) of this section, the director shall do all of the following:

(a) Use the information obtained from the market rate survey developed and conducted in accordance with 45 C.F.R. 98.45;

(b) Establish an enhanced payment rate for providers who enroll children whose caretaker parents work nontraditional hours;

(c) With regard to the step up to quality program established pursuant to section 5104.29 of the Revised Code, establish enhanced payment rates for child care providers that participate in the program.

(3) In establishing payment rates under division (E)(1)(a) of this section, the director may establish different payment rates based on any of the following:

(a) Geographic location of the provider;

(b) Type of care provided;

(c) Age of the child served;

(d) Special needs of the child served;

(e) Whether the expanded hours of service are provided;

(f) Whether weekend service is provided;

(g) Whether the provider has exceeded the minimum requirements of state statutes and rules governing child care~~;~~

~~(h) Any other factors the director considers appropriate~~.

Sec. 5104.38. ~~In addition to any other rules adopted under this chapter, the~~ The director of children and youth shall adopt rules in accordance with Chapter 119. of the Revised Code ~~governing financial and administrative requirements for publicly funded child care and~~ establishing all of the following:

(A) Procedures and criteria to be used in making determinations of eligibility for publicly funded child care that give priority to children of families with lower incomes and procedures and criteria for eligibility for publicly funded protective child care or homeless child care. The rules shall specify the maximum amount of income a family may have for initial and continued eligibility. The maximum amount shall not exceed three hundred per cent of the federal poverty line. The rules may specify exceptions to the eligibility requirements in the case of a family that previously received publicly funded child care and is seeking to have the child care reinstated after the family's eligibility was terminated.

(B) A schedule of fees requiring all eligible caretaker parents to pay a fee for publicly funded child care according to income and family size, which shall be uniform for all types of

publicly funded child care, except as authorized by rule, and, to the extent permitted by federal law, shall permit the use of state and federal funds to pay the customary deposits and other advance payments that a provider charges all children who receive child care from that provider.

(C) A formula for determining the amount of state and federal funds appropriated for publicly funded child care that may be allocated to a county department to use for administrative purposes;

(D) Procedures to be followed by the department and county departments in recruiting individuals and groups to become providers of child care;

(E) Procedures to be followed in establishing state or local programs designed to assist individuals who are eligible for publicly funded child care in identifying the resources available to them and to refer the individuals to appropriate sources to obtain child care;

(F) Procedures to deal with fraud and abuse committed by either recipients or providers of publicly funded child care;

(G) Procedures for establishing a child care grant or loan program in accordance with the child care block grant act;

(H) Standards and procedures for applicants to apply for grants and loans, and for the department to make grants and loans;

(I) A definition of "person who stands in loco parentis" for the purposes of division (OO)(3) of section 5104.01 of the Revised Code;

(J) Procedures for a county department of job and family

services to follow in making eligibility determinations and redeterminations for publicly funded child care available through telephone, computer, and other means at locations other than the county department;

(K) If the director establishes a different payment rate under division (E)(3)(d) of section 5104.30 of the Revised Code, standards and procedures for determining the amount of the higher payment that is to be issued to a child care provider based on the special needs of the child being served;

(L) To the extent permitted by federal law, procedures for enrolling and paying for up to thirty days of child care for a child whose caretaker parent is seeking employment, taking part in employment orientation activities, or taking part in activities in anticipation of enrolling in or attending an education or training program or activity, if the employment or the education or training program or activity is expected to begin within the thirty-day period~~;~~

~~(M) Any other rules necessary to carry out sections 5104.30 to 5104.43 of the Revised Code~~.

Sec. 5104.53. (A) As used in this section:

(1) "IEP" has the same meaning as in section 3323.01 of the Revised Code.

(2) "Resource caregiver" has the same meaning as in section 5103.02 of the Revised Code.

(B) The early childhood education grant program is created in the department of children and youth. Subject to available funds, the program shall support and invest in early learning and development programs operating in this state by awarding grants to programs that meet the conditions of this section in

an amount that corresponds to the number of eligible children served by the programs.

(C) To be eligible for a grant under this section, an early learning and development program shall meet ~~each~~ both of the following conditions:

(1) The program is rated through the step up to quality program established under section 5104.29 of the Revised Code at the tiered rating specified by the department in rules adopted under this section.

(2) The program provides early learning and development services to one or more preschool-age children described in division (D) of this section.

~~(3) The program meets any other eligibility condition specified by the department in rules adopted under this section.~~

(D) A preschool-age child who meets ~~all~~ both of the following conditions, as determined by a county department of job and family services, is eligible to participate in the early childhood education grant program if a slot is available:

(1) Either the amount of the child's family income does not exceed two hundred per cent of the federal poverty line or the child meets one of the following conditions:

(a) An IEP has been developed for the child;

(b) The child is placed with a resource caregiver as described in Chapter 5103. of the Revised Code, with such placement documented by either a family case plan or kinship permanency incentive payments;

(c) The child is homeless as described in division (V) of section 5104.01 of the Revised Code.

(2) The child is a citizen of the United States or a qualified alien.

~~(3) The child meets any other eligibility condition specified by the department in rules adopted under this section.~~

(E) Any funds appropriated to the department for purposes of the early childhood education grant program shall be used as follows:

(1) In each fiscal year, not more than two per cent of appropriated funds shall be used for program support and technical assistance.

(2) Appropriated funds other than those described in division (E)(1) of this section shall be distributed to grant recipients.

(F) In accordance with Chapter 119. of the Revised Code, the director shall adopt rules to ~~implement this section and administer the early childhood education grant program, including rules addressing all of the following topics~~establish both of the following:

(1) ~~Eligibility conditions and other requirements for participation in the grant program by early learning and development programs, including the tiered rating at which a program becomes eligible to participate;~~

~~(2) Eligibility conditions for children participating in the early childhood education grant program if a slot is available;~~

~~(3)~~ Standards, procedures, and requirements to apply for and distribute funds to participating early learning and development programs;

~~(4)~~ (2) In the event funds are distributed in error under the program, methods by which the department may recover those funds.

Sec. 5116.06. (A) The director of job and family services shall adopt rules ~~that are necessary to implement~~ regarding the comprehensive case management and employment program~~, including rules~~ that do all of the following:

(1) Provide for the program to do both of the following:

(a) Help a work-eligible individual satisfy the work requirements of section 407 of the "Social Security Act," 42 U.S.C. 607;

(b) Help an Ohio works first participant who participates in the program do both of the following:

(i) Satisfy other Ohio works first requirements, including requirements included in the participant's self-sufficiency contract entered into under section 5107.14 of the Revised Code;

(ii) Obtain assistance or services the participant needs according to an assessment conducted under section 5107.70 of the Revised Code.

(2) For the purpose of section 5116.11 of the Revised Code, establish procedures for both of the following:

(a) Assessing the employment and training needs of individuals participating in the comprehensive case management and employment program;

(b) Creating, reviewing, revising, and terminating individual opportunity plans.

(3) For the purpose of section 5116.20 of the Revised

Code, establish procedures, including procedures regarding timing, for a local workforce development board to decide whether to authorize the use of its youth workforce investment activity funds for the comprehensive case management and employment program;

(4) Establish requirements for the plans required by division (A)(1) of section 5116.23 of the Revised Code;

(5) For the purpose of division (A)(3) of section 5116.23 of the Revised Code, establish procedures for a lead agency to partner with the other local participating agency and subcontractors.

(B) For the purposes of divisions (C) and (F) of section 5116.10 of the Revised Code, the rules adopted under this section may do either or both of the following:

(1) Specify one or more additional mandatory participation groups that are required to participate in the comprehensive case management and employment program;

(2) Specify one or more additional voluntary participation groups that may volunteer to participate in the program.

(C) The rules adopted under this section shall be consistent with all of the following:

(1) The Title IV-A state plan prepared under section 5101.80 of the Revised Code, amendments to the plan, and any waivers regarding the plan granted by the United States secretary of health and human services;

(2) The combined state plan authorized by section 103 of the "Workforce Innovation and Opportunity Act," 29 U.S.C. 3113, amendments to the plan, and any waivers regarding the plan

granted by the United States secretary of labor.

(D) The rules adopted under division (A)(1)(a) of this section may deviate from Chapter 5107. of the Revised Code.

Sec. 5117.02. (A) ~~The director of development shall adopt rules, or amendments and rescissions of rules, pursuant to section 4928.52 of the Revised Code, for the administration of the Ohio energy credit program under sections 5117.01 to 5117.12 of the Revised Code.~~

~~(B)~~ As a means of efficiently administering the Ohio energy credit program, the director may extend, by as much as a total of thirty days, any date specified in ~~such~~ sections 5117.01 to 5117.12 of the Revised Code for the performance of a particular action by an individual or an officer.

~~(C)(1) Except as provided in division (C)(2) of this section, the director shall adopt, in accordance with divisions (A), (B), (C), (D), (E), and (F) of section 119.03 and section 119.04 of the Revised Code, whatever rules, or amendments or rescissions of rules are required by or are otherwise necessary to implement sections 5117.01 to 5117.12 of the Revised Code. A rule, amendment, or rescission adopted under this division is not exempt from the hearing requirements of section 119.03 of the Revised Code pursuant to division (H) of that section, or subject to section 111.15 of the Revised Code.~~

~~(2) If an emergency necessitates the immediate adoption of a rule, or the immediate adoption of an amendment or rescission of a rule that is required by or otherwise necessary to implement sections 5117.01 to 5117.12 of the Revised Code, the director immediately may adopt the emergency rule, amendment, or rescission without complying with division (A), (B), (C), (D),~~

~~(E), or (F) of section 119.03 of the Revised Code so long as the director states the reasons for the necessity in the emergency rule, amendment, or rescission. The emergency rule, amendment, or rescission is effective on the day the emergency rule, amendment, or rescission, in final form and in compliance with division (A)(2) of section 119.04 of the Revised Code, is filed in electronic form with the secretary of state, the director of the legislative service commission, and the joint committee on agency rule review. If all filings are not completed on the same day, the emergency rule, amendment, or rescission is effective on the day on which the latest filing is completed. An emergency rule, amendment, or rescission adopted under this division is not subject to section 111.15 or division (G) of section 119.03 of the Revised Code. An emergency rule, amendment, or rescission adopted under this division continues in effect until amended or rescinded by the director in accordance with division (C)(1) or (2) of this section, except that the rescission of an emergency rescission does not revive the rule rescinded.~~

~~(D)~~ (B) Except where otherwise provided, each form, application, notice, and the like used in fulfilling the requirements of sections 5117.01 to 5117.12 of the Revised Code shall be approved by the director.

Sec. 5119.141. In addition to the powers and duties expressly conferred on the department of behavioral health, the department may take any other action, except the adoption of rules, it considers necessary to carry out the purposes of this chapter and Chapters 340., 2919., 2945., and 5122. of the Revised Code. ~~Actions authorized by this section include the authority to adopt rules pursuant to Chapter 119. of the Revised Code that may be necessary to carry out the purposes of this chapter and Chapters 340., 2919., 2945., and 5122. of the~~

~~Revised Code.~~

Sec. 5119.181. (A) No appointing officer shall appoint a person to fill a position in either the classified or unclassified service of the department of behavioral health if the person has been convicted of or pleaded guilty to a violation of the following:

(1) Any felony contained in the Revised Code, if the felony bears a direct and substantial relationship to the position being filled;

(2) Any crime contained in the Revised Code constituting a misdemeanor of the first degree on the first offense and a felony on subsequent offenses, if the crime bears a direct and substantial relationship to the position being filled;

(3) An existing or former law of this state, any other state, or the United States, if the law violated is substantially equivalent to any of the offenses described in division (A)(1) or (2) of this section.

(B) ~~The director of behavioral health shall adopt rules, in accordance with Chapter 119. of the Revised Code, to implement this section.~~

~~(C)~~ The director or an appointing officer shall request the bureau of criminal identification and investigation created by section 109.51 of the Revised Code or, at the director's or appointing officer's discretion, any other state or federal agency, to supply the director or appointing officer with a written report regarding the criminal records of any applicant. For each investigation undertaken at the department's request under this section, the department shall pay a reasonable fee to the bureau or other state or federal agency conducting the

investigation. The amount of the fee shall be determined by the bureau or other state or federal agency conducting the investigation and shall be sufficient to cover the costs of conducting the investigation. The report made by the bureau or other state or federal agency is not a public record for purposes of section 149.43 of the Revised Code and shall not be made available to any person, except the applicant, the director, the appointing officer or the appointing officer's designees, or any hearing officer involved in a case denying employment.

~~(D)~~ (C) As used in this section, "applicant" means a person who is under final consideration for appointment to a position in the classified or unclassified service of the department of behavioral health.

Sec. 5119.185. (A) As used in this section:

(1) "Advanced practice registered nurse" has the same meaning as in section 4723.01 of the Revised Code.

(2) "Clinician" means any of the following:

(a) An advanced practice registered nurse;

(b) A physician;

(c) A physician assistant.

(3) "Physician" means an individual authorized under Chapter 4731. of the Revised Code to practice medicine and surgery or osteopathic medicine and surgery.

(4) "Physician assistant" means an individual who holds a current, valid license to practice as a physician assistant issued under Chapter 4730. of the Revised Code.

(B) The department of behavioral health may establish a clinician recruitment program under which the department agrees to repay all or part of the principal and interest of a government or other educational loan incurred by a clinician who agrees to provide services to inpatients and outpatients of institutions under the department's administration. To be eligible to participate in the program, a clinician must have attended the following:

(1) In the case of a physician, a school that was, at the time of attendance, a medical school or osteopathic medical school in this country accredited by the liaison committee on medical education or the American osteopathic association, or a medical school or osteopathic medical school located outside this country that was acknowledged by the world health organization and verified by a member state of that organization as operating within that state's jurisdiction;

(2) In the case of a physician assistant, a school that was, at the time of attendance, accredited by the accreditation review commission on education for the physician assistant or a regional or specialized and professional accrediting agency recognized by the council for higher education accreditation;

(3) In the case of an advanced practice registered nurse, a school that was, at the time of attendance, accredited by a national or regional accrediting organization.

(C) The department shall enter into a contract with each clinician it recruits under this section. Each contract shall include at least the following terms:

(1) The clinician agrees to provide a specified scope of health care services for a specified number of hours per week

and a specified number of years to patients of one or more specified institutions administered by the department.

(2) The department agrees to repay all or a specified portion of the principal and interest of a government or other educational loan taken by the clinician for the following expenses if the clinician meets the service obligation agreed to and the expenses were incurred while the clinician was enrolled in, for up to a maximum of four years, a school that qualifies the clinician to participate in the program:

(a) Tuition;

(b) Other educational expenses for specific purposes, including fees, books, and laboratory expenses, in amounts determined to be reasonable in accordance with rules adopted under division (D) of this section;

(c) Room and board, in an amount determined to be reasonable in accordance with rules adopted under division (D) of this section.

(3) The clinician agrees to pay the department a specified amount, which shall be not less than the amount already paid by the department pursuant to its agreement, as damages if the clinician fails to complete the service obligation agreed to or fails to comply with other specified terms of the contract. The contract may vary the amount of damages based on the portion of the clinician's service obligation that remains uncompleted as determined by the department.

(4) Other terms agreed upon by the parties.

(D) If the department elects to implement the clinician recruitment program, it shall adopt rules in accordance with Chapter 119. of the Revised Code that establish all of the

following:

(1) Criteria for designating institutions for which clinicians will be recruited;

(2) Criteria for selecting clinicians for participation in the program;

(3) Criteria for determining the portion of a clinician's loan that the department will agree to repay;

(4) Criteria for determining reasonable amounts of the expenses described in divisions (C)(2)(b) and (c) of this section;

(5) Procedures for monitoring compliance by clinicians with the terms of their contracts~~;~~

~~(6) Any other criteria or procedures necessary to implement the program~~.

Sec. 5119.19. (A) As used in this section:

(1) "Community-based correctional facility" has the same meaning as in section 2929.01 of the Revised Code.

(2) "Drug used in medication-assisted treatment" means a drug approved by the United States food and drug administration for use in medication-assisted treatment, regardless of the method the drug is administered or the form in which it is dispensed, including an oral drug, an injectable drug, or a long-acting or extended-release drug. "Drug used in medication-assisted treatment" includes all of the following:

(a) A full agonist;

(b) A partial agonist;

(c) An antagonist.

(3) "Drug used in withdrawal management or detoxification" means a drug approved by the United States food and drug administration for use in, or a drug in standard use for, mitigating opioid or alcohol withdrawal symptoms or assisting with detoxification, regardless of the method the drug is administered or the form in which it is dispensed, including an oral drug, an injectable drug, or a long-acting or extended-release drug. "Drug used in withdrawal management or detoxification" includes all of the following:

(a) A full agonist;

(b) A partial agonist;

(c) An antagonist;

(d) An alpha-2 adrenergic agonist.

(4) "Medication-assisted treatment" has the same meaning as in section 340.01 of the Revised Code.

(5) "Prescribed drug" has the same meaning as in section 5164.01 of the Revised Code.

(6)(a) "Psychotropic drug" means, except as provided in division (A)(6)(b) of this section, a drug that has the capability of changing or controlling mental functioning or behavior through direct pharmacological action. "Psychotropic drug" includes all of the following:

(i) Antipsychotic medications, including those administered or dispensed in a long-acting injectable form;

(ii) Antidepressant medications;

(iii) Anti-anxiety medications;

(iv) Mood stabilizing medications.

(b) "Psychotropic drug" excludes a stimulant prescribed for the treatment of attention deficit hyperactivity disorder.

(7) "Withdrawal management or detoxification" means a set of medical interventions aimed at managing the acute physical symptoms of intoxication and withdrawal. Withdrawal management seeks to minimize the physical harm caused by the intoxication and withdrawal from a substance of abuse. Detoxification denotes a clearing of toxins from the body of the patient who is acutely intoxicated, dependent on a substance of abuse, or both.

(B) There is hereby created a program to be known as the behavioral health drug reimbursement program, which shall be administered by the department of behavioral health.

The purpose of the program is to provide state financial assistance to counties for the cost of the following drugs that are administered or dispensed to inmates of county jails in this state and individuals confined in community-based correctional facilities in this state: psychotropic drugs, drugs used in medication-assisted treatment, and drugs used in withdrawal management or detoxification.

Each county shall ensure that inmates of county jails and individuals confined in community-based correctional facilities have access to all behavioral health drugs specified in this division that are prescribed drugs covered by the fee-for-service component of the medicaid program.

(C) The department, based on factors it considers appropriate, shall allocate an amount to each county for drug costs that have been or will be incurred by the county pursuant to this section.

(D) The director of behavioral health may adopt rules ~~as~~

~~necessary to implement this section. The rules, if adopted, shall be adopted~~ in accordance with Chapter 119. of the Revised Code regarding the behavioral health drug reimbursement program.

Sec. 5119.20. (A) As used in this section:

"Electroencephalogram (EEG) combined transcranial magnetic stimulation" means treatment in which transcranial magnetic stimulation (TMS) frequency pulses are tuned to the patient's physiology and biometric data.

"First responder" has the meaning defined in section 2903.01 of the Revised Code.

"Law enforcement officer" has the meaning defined in section 9.69 of the Revised Code.

(B) The director of behavioral health shall establish a program to make electroencephalogram (EEG) combined transcranial magnetic stimulation available for veterans, first responders, and law enforcement officers. Eligible individuals must have substance use disorders, mental illness, sleep disorders, traumatic brain injuries, sexual trauma, post traumatic stress disorder and accompanying comorbidities, concussions or other brain trauma, or other issues identified by the individual's qualified medical practitioner as issues that would warrant treatment under the program. The program shall be operated in conjunction with a supplier selected under this section.

(C) The director shall choose a location for the program and for up to ten branch sites, and shall enter into a contract for the purchase of services related to the program. Each branch site may operate one or more portable units or EEG combined neuromodulation portable units if the director determines that portable units or EEG combined neuromodulation portable units

are necessary to expand access to care. The contract shall include provisions requiring the supplier to create and conduct a clinical trial, to establish and operate a clinical practice, to evaluate outcomes of the clinical trial and the clinical practice, to expend payments received from the state as needed for purposes of the program, and to report quarterly regarding the program to the president of the senate and to the standing committee of the senate that generally considers legislation regarding veterans affairs.

(D) There is the electroencephalogram (EEG) combined transcranial magnetic stimulation fund in the state treasury. It shall consist of moneys appropriated to it by the general assembly. The director, with the approval of the controlling board, may authorize a disbursement from the fund for services rendered under the contract.

(E) ~~The director shall adopt rules under Chapter 119. of the Revised Code as necessary to administer this section.~~

~~(F)~~ The supplier, in conducting the clinical trial and in operating the clinical practice, shall adhere to all of the following:

(1) The United States food and drug administration regulations governing the conduct of clinical practice and clinical trials;

(2) A peer-to-peer support network shall be made available by the supplier to any individual receiving treatment under the program.

(3) The program protocol shall use adapted stimulation frequency and intensity modulation based on EEG and motor threshold testing as well as clinical symptoms and signs, and

biometrics.

(4) Each individual who receives treatment under the program also shall receive neurophysiological monitoring, monitoring for symptoms of substance use and mental health disorders, and access to counseling and wellness programming. Each individual also shall participate in the peer-to-peer support network established by the supplier.

(5) Clinical protocols and outcomes of the clinical trial, and of any treatment provided by the clinical practice, shall be collected and reported quarterly in a report provided by the supplier to the director of behavioral health and to the United States food and drug administration.

(6) Any individual who receives treatment at the clinical practice shall be eligible for a minimum of two electroencephalograms, plus an additional electroencephalogram for every ten treatments, during the course of the individual's treatment.

(7) The report required by this section shall include a thorough accounting of the use and expenditure of all funds received from the state under this section.

~~(G)~~ (F) Contracts entered into under this section are subject to section 9.231 and Chapter 125. of the Revised Code.

~~(H)~~ (G) Operation of the program established under this section is contingent upon an appropriation by the general assembly designated for that purpose.

Sec. 5119.21. (A) The department of behavioral health shall:

(1) To the extent the department has available resources

and in consultation with boards of alcohol, drug addiction, and mental health services, support the community-based continuum of care that the boards are required by section 340.032 of the Revised Code to establish. The department shall provide the support on a district or multi-district basis. The department shall assist in identifying resources, and may prioritize support, for one or more of the elements of the community-based continuum of care. For the purpose of division (A)(10) of section 340.032 of the Revised Code and to the extent the department determines is necessary, the department shall define additional elements to be included in the community-based continuum of care.

(2) Provide training, consultation, and technical assistance regarding addiction services, mental health services, recovery supports, and appropriate prevention, recovery, and mental health promotion activities, including those that are culturally competent, to employees of the department, community addiction services providers, community mental health services providers, and boards of alcohol, drug addiction, and mental health services;

(3) To the extent the department has available resources, promote and support a full range of addiction services, mental health services, and recovery supports that are available and accessible to all residents of this state, especially for severely emotionally disturbed children and adolescents, adults with severe mental disabilities, pregnant women, parents, guardians or custodians of children at risk of abuse or neglect, and other special target populations, including racial and ethnic minorities, as determined by the department;

(4) Develop standards and measures for both of the

following:

(a) Evaluating the effectiveness of addiction services, including opioid treatment programs, of mental health services, and of recovery supports;

(b) Increasing the accountability of community addiction services providers and community mental health services providers.

(5) Design and set criteria for the determination of priority populations;

(6) Promote, direct, conduct, and coordinate scientific research, taking ethnic and racial differences into consideration, concerning all of the following:

(a) The causes and prevention of mental illness and addiction;

(b) Methods of providing effective addiction services, mental health services, and recovery supports;

(c) Means of enhancing the mental health of and recovery from addiction of all residents of this state.

(7) Foster the establishment and availability of vocational rehabilitation services and the creation of employment opportunities for individuals with addiction and mental health needs, including members of racial and ethnic minorities;

(8) Establish a program to protect and promote the rights of persons receiving addiction services, mental health services, and recovery supports, including the issuance of guidelines on informed consent and other rights;

(9) Promote the involvement of persons who are receiving or have received addiction services, mental health services, and recovery supports including families and other persons having a close relationship to a person receiving those services and supports, in the planning, evaluation, delivery, and operation of addiction services, mental health services, and recovery supports;

(10) Notify and consult with the relevant constituencies that may be affected by rules, standards, and guidelines issued by the department of behavioral health. These constituencies shall include consumers of addiction services, mental health services, and recovery supports and the families of such consumers. These constituencies may include public and private providers, employee organizations, and others when appropriate. Whenever the department proposes the adoption, amendment, or rescission of rules under Chapter 119. of the Revised Code, the notification and consultation required by this division shall occur prior to the commencement of proceedings under Chapter 119. The department shall adopt rules under Chapter 119. of the Revised Code that establish procedures for the notification and consultation required by this division.

(11) Provide consultation to the department of rehabilitation and correction concerning the delivery of addiction services and mental health services in state correctional institutions;

(12) Promote and coordinate efforts in the provision of addiction services by other state agencies, as defined in section 1.60 of the Revised Code; courts; hospitals; clinics; physicians in private practice; public health authorities; boards of alcohol, drug addiction, and mental health services;

community addiction services providers; law enforcement agencies; and related groups;

(13) Provide to each court of record, and biennially update, a list of the treatment and education programs within that court's jurisdiction that the court may require an offender, sentenced pursuant to section 4511.19 of the Revised Code, to attend;

(14) Make the warning sign described in sections 3313.752, 3345.41, and 3707.50 of the Revised Code available on the department's internet web site;

(15) Provide a program of gambling addiction services on behalf of the state lottery commission, pursuant to an agreement entered into with the director of the commission under division (K) of section 3770.02 of the Revised Code, and provide a program of gambling addiction services on behalf of the Ohio casino control commission, under an agreement entered into with the executive director of the commission under section 3772.062 of the Revised Code. Under Section 6(C)(3) of Article XV, Ohio Constitution, the department may enter into agreements with boards of alcohol, drug addiction, and mental health services, including boards with districts in which a casino facility is not located, and nonprofit organizations to provide addiction services, and with state institutions of higher education or private nonprofit institutions that possess a certificate of authorization issued under Chapter 1713. of the Revised Code to perform related research.

(B) The department may accept and administer grants from public or private sources for carrying out any of the duties enumerated in this section.

~~(C) The department may adopt rules in accordance with Chapter 119. of the Revised Code as necessary to implement the requirements of this chapter.~~

Sec. 5119.211. The department of behavioral health may adopt rules in accordance with Chapter 119. of the Revised Code to establish a process and standards for the state certification of certified community behavioral health clinics. The process and standards may be based on the provisions of section 223 of the "Protecting Access to Medicare Act of 2014," 42 U.S.C. 1396a note.

If the department establishes a process and standards for the state certification of certified community behavioral health clinics, the department may coordinate with local, state, and federal government entities for the development and establishment of the clinics.

~~The director of behavioral health may adopt rules as the director considers necessary to implement this section. If the director adopts rules, the rules shall be adopted in accordance with Chapter 119. of the Revised Code.~~

Sec. 5119.22. The director of behavioral health, with respect to all mental health and addiction facilities, addiction services, mental health services, and recovery supports established and operated or provided under Chapter 340. of the Revised Code, shall do all of the following:

(A) ~~Adopt rules pursuant to Chapter 119. of the Revised Code that may be necessary to carry out the purposes of this chapter and Chapters 340. and 5122. of the Revised Code;~~

~~(B)~~ Review and evaluate the community-based continuum of care required by section 340.032 of the Revised Code to be

established in each service district, taking into account the findings and recommendations of the board of alcohol, drug addiction, and mental health services of the district submitted under division (A)(4) of section 340.03 of the Revised Code and the priorities and plans of the department of behavioral health, including the needs of residents of the district currently receiving services in state-operated hospitals, and make recommendations for needed improvements to boards of alcohol, drug addiction, and mental health services;

~~(C)~~ (B) At the director's discretion, provide to boards of alcohol, drug addiction, and mental health services state or federal funds, in addition to those allocated under section 5119.23 of the Revised Code, for special programs or projects the director considers necessary but for which local funds are not available;

~~(D)(1)~~ (C)(1) Establish criteria to be taken into account by each board of alcohol, drug addiction, and mental health services when it conducts program audits under section 340.03 of the Revised Code to review and evaluate the quality, effectiveness, and efficiency of the facility services, addiction services, mental health services, and recovery supports for which it contracts under section 340.036 of the Revised Code. The criteria shall include requirements ensuring appropriate utilization of the services and supports. The department shall assess each board's evaluation of the services and supports and the compliance of each board with this section, Chapter 340. of the Revised Code, and other state or federal law and regulations.

(2) The department, in cooperation with the board, periodically shall review and evaluate the quality,

effectiveness, and efficiency of both of the following:

(a) The facility services, addiction services, mental health services, and recovery supports for which each board contracts under section 340.036 of the Revised Code;

(b) The facilities, addiction services, and mental health services that each board operates or provides under section 340.037 of the Revised Code.

The department shall collect information that is necessary to perform its review and evaluation.

~~(E)~~ (D) Issue guidelines to be followed by each board of alcohol, drug addiction, and mental health services when it reviews under division (A)(6) of section 340.03 of the Revised Code any annual financial audit reports submitted to the board by community addiction services providers and community mental health services providers;

~~(F)~~ (E) To the extent the director determines necessary and after consulting with boards of alcohol, drug addiction, and mental health services, community addiction services providers, and community mental health services providers, develop and operate, or contract for the operation of, a community behavioral health information system or systems. The department shall specify the information that must be provided by the boards and providers for inclusion in the system or systems.

Boards of alcohol, drug addiction, and mental health services, community addiction services providers, and community mental health services providers shall submit information requested by the department in the form and manner and in accordance with time frames prescribed by the department. Information collected by the department may include all of the

following:

(1) Information on addiction services, mental health services, and recovery supports provided;

(2) Financial information regarding expenditures of federal, state, or local funds;

(3) Information about persons served.

The department shall not collect any personal information from the boards or providers except as required or permitted by state or federal law for purposes related to payment, health care operations, program and service evaluation, reporting activities, research, system administration, and oversight.

~~(G)~~ (F) In consultation with representatives of boards of alcohol, drug addiction, and mental health services and after consideration of recommendations made by the medical director appointed under section 5119.11 of the Revised Code, establish all of the following:

(1) Guidelines, including a timetable, for the boards' development and submission of proposed community addiction and mental health plans, budgets, and lists of addiction services, mental health services, and recovery supports under sections 340.03 and 340.08 of the Revised Code;

(2) Procedures, including a timetable, for the director's review and approval or disapproval of the plans, budgets, and lists;

(3) Procedures for corrective action regarding the plans, budgets, and lists, including submission of revised or new plans, budgets, and lists;

(4) Procedures for the director to follow in offering

technical assistance to boards to assist them in making the plans, budgets, and lists acceptable or in making proposed amendments to approved plans, budgets, and lists meet criteria for approval;

(5) Procedures for issuing time-limited waivers under section 5119.221 of the Revised Code.

~~(H)~~ (G) Review each board's proposed community addiction and mental health plan, budget, and list of addiction services, mental health services, and recovery supports submitted pursuant to sections 340.03 and 340.08 of the Revised Code and approve or disapprove the plan, the budget, and the list in whole or in part. The director shall disapprove a board's proposed budget in whole or in part if the proposed budget would not make available in the board's service district the essential elements of the community-based continuum of care required by section 340.032 of the Revised Code, including, except as otherwise authorized by a time-limited waiver issued under section 5119.221 of the Revised Code, an array of addiction services and recovery supports for all levels of opioid and co-occurring drug addiction.

Prior to a final decision to disapprove a plan, budget, or list in whole or in part, a representative of the director shall meet with the board and discuss the reason for the action the director proposes to take and any corrective action that should be taken to make the plan, budget, or list acceptable to the director. In addition, the director shall offer technical assistance to the board to assist it to make the plan, budget, or list acceptable. The director shall give the board a reasonable time in which to revise the plan, budget, or list. The board thereafter shall submit a revised plan, budget, or list or a new plan, budget, or list.

~~(I)~~ (H) Approve or disapprove all or part of proposed amendments that a board of alcohol, drug addiction, or mental health services submits under section 340.03 or 340.08 of the Revised Code to an approved community addiction and mental health plan, budget, or list of addiction services, mental health services, and recovery supports.

If the director disapproves of all or part of any proposed amendment, the director shall provide the board an opportunity to present its position. The director shall inform the board of the reasons for the disapproval and of the criteria that must be met before the proposed amendment may be approved. The director shall give the board a reasonable time within which to meet the criteria and shall offer technical assistance to the board to help it meet the criteria.

Sec. 5119.221. (A) The director of behavioral health, in accordance with procedures established under division ~~(G)(5)~~ (F)(5) of section 5119.22 of the Revised Code, may issue to a board of alcohol, drug addiction, and mental health services a time-limited waiver of the requirement of section 340.033 of the Revised Code that ambulatory detoxification and medication-assisted treatment be made available within the borders of the board's service district if the director determines that both of the following apply:

(1) The board seeking the waiver has made reasonable efforts to make ambulatory detoxification and medication-assisted treatment available within the borders of the board's service district;

(2) Ambulatory detoxification and medication-assisted treatment can be made available through one or more contracts between the board seeking the waiver and community addiction

services providers that are located not more than thirty miles beyond the borders of the board's service district.

(B) Each waiver issued under this section shall specify the amount of time for which it is in effect and whether it applies to ambulatory detoxification, medication-assisted treatment, or both.

Sec. 5119.25. (A) The director of behavioral health may withhold funds, in whole or in part, that otherwise are to be allocated to a board of alcohol, drug addiction, and mental health services under section 5119.23 of the Revised Code if either of the following circumstances apply:

(1) The board fails to comply with Chapter 340. or 5119. of the Revised Code or rules of the department of behavioral health;

(2) The board denies available service on the basis of race, color, religion, ancestry, military status, sex, age, national origin, disability as defined in section 4112.01 of the Revised Code, or developmental disability.

(B) The director shall withhold funds, in whole or in part, that otherwise are to be allocated to a board under section 5119.23 of the Revised Code if either of the following circumstances apply:

(1) The director, under division ~~(H)~~ (G) of section 5119.22 of the Revised Code, disapproves all or part of the board's proposed community addiction and mental health plan, budget, or list of addiction services, mental health services, and recovery supports;

(2) The board's use of state and federal funds fails to comply with the board's approved budget, including approved

amendments to the budget.

(C) The director shall issue a notice identifying the areas of noncompliance and the action necessary to achieve compliance. The director may offer technical assistance to the board to achieve compliance. The board shall have thirty days from receipt of the notice of noncompliance to present its position that it is in compliance or to submit to the director evidence of corrective action the board took to achieve compliance. Before withholding funds, the director or the director's designee shall hold a hearing within thirty days of receipt of the board's position or evidence to determine if there are continuing violations and that either assistance is rejected or the board is unable, or has failed, to achieve compliance. The director may appoint a representative from another board of alcohol, drug addiction, and mental health services to serve as a mentor for the board in developing and executing a plan of corrective action to achieve compliance. Any such representative shall be from a board that is in compliance with Chapter 340. of the Revised Code, this chapter, and the department's rules. Subsequent to the hearing process, if it is determined that compliance has not been achieved, the director may allocate all or part of the withheld funds to one or more community mental health services providers or community addiction services providers to provide the mental health service, addiction service, or recovery support for which the board is not in compliance until the time that there is compliance.

~~(D) The director shall adopt rules in accordance with Chapter 119. of the Revised Code to implement this section.~~

Sec. 5119.36. (A) A person or government entity that seeks

initial certification of one or more certifiable services and supports, or that seeks to renew certification of one or more certifiable services and supports, shall submit an application to the director of behavioral health. On receipt of the application, the director shall determine whether the standards established by division (B) of this section and any rules adopted under this section are satisfied or continue to be satisfied by the applicant. As part of the determination the director may conduct an on-site review of the applicant. In doing so, the director may conduct the review in cooperation with a board of alcohol, drug addiction, and mental health services that seeks to contract or has a contract with the applicant under section 340.036 of the Revised Code.

Not later than fourteen days after receipt of an application for initial or renewed certification, the director shall inform the board of alcohol, drug addiction, and mental health services serving the alcohol, drug addiction, and mental health service district in which the applicant's certifiable services and supports will be provided of the receipt of the application. On the board's request, the director shall provide the board with a copy of the application.

Not later than thirty days after a provider's certification ceases to be valid for any reason, including the provider's failure to renew the certification prior to expiration, the director's acceptance of the provider's surrender of the certification, or the issuance of a final order for disciplinary action under division (F) or (L) of this section, the director shall provide notice to the applicable board of alcohol, drug addiction, and mental health services of the reason the certification ceased to be valid and the date it became invalid.

(B)(1) Except as provided in division (B)(4) of this section, beginning on October 3, 2023, an applicant seeking initial certification of certifiable services and supports shall be accredited by one or more national accrediting organizations specified in division (B)(3) of this section for certifiable services and supports for which national accreditation exists for such services and supports or equivalent services and supports.

(2) Except as provided in division (B)(4) of this section, beginning October 1, 2025, an applicant seeking to renew certification of certifiable services and supports shall be accredited by one or more national accrediting organizations specified in division (B)(3) of this section for certifiable services and supports for which national accreditation exists for such services and supports or equivalent services and supports.

(3) For purposes of divisions (B)(1) and (2) of this section, the director shall accept appropriate accreditation of an applicant's certifiable services and supports from any of the following national accrediting organizations:

(a) The joint commission;

(b) The commission on accreditation of rehabilitation facilities;

(c) The council on accreditation;

(d) Any other national accrediting organization the director considers appropriate.

(4) The accreditation requirements of divisions (B)(1) and (2) of this section do not apply to an applicant seeking an initial or renewed certification to provide prevention services,

as that term is defined in rules adopted under this section. For such applicants, accreditation is optional.

(C)(1) Except as provided in division (C)(2) of this section, if the director determines that an applicant has paid any required certification fee, that the applicant's accreditation of certifiable services and supports is current and appropriate for the services and supports for which the applicant is seeking initial or renewed certification, and that the applicant meets any other requirements established by this section or rules adopted under it, the director shall certify the services and supports or renew the certification of the services and supports, as applicable. Except as provided in division (I) of this section, the director shall issue or renew the certification without further evaluation of the services and supports.

(2) Prior to October 1, 2025, if an applicant that seeks to renew certification of certifiable services and supports is not accredited to provide those services and supports by one or more national accrediting organizations specified in division (B)(3) of this section, the director shall conduct an evaluation of the applicant to determine whether the applicant's certifiable services and supports satisfy the standards for certification. The evaluation is in addition to any on-site review conducted under division (A) of this section and shall be performed in cooperation with a board of alcohol, drug addiction, and mental health services that seeks to contract or has a contract with the applicant under section 340.036 of the Revised Code. If the director determines that an applicant has paid any required certification fee, that the applicant's certifiable services and supports satisfy the standards for renewed certification, and that the applicant meets any other

requirements established by this section or the rules adopted under it, the director shall certify the certifiable services and supports.

(D) For purposes of the accreditation requirements of this section, both of the following apply:

(1) The director may review the accrediting organizations specified in division (B)(3) of this section to evaluate whether the accreditation standards and processes used by the organizations are consistent with service delivery models the director considers appropriate for mental health services, alcohol and drug addiction services, or physical health services. The director may communicate to an accrediting organization any identified concerns, trends, needs, and recommendations.

(2) The director shall require a community mental health services provider and a community addiction services provider to notify the director not later than ten days after any change in the provider's accreditation status. The provider may notify the director by providing a copy of the relevant document the provider received from the accrediting organization.

(E) The director may require a community mental health services provider or a community addiction services provider to submit to the director cost reports pertaining to the provider.

(F) The director may refuse to certify certifiable services and supports, refuse to renew certification, or revoke certification if any of the following apply to an applicant for certification or the holder of the certification:

(1) The applicant or holder is not in compliance with rules adopted under this section.

(2) The applicant or holder has been cited for a pattern of serious noncompliance or repeated violations of statutes or rules during the current certification period or any previous certification period.

(3) The applicant or holder has been found to be in violation of section 5119.396 of the Revised Code;

(4) The applicant or holder submits false or misleading information as part of a certification application, renewal, or investigation.

(5) The applicant does not have adequate staff and equipment to provide the certifiable services and supports.

(6) The department has been notified under section 5119.367 of the Revised Code or is otherwise aware that the applicant, any owner or principal of the applicant, or any subsidiary of the applicant or owner has been the subject of an adverse action, as defined in that section, taken during the three-year period immediately preceding the date of notification or date of becoming aware of the adverse action.

(G) Proceedings initiated to deny applications to certify certifiable services and supports, to refuse to renew certification, or to revoke certification are governed by Chapter 119. of the Revised Code. If an order has been issued suspending admissions to a community addiction services provider, as provided in division (L) of this section, the order remains in effect during the pendency of those proceedings.

(H) The director may conduct an on-site review or otherwise evaluate a community mental health services provider or a community addiction services provider at any time based on cause, including complaints made by or on behalf of persons

receiving mental health services or alcohol and drug addiction services and confirmed or alleged deficiencies brought to the attention of the director. This authority does not affect the director's duty to conduct the inspections required by section 5119.37 of the Revised Code.

In conducting an on-site review under this division, the director may do so in cooperation with a board of alcohol, drug addiction, and mental health services that seeks to contract or has a contract with the applicant under section 340.036 of the Revised Code. In conducting any other evaluation under this division, the director shall do so in cooperation with such a board.

(I) If the director proposes to take action under division (F) of this section, the director shall notify the board of alcohol, drug addiction, and mental health services serving the alcohol, drug addiction, and mental health service district in which the certifiable services and supports will be or were provided, and provide the board opportunity to respond as specified in division (A) of this section with respect to initial or renewal applications.

When a final order is issued by the director under division (F) of this section, the director may request that the appropriate board of alcohol, drug addiction, and mental health services reallocate any funds for the certifiable services and supports the applicant was to provide to a community mental health services provider or community addiction services provider whose certifiable services and supports satisfy the standards. If the board does not reallocate such funds in a reasonable period of time, the director may withhold state and federal funds for the certifiable services and supports and

allocate those funds directly to a community mental health services provider or community addiction services provider whose certifiable services and supports satisfy the standards.

(J) Each applicant seeking initial or renewed certification of its certifiable services and supports shall pay a fee for the certification required by this section, unless the applicant is exempt under rules adopted under this section. Fees shall be paid into the state treasury to the credit of the sale of goods and services fund created pursuant to section 5119.45 of the Revised Code.

(K) The director shall adopt rules in accordance with Chapter 119. of the Revised Code ~~to implement this section. The rules shall~~ that do all of the following:

(1) Subject to section 340.034 of the Revised Code, specify the types of recovery supports that are required to be certified under this section;

(2) Establish certification standards for certifiable services and supports that are consistent with nationally recognized applicable standards and facilitate participation in federal assistance programs. The rules shall include as certification standards only requirements that improve the quality of certifiable services and supports or the health and safety of persons receiving certifiable services and supports. The standards shall address at a minimum all of the following:

(a) Reporting major unusual incidents to the director;

(b) Procedures for applicants for and persons receiving certifiable services and supports to file grievances and complaints;

(c) Seclusion;

(d) Restraint;

(e) Requirements regarding the physical facilities in which certifiable services and supports are provided;

(f) Requirements with regard to health, safety, adequacy, and cultural specificity and sensitivity;

(g) Standards for evaluating certifiable services and supports;

(h) Standards and procedures for granting full, probationary, and interim certification of the certifiable services and supports of an applicant;

(i) Standards and procedures for revoking the certification of a community mental health services provider's or community addiction services provider's certifiable services and supports that do not continue to meet the minimum standards established pursuant to this section;

(j) The limitations to be placed on a provider whose certifiable services and supports are granted probationary or interim certification;

(k) Development of written policies addressing the rights of persons receiving certifiable services and supports, including all of the following:

(i) The right to a copy of the written policies addressing the rights of persons receiving certifiable services and supports;

(ii) The right at all times to be treated with consideration and respect for the person's privacy and dignity;

(iii) The right to have access to the person's own

psychiatric, medical, or other treatment records unless access is specifically restricted in the person's treatment plan for clear treatment reasons;

(iv) The right to have a client rights officer provided by the provider or board of alcohol, drug addiction, and mental health services advise the person of the person's rights, including the person's rights under Chapter 5122. of the Revised Code if the person is committed to the provider or board.

(l) Documentation that must be submitted as evidence of holding appropriate accreditation;

(m) A process by which the director may review the accreditation standards and process used by the national accrediting organizations specified in division (B)(3) of this section.

(3) Establish the process for certification of certifiable services and supports;

(4) Set the amount of initial and renewal certification fees and any reasons for which applicants may be exempt from the fees;

(5) Specify the type of notice and hearing to be provided prior to a decision on whether to reallocate funds;

(6) Establish a process by which the director, based on deficiencies identified as a result of conducting an on-site review or otherwise evaluating a community mental health services provider or community addiction services provider under division (H) of this section, may take any range of correction actions, including revocation of the provider's certification.

(L)(1) The director may issue an order suspending

admissions to a community addiction services provider that provides overnight accommodations if the director finds either of the following:

(a) The provider's certifiable services and supports are not in compliance with rules adopted under this section;

(b) The provider has been cited for more than one violation of statutes or rules during any previous certification period of the provider.

(2)(a) Except as provided in division (L)(2)(b) of this section, proceedings initiated to suspend admissions to a community addiction services provider that provides overnight accommodations are governed by Chapter 119. of the Revised Code.

(b) If a suspension of admissions is proposed because the director has determined that the provider has demonstrated a pattern of serious noncompliance or that a violation creates a substantial risk to the health and safety of patients, the director may issue an order suspending admissions before providing an opportunity for an adjudication under Chapter 119. of the Revised Code. The director shall lift the order for the suspension of admissions if the director determines that the violation that formed the basis for the order has been corrected.

(3) Appeals from proceedings initiated to order the suspension of admissions shall be conducted in accordance with Chapter 119. of the Revised Code, unless the order was issued before providing an opportunity for an adjudication, in which case all of the following apply:

(a) The provider may request a hearing not later than ten days after being served in accordance with sections 119.05 and

119.07 of the Revised Code.

(b) If a timely request for a hearing that includes the provider's current address is made, the hearing shall commence not later than thirty days after the department receives the request.

(c) After commencing, the hearing shall continue uninterrupted, except for Saturdays, Sundays, and legal holidays, unless other interruptions are agreed to by the provider and the director.

(d) If the hearing is conducted by a hearing examiner, the hearing examiner shall file a report and recommendations with the department not later than ten days after the last of the following:

(i) The close of the hearing;

(ii) If a transcript of the proceedings is ordered, the hearing examiner receives the transcript;

(iii) If post-hearing briefs are timely filed, the hearing examiner receives the briefs.

(e) The hearing examiner shall send a written copy of the report and recommendations, by certified mail, to the provider, or the provider's attorney, if applicable, not later than five days after the report is filed with the department.

(f) Not later than five days after receiving the report and recommendations, the provider may file objections with the department.

(g) Not later than fifteen days after the hearing examiner files the report and recommendations, the department shall issue an order approving, modifying, or disapproving the report and

recommendations.

(h) Notwithstanding the pendency of the hearing, the department shall lift the order for the suspension of admissions if the department determines the violation that formed the basis for the order has been corrected.

(M)(1) In a proceeding initiated to suspend admissions to a community addiction services provider that provides overnight accommodations, to deny an application for certification of certifiable services and supports, to refuse to renew certification, or to revoke certification, the department may order the suspension, denial, refusal, or revocation regardless of whether some or all of the deficiencies that prompted the proceedings have been corrected at the time of the hearing.

(2) When the department issues an order suspending admissions to a community addiction services provider that provides overnight accommodations, denies an application for certification of certifiable services and supports, refuses to renew certification, or revokes a certification, the department shall not grant an opportunity for submitting a plan of correction.

(N) The department of behavioral health shall maintain a current list of community addiction services providers and shall provide a copy of the list to a judge of a court of common pleas who requests a copy for the use of the judge under division (H) of section 2925.03 of the Revised Code. The list shall identify each provider by its name, its address, and the county in which it is located.

(O) No person shall represent in any manner that a community mental health services provider's or community

addiction services provider's certifiable services and supports are certified by the director if the certifiable services and supports are not so certified at the time the representation is made.

(P) If a board of alcohol, drug addiction, and mental health services requests the department of behavioral health to investigate a community mental health services provider or community addiction services provider pursuant to this section, the department shall initiate the investigation not later than ten business days after receipt of the request. If the department initiates an investigation of a community mental health services provider or community addiction services provider under this section for any other reason, the department shall notify the board of alcohol, drug addiction, and mental health services serving the applicable alcohol, drug addiction, and mental health service district of the investigation and the reason for the investigation not later than three business days after the investigation begins. On the board's request, the department shall provide the board with information specifying the status of the investigation and the final disposition of the investigation.

Sec. 5119.368. (A) As used in this section, "telehealth services" has the same meaning as in section 4743.09 of the Revised Code.

(B) Each community mental health services provider and community addiction services provider shall establish written policies and procedures describing how the provider will ensure that staff persons assisting clients with receiving telehealth services or providing telehealth services are fully trained in using equipment necessary for providing the services.

(C) Prior to providing telehealth services to a client, a provider shall describe to the client the potential risks associated with receiving treatment through telehealth services and shall document that the client was provided with the risks and agreed to assume those risks. The risks communicated to a client shall address the following:

(1) Clinical aspects of receiving treatment through telehealth services;

(2) Security considerations when receiving treatment through telehealth services;

(3) Confidentiality for individual and group counseling.

(D) It is the responsibility of the provider, to the extent possible, to ensure contractually that any entity or individuals involved in the transmission of information through telehealth mechanisms guarantee that the confidentiality of the information is protected.

(E) Every provider shall have a contingency plan for providing telehealth services to clients in the event that technical problems occur during the provision of those services.

(F) Providers shall maintain, at a minimum, the following information pertaining to local resources:

(1) The local suicide prevention telephone hotline, if available, or the national suicide prevention telephone hotline.

(2) Contact information for the local police and fire departments.

The provider shall provide the client written information on how to access assistance in a crisis, including one caused by equipment malfunction or failure.

(G) It is the responsibility of the provider to ensure that equipment meets standards sufficient to do the following:

(1) To the extent possible, ensure confidentiality of communication;

(2) Provide for interactive communication between the provider and the client;

(3) When providing telehealth services using synchronous technology, ensure that video or audio are sufficient to enable real-time interaction between the client and the provider and to ensure the quality of the service provided.

(H) A mental health facility or unit that is serving as a client site shall be maintained in such a manner that appropriate staff persons are on hand at the facility or unit in the event of a malfunction with the equipment used to provide telehealth services.

(I)(1) All telehealth services provided by interactive videoconferencing shall meet both of the following conditions:

(a) Begin with the verification of the client through a name and password or personal identification number when treatment services are being provided;

(b) Be provided in accordance with state and federal law.

(2) When providing telehealth services in accordance with this section, a provider shall comply with all requirements under state and federal law regarding the protection of patient information. Each provider shall ensure that any username or password information and any electronic communications between the provider and a client are securely transmitted and stored.

~~(J) The department of behavioral health may adopt rules as~~

~~it considers necessary to implement this section. The rules shall be adopted in accordance with Chapter 119. of the Revised Code. Any such rules adopted by the department are not subject to the requirements of division (F) of section 121.95 of the Revised Code.~~

Sec. 5119.39. (A) The department of behavioral health shall monitor the operation of recovery housing in this state by doing either of the following:

(1) Certifying recovery housing residences through a process established by the department;

(2) Accepting accreditation, or its equivalent for recovery housing, from one or more of the following:

(a) The Ohio affiliate of the national alliance for recovery residences;

(b) Oxford house, inc.;

(c) Any other organization that is designated by the department for purposes of this section.

(B) If the department certifies recovery housing residences, the department shall~~, in rules adopted under section 5119.397 of the Revised Code,~~ adopt rules in accordance with Chapter 119. of the Revised Code to establish requirements for initial certification and renewal certification, as well as grounds and procedures for disciplinary action against operators of recovery housing residences.

Sec. 5119.51. (A) As used in this section, "supplemental services" has the same meaning as in section 5815.28 of the Revised Code.

(B) There is hereby created in the state treasury the

services fund for individuals with mental illness. On the death of the beneficiary of a trust created pursuant to section 5815.28 of the Revised Code, the portion of the remaining assets of the trust specified in the trust instrument shall be deposited to the credit of the fund. Money credited to the fund shall be used for individuals with mental illness.

Supplemental services may be provided through the department or boards of alcohol, drug addiction, and mental health services. ~~In accordance with Chapter 119. of the Revised Code, the department of behavioral health may adopt any rules necessary to implement this section.~~

Sec. 5120.01. The director of rehabilitation and correction is the executive head of the department of rehabilitation and correction. All duties conferred on the various divisions and institutions of the department by law or by order of the director shall be performed under the rules and regulations that the director ~~prescribes~~ is specifically authorized to adopt under this chapter and shall be under the director's control. Inmates committed to the department of rehabilitation and correction shall be under the legal custody of the director or the director's designee, and the director or the director's designee shall have power to control transfers of inmates between the several state institutions included under section 5120.05 of the Revised Code.

Sec. 5120.031. (A) As used in this section:

(1) "Certificate of high school equivalence" means either:

(a) A statement that is issued by the department of education and workforce that indicates that its holder has achieved the equivalent of a high school education as measured

by scores obtained on a high school equivalency test approved by the department of education and workforce pursuant to division (B) of section 3301.80 of the Revised Code;

(b) A statement that is issued by a primary-secondary education or higher education agency of another state that indicates that its holder has achieved the equivalent of a high school education as measured by scores obtained on a similar nationally recognized high school equivalency test.

(2) "Certificate of adult basic education" means a statement that is issued by the department of rehabilitation and correction through the Ohio central school system approved by the department of education and workforce and that indicates that its holder has achieved a 6.0 grade level, or higher, as measured by scores of nationally standardized or recognized tests.

(3) "Deadly weapon" and "firearm" have the same meanings as in section 2923.11 of the Revised Code.

(4) "Eligible offender" means a person, other than one who is ineligible to participate in an intensive program prison under the criteria specified in section 5120.032 of the Revised Code, who has been convicted of or pleaded guilty to, and has been sentenced for, a felony.

(5) "Shock incarceration" means the program of incarceration that is established pursuant to the rules of the department of rehabilitation and correction adopted under this section.

(B)(1) The director of rehabilitation and correction, by rules adopted under Chapter 119. of the Revised Code, shall establish a pilot program of shock incarceration that may be

used for offenders who are sentenced to serve a term of imprisonment under the custody of the department of rehabilitation and correction, whom the department determines to be eligible offenders, and whom the department, subject to the approval of the sentencing judge, may permit to serve their sentence as a sentence of shock incarceration in accordance with this section.

(2) The rules for the pilot program shall require that the program be established at an appropriate state correctional institution designated by the director and that the program consist of both of the following for each eligible offender whom the department, with the approval of the sentencing judge, permits to serve the eligible offender's sentence as a sentence of shock incarceration:

(a) A period of imprisonment at that institution of ninety days that shall consist of a military style combination of discipline, physical training, and hard labor and substance abuse education, employment skills training, social skills training, and psychological treatment. During the ninety-day period, the department may permit an eligible offender to participate in a self-help program. Additionally, during the ninety-day period, an eligible offender who holds a high school diploma or a certificate of high school equivalence may be permitted to tutor other eligible offenders in the shock incarceration program. If an eligible offender does not hold a high school diploma or certificate of high school equivalence, the eligible offender may elect to participate in an education program that is designed to award a certificate of adult basic education or an education program that is designed to award a certificate of high school equivalence to those eligible offenders who successfully complete the education program,

whether the completion occurs during or subsequent to the ninety-day period. To the extent possible, the department shall use as teachers in the education program persons who have been issued a license pursuant to sections 3319.22 to 3319.31 of the Revised Code, who have volunteered their services to the education program, and who satisfy any other criteria specified in the rules for the pilot project.

(b) Immediately following the ninety-day period of imprisonment, and notwithstanding any other provision governing the early release of a prisoner from imprisonment or the transfer of a prisoner to transitional control, one of the following, as determined by the director:

(i) An intermediate, transitional type of detention for the period of time determined by the director and, immediately following the intermediate, transitional type of detention, a release under a post-release control sanction imposed in accordance with section 2967.28 of the Revised Code. The period of intermediate, transitional type of detention imposed by the director under this division may be in a halfway house, in a community-based correctional facility and program or district community-based correctional facility and program established under sections 2301.51 to 2301.58 of the Revised Code, or in any other facility approved by the director that provides for detention to serve as a transition between imprisonment in a state correctional institution and release from imprisonment.

(ii) A release under a post-release control sanction imposed in accordance with section 2967.28 of the Revised Code.

(3) The rules for the pilot program also shall include, but are not limited to, all of the following:

(a) Rules identifying the locations within the state correctional institution designated by the director that will be used for eligible offenders serving a sentence of shock incarceration;

(b) Rules establishing specific schedules of discipline, physical training, and hard labor for eligible offenders serving a sentence of shock incarceration, based upon the offender's physical condition and needs;

(c) Rules establishing standards and criteria for the department to use in determining which eligible offenders the department will permit to serve their sentence of imprisonment as a sentence of shock incarceration;

(d) Rules establishing guidelines for the selection of post-release control sanctions for eligible offenders;

(e) Rules establishing procedures for notifying sentencing courts of the performance of eligible offenders serving their sentences of imprisonment as a sentence of shock incarceration~~;~~

~~(f) Any other rules that are necessary for the proper conduct of the pilot program~~.

(C)(1) If an offender is sentenced to a term of imprisonment under the custody of the department, if the sentencing court either recommends the offender for placement in a program of shock incarceration under this section or makes no recommendation on placement of the offender, and if the department determines that the offender is an eligible offender for placement in a program of shock incarceration under this section, the department may permit the eligible offender to serve the sentence in a program of shock incarceration, in accordance with division (I) of section 2929.14 of the Revised

Code, with this section, and with the rules adopted under this section. If the sentencing court disapproves placement of the offender in a program of shock incarceration, the department shall not place the offender in any program of shock incarceration.

If the sentencing court recommends the offender for placement in a program of shock incarceration and if the department subsequently places the offender in the recommended program, the department shall notify the court of the offender's placement in the recommended program and shall include with the notice a brief description of the placement.

If the sentencing court recommends placement of the offender in a program of shock incarceration and the department for any reason does not subsequently place the offender in the recommended program, the department shall send a notice to the court indicating why the offender was not placed in the recommended program.

If the sentencing court does not make a recommendation on the placement of an offender in a program of shock incarceration and if the department determines that the offender is an eligible offender for placement in a program of that nature, the department shall screen the offender and determine if the offender is suited for the program of shock incarceration. If the offender is suited for the program of shock incarceration, at least three weeks prior to permitting an eligible offender to serve the sentence in a program of shock incarceration, the department shall notify the sentencing court of the proposed placement of the offender in the program and shall include with the notice a brief description of the placement. The court shall have ten days from receipt of the notice to disapprove the

placement. If the sentencing court disapproves of the placement, the department shall not permit the eligible offender to serve the sentence in a program of shock incarceration. If the judge does not timely disapprove of placement of the offender in the program of shock incarceration, the department may proceed with plans for placement of the offender.

If the department determines that the offender is not eligible for placement in a program of shock incarceration, the department shall not place the offender in any program of shock incarceration.

(2) If the department permits an eligible offender to serve the eligible offender's sentence of imprisonment as a sentence of shock incarceration and the eligible offender does not satisfactorily complete the entire period of imprisonment described in division (B)(2)(a) of this section, the offender shall be removed from the pilot program for shock incarceration and shall be required to serve the remainder of the offender's sentence of imprisonment imposed by the sentencing court as a regular term of imprisonment. If the eligible offender commences a period of post-release control described in division (B)(2)(b) of this section and violates the conditions of that post-release control, the eligible offender shall be subject to the provisions of sections 2929.141, 2967.15, and 2967.28 of the Revised Code regarding violation of post-release control sanctions.

(3) If an eligible offender's stated prison term expires at any time during the eligible offender's participation in the shock incarceration program, the adult parole authority shall terminate the eligible offender's participation in the program and shall issue to the eligible offender a certificate of

expiration of the stated prison term.

(D) The director shall keep sentencing courts informed of the performance of eligible offenders serving their sentences of imprisonment as a sentence of shock incarceration, including, but not limited to, notice of eligible offenders who fail to satisfactorily complete their entire sentence of shock incarceration or who satisfactorily complete their entire sentence of shock incarceration.

(E) Within a reasonable period of time after November 20, 1990, the director shall appoint a committee to search for one or more suitable sites at which one or more programs of shock incarceration, in addition to the pilot program required by division (B)(1) of this section, may be established. The search committee shall consist of the director or the director's designee, as chairperson; employees of the department of rehabilitation and correction appointed by the director; and any other persons that the director, in the director's discretion, appoints. In searching for such sites, the search committee shall give preference to any site owned by the state or any other governmental entity and to any existing structure that reasonably could be renovated, enlarged, converted, or remodeled for purposes of establishing such a program. The search committee shall prepare a report concerning its activities and, on the earlier of the day that is twelve months after the first day on which an eligible offender began serving a sentence of shock incarceration under the pilot program or January 1, 1992, shall file the report with the president and the minority leader of the senate, the speaker and the minority leader of the house of representatives, the members of the senate who were members of the senate judiciary committee in the 118th general assembly or their successors, and the members of the house of

representatives who were members of the select committee to hear drug legislation that was established in the 118th general assembly or their successors. Upon the filing of the report, the search committee shall terminate. The report required by this division shall contain all of the following:

(1) A summary of the process used by the search committee in performing its duties under this division;

(2) A summary of all of the sites reviewed by the search committee in performing its duties under this division, and the benefits and disadvantages it found relative to the establishment of a program of shock incarceration at each such site;

(3) The findings and recommendations of the search committee as to the suitable site or sites, if any, at which a program of shock incarceration, in addition to the pilot program required by division (B)(1) of this section, may be established.

(F) The director periodically shall review the pilot program for shock incarceration required to be established by division (B)(1) of this section. The director shall prepare a report relative to the pilot program and, on the earlier of the day that is twelve months after the first day on which an eligible offender began serving a sentence of shock incarceration under the pilot program or January 1, 1992, shall file the report with the president and the minority leader of the senate, the speaker and the minority leader of the house of representatives, the members of the senate who were members of the senate judiciary committee in the 118th general assembly or their successors, and the members of the house of representatives who were members of the select committee to hear drug legislation that was established in the 118th general

assembly or their successors. The pilot program shall not terminate at the time of the filing of the report, but shall continue in operation in accordance with this section. The report required by this division shall include all of the following:

(1) A summary of the pilot program as initially established, a summary of all changes in the pilot program made during the period covered by the report and the reasons for the changes, and a summary of the pilot program as it exists on the date of preparation of the report;

(2) A summary of the effectiveness of the pilot program, in the opinion of the director and employees of the department involved in its operation;

(3) An analysis of the total cost of the pilot program, of its cost per inmate who was permitted to serve a sentence of shock incarceration and who served the entire sentence of shock incarceration, and of its cost per inmate who was permitted to serve a sentence of shock incarceration;

(4) A summary of the standards and criteria used by the department in determining which eligible offenders were permitted to serve their sentence of imprisonment as a sentence of shock incarceration;

(5) A summary of the characteristics of the eligible offenders who were permitted to serve their sentence of imprisonment as a sentence of shock incarceration, which summary shall include, but not be limited to, a listing of every offense of which any such eligible offender was convicted or to which any such eligible offender pleaded guilty and in relation to which the eligible offender served a sentence of shock

incarceration, and the total number of such eligible offenders who were convicted of or pleaded guilty to each such offense;

(6) A listing of the number of eligible offenders who were permitted to serve a sentence of shock incarceration and who did not serve the entire sentence of shock incarceration, and, to the extent possible, a summary of the length of the terms of imprisonment served by such eligible offenders after they were removed from the pilot program;

(7) A summary of the effect of the pilot program on overcrowding at state correctional institutions;

(8) To the extent possible, an analysis of the rate of recidivism of eligible offenders who were permitted to serve a sentence of shock incarceration and who served the entire sentence of shock incarceration;

(9) Recommendations as to legislative changes to the pilot program that would assist in its operation or that could further alleviate overcrowding at state correctional institutions, and recommendations as to whether the pilot program should be expanded.

Sec. 5120.04. The department of rehabilitation and correction, with the approval of the governor and in accordance with rules adopted pursuant to division ~~(B)~~ (A) of section 5145.03 of the Revised Code, may assign prisoners who are committed or transferred to institutions under the administration of the department to perform labor on any public work of the state.

Sec. 5120.103. (A) To the extent that funds are available, the department of rehabilitation and correction, in accordance with this section and sections 5120.104 and 5120.105 of the

Revised Code, may construct or provide for the construction of halfway house facilities for offenders whom a court places in a halfway house pursuant to section 2929.16 or 2929.26 of the Revised Code or who are eligible for community supervision by the department of rehabilitation and correction.

(B) A halfway house organization that seeks to assist in the program planning of a halfway house facility described in division (A) of this section shall file an application with the director of rehabilitation and correction as set forth in a request for proposal. Upon the submission of an application, the division of parole and community services shall review it and, if the division believes it is appropriate, shall submit a recommendation for its approval to the director. When the division submits a recommendation for approval of an application, the director may approve the application. The director shall not take action or fail to take action, or permit the taking of action or the failure to take action, with respect to halfway house facilities that would adversely affect the exclusion of interest on public obligations or on fractionalized interests in public obligations from gross income for federal income tax purposes, or the classification or qualification of the public obligations or the interest on or fractionalized interests in public obligations for, or their exemption from, other treatment under the Internal Revenue Code.

(C) The director of rehabilitation and correction and the halfway house organization may enter into an agreement establishing terms for the program planning of the halfway house facility. Any terms so established shall conform to the terms of any covenant or agreement pertaining to an obligation from which the funds used for the construction of the halfway house facility are derived.

(D) The director of rehabilitation and correction, in accordance with Chapter 119. of the Revised Code, shall adopt rules that specify procedures by which a halfway house organization may apply for a contract for program planning of a halfway house facility constructed under this section, procedures for the department to follow in considering an application, and criteria for granting approval of an application~~, and any other rules that are necessary for the selection of program planners of a halfway house facility~~.

Sec. 5120.19. (A) The department of rehabilitation and correction, in accordance with rules adopted pursuant to division ~~(B)~~(A) of section 5145.03 of the Revised Code, shall determine and direct what lands belonging to institutions under its control shall be cultivated, the crops to be raised, and the use to be made of the land and crops, and may distribute the products among the different institutions. If the crops are distributed to institutions under the control of the department, the department shall keep records of the distributions and of the fair market value of the crops distributed. The department may sell any crops that are not necessary for the institutions under its control to any person. The money received from the sale of the crops shall be deposited in the services and agricultural fund created pursuant to section 5120.29 of the Revised Code.

The department may require institutions under its control, when they have proper lands and labor, to undertake intensive agriculture, may rent lands for the production of supplies for any of the institutions that have surplus labor, and may rent lands for the production of crops for sale, when it can be done to advantage.

The department shall pay and assign the prisoners who perform any labor pursuant to this division in accordance with the rules adopted pursuant to division ~~(B)~~ (A) of section 5145.03 of the Revised Code.

(B) The department may direct the purchase of any materials, supplies, or other articles for any institution under its control from any other institution under its control at the reasonable market value, which value shall be fixed by the department. Payments for the articles shall be made as between institutions in the manner provided for payment for supplies.

Sec. 5120.27. The department of rehabilitation and correction may assign, among the correctional and penal institutions under its control and in accordance with the rules adopted pursuant to division ~~(B)~~ (A) of section 5145.03 of the Revised Code, the industries to be carried on by the institutions, having due regard to the location and convenience of the industries, other institutions to be supplied, to the machinery in the institutions, and to the number and character of prisoners employed in the industries.

Sec. 5120.28. (A) The department of rehabilitation and correction shall fix the prices at which all labor and services performed, all agricultural products produced, and all articles manufactured in correctional and penal institutions shall be furnished to the state, the political subdivisions of the state, and the public institutions of the state and the political subdivisions, and to private persons. The prices shall be uniform to all and not higher than the usual market price for like labor, products, services, and articles.

(B) Any money received by the department of rehabilitation and correction for labor and services performed shall be

deposited into the institutional services fund created pursuant to division (A) of section 5120.29 of the Revised Code and shall be used and accounted for as provided in that section and division ~~(B)~~ (A) of section 5145.03 of the Revised Code.

(C) Any money received by the department of rehabilitation and correction for articles manufactured and agricultural products produced in penal and correctional institutions shall be deposited into the Ohio penal industries manufacturing fund created pursuant to division (B) of section 5120.29 of the Revised Code and shall be used and accounted for as provided in that section and division ~~(B)~~ (A) of section 5145.03 of the Revised Code.

Sec. 5120.53. (A) If a treaty between the United States and a foreign country provides for the transfer or exchange, from one of the signatory countries to the other signatory country, of convicted offenders who are citizens or nationals of the other signatory country, the governor, subject to and in accordance with the terms of the treaty, may authorize the director of rehabilitation and correction to allow the transfer or exchange of convicted offenders and to take any action necessary to initiate participation in the treaty. If the governor grants the director the authority described in this division, the director may take the necessary action to initiate participation in the treaty and, subject to and in accordance with division (B) of this section and the terms of the treaty, may allow the transfer or exchange to a foreign country that has signed the treaty of any convicted offender who is a citizen or national of that signatory country.

(B)(1) No convicted offender who is serving a term of imprisonment in this state for aggravated murder, murder, or a

felony of the first or second degree, who is serving a mandatory prison term imposed under section 2925.03 or 2925.11 of the Revised Code in circumstances in which the court was required to impose as the mandatory prison term the maximum definite prison term or longest minimum prison term authorized for the degree of offense committed, who is serving a term of imprisonment in this state imposed for an offense committed prior to July 1, 1996, that was an aggravated felony of the first or second degree or that was aggravated trafficking in violation of division (A)(9) or (10) of section 2925.03 of the Revised Code, or who has been sentenced to death in this state shall be transferred or exchanged to another country pursuant to a treaty of the type described in division (A) of this section.

(2) If a convicted offender is serving a term of imprisonment in this state and the offender is a citizen or national of a foreign country that has signed a treaty of the type described in division (A) of this section, if the governor has granted the director of rehabilitation and correction the authority described in that division, and if the transfer or exchange of the offender is not barred by division (B)(1) of this section, the director or the director's designee may approve the offender for transfer or exchange pursuant to the treaty if the director or the designee, after consideration of the factors set forth in the rules adopted by the department under division (D) of this section ~~and all other relevant factors~~, determines that the transfer or exchange of the offender is appropriate.

(C) Notwithstanding any provision of the Revised Code regarding the parole eligibility of, or the duration or calculation of a sentence of imprisonment imposed upon, an offender, if a convicted offender is serving a term of

imprisonment in this state and the offender is a citizen or national of a foreign country that has signed a treaty of the type described in division (A) of this section, if the offender is serving an indefinite term of imprisonment, if the offender is barred from being transferred or exchanged pursuant to the treaty due to the indefinite nature of the offender's term of imprisonment, and if in accordance with division (B)(2) of this section the director of rehabilitation and correction or the director's designee approves the offender for transfer or exchange pursuant to the treaty, the parole board, pursuant to rules adopted by the director, shall set a date certain for the release of the offender. To the extent possible, the date certain that is set shall be reasonably proportionate to the indefinite term of imprisonment that the offender is serving. The date certain that is set for the release of the offender shall be considered only for purposes of facilitating the international transfer or exchange of the offender, shall not be viable or actionable for any other purpose, and shall not create any expectation or guarantee of release. If an offender for whom a date certain for release is set under this division is not transferred to or exchanged with the foreign country pursuant to the treaty, the date certain is null and void, and the offender's release shall be determined pursuant to the laws and rules of this state pertaining to parole eligibility and the duration and calculation of an indefinite sentence of imprisonment.

(D) If the governor, pursuant to division (A) of this section, authorizes the director of rehabilitation and correction to allow any transfer or exchange of convicted offenders as described in that division, the director shall adopt rules under Chapter 119. of the Revised Code ~~to implement~~

~~the provisions of this section. The rules shall include a rule~~ that ~~requires~~ require the director or the director's designee, in determining whether to approve a convicted offender who is serving a term of imprisonment in this state for transfer or exchange pursuant to a treaty of the type described in division (A) of this section, to consider all of the following factors:

(1) The nature of the offense for which the offender is serving the term of imprisonment in this state;

(2) The likelihood that, if the offender is transferred or exchanged to a foreign country pursuant to the treaty, the offender will serve a shorter period of time in imprisonment in the foreign country than the offender would serve if the offender is not transferred or exchanged to the foreign country pursuant to the treaty;

(3) The likelihood that, if the offender is transferred or exchanged to a foreign country pursuant to the treaty, the offender will return or attempt to return to this state after the offender has been released from imprisonment in the foreign country;

(4) The degree of any shock to the conscience of justice and society that will be experienced in this state if the offender is transferred or exchanged to a foreign country pursuant to the treaty~~;~~

~~(5) All other factors that the department determines are relevant to the determination~~.

Sec. 5120.55. (A) As used in this section, "licensed health professional" means any or all of the following:

(1) A dentist who holds a current, valid license issued under Chapter 4715. of the Revised Code to practice dentistry;

(2) A licensed practical nurse who holds a current, valid license issued under Chapter 4723. of the Revised Code that authorizes the practice of nursing as a licensed practical nurse;

(3) An optometrist who holds a current, valid certificate of licensure issued under Chapter 4725. of the Revised Code that authorizes the holder to engage in the practice of optometry;

(4) A physician who is authorized under Chapter 4731. of the Revised Code to practice medicine and surgery, osteopathic medicine and surgery, or podiatric medicine and surgery;

(5) A psychologist who holds a current, valid license issued under Chapter 4732. of the Revised Code that authorizes the practice of psychology as a licensed psychologist;

(6) A registered nurse who holds a current, valid license issued under Chapter 4723. of the Revised Code that authorizes the practice of nursing as a registered nurse, including such a nurse who is also licensed to practice as an advanced practice registered nurse as defined in section 4723.01 of the Revised Code.

(B)(1) The department of rehabilitation and correction may establish a recruitment program under which the department, by means of a contract entered into under division (C) of this section, agrees to repay all or part of the principal and interest of a government or other educational loan incurred by a licensed health professional who agrees to provide services to inmates of correctional institutions under the department's administration.

(2)(a) For a physician to be eligible to participate in the program, the physician must have attended a school that was,

during the time of attendance, a medical school or osteopathic medical school in this country accredited by the liaison committee on medical education or the American osteopathic association, a college of podiatry in this country in good standing with the state medical board, or a medical school, osteopathic medical school, or college of podiatry located outside this country that was acknowledged by the world health organization and verified by a member state of that organization as operating within that state's jurisdiction.

(b) For a nurse to be eligible to participate in the program, the nurse must have attended a school that was, during the time of attendance, a nursing school in this country accredited by the commission on collegiate nursing education or the national league for nursing accrediting commission or a nursing school located outside this country that was acknowledged by the world health organization and verified by a member state of that organization as operating within that state's jurisdiction.

(c) For a dentist to be eligible to participate in the program, the dentist must have attended a school that was, during the time of attendance, a dental college that enabled the dentist to meet the requirements specified in section 4715.10 of the Revised Code to be granted a license to practice dentistry.

(d) For an optometrist to be eligible to participate in the program, the optometrist must have attended a school of optometry that was, during the time of attendance, approved by the state vision professionals board.

(e) For a psychologist to be eligible to participate in the program, the psychologist must have attended an educational institution that, during the time of attendance, maintained a

specific degree program recognized by the state board of psychology as acceptable for fulfilling the requirement of division (B)(2) of section 4732.10 of the Revised Code.

(C) The department shall enter into a contract with each licensed health professional it recruits under this section. Each contract shall include at least the following terms:

(1) The licensed health professional agrees to provide a specified scope of medical, osteopathic medical, podiatric, optometric, psychological, nursing, or dental services to inmates of one or more specified state correctional institutions for a specified number of hours per week for a specified number of years.

(2) The department agrees to repay all or a specified portion of the principal and interest of a government or other educational loan taken by the licensed health professional for the following expenses to attend, for up to a maximum of four years, a school that qualifies the licensed health professional to participate in the program:

(a) Tuition;

(b) Other educational expenses for specific purposes, including fees, books, and laboratory expenses, in amounts determined to be reasonable in accordance with rules adopted under division (D) of this section;

(c) Room and board, in an amount determined to be reasonable in accordance with rules adopted under division (D) of this section.

(3) The licensed health professional agrees to pay the department a specified amount, which shall be no less than the amount already paid by the department pursuant to its agreement,

as damages if the licensed health professional fails to complete the service obligation agreed to or fails to comply with other specified terms of the contract. The contract may vary the amount of damages based on the portion of the service obligation that remains uncompleted.

(4) Other terms agreed upon by the parties.

The licensed health professional's lending institution or the department of higher education may be a party to the contract. The contract may include an assignment to the department of rehabilitation and correction of the licensed health professional's duty to repay the principal and interest of the loan.

(D) If the department of rehabilitation and correction elects to implement the recruitment program, it shall adopt rules in accordance with Chapter 119. of the Revised Code that establish all of the following:

(1) Criteria for designating institutions for which licensed health professionals will be recruited;

(2) Criteria for selecting licensed health professionals for participation in the program;

(3) Criteria for determining the portion of a loan which the department will agree to repay;

(4) Criteria for determining reasonable amounts of the expenses described in divisions (C)(2)(b) and (c) of this section;

(5) Procedures for monitoring compliance by a licensed health professional with the terms of the contract the licensed health professional enters into under this section~~;~~

~~(6) Any other criteria or procedures necessary to implement the program~~.

Sec. 5120.56. (A) As used in sections 5120.56 to 5120.58 of the Revised Code:

(1) "Ancillary services" means services provided to an offender as necessary for the particular circumstances of the offender's personal supervision, including, but not limited to, specialized counseling, testing, or other services not included in the calculation of residential or supervision costs.

(2) "Cost debt" means a cost of incarceration or supervision that may be assessed against and collected from an offender as a debt to the state as described in division (D) of this section.

(3) "Detention facility" means any place used for the confinement of a person charged with or convicted of any crime.

(4) "Offender" means any inmate, parolee, person placed under a community control sanction, releasee, or other person who has been convicted of or pleaded guilty to any felony or misdemeanor and is sentenced to any of the following:

(a) A term of imprisonment, a prison term, a jail term, or another type of confinement in a detention facility;

(b) Participation in another correctional program in lieu of incarceration.

(5) "Community control sanction," "prison term," and "jail term" have the same meanings as in section 2929.01 of the Revised Code.

(6) "Parolee" and "releasee" have the same meanings as in section 2967.01 of the Revised Code.

(B) The department of rehabilitation and correction may recover from an offender who is in its custody or under its supervision any cost debt described in division (D) of this section. To satisfy a cost debt described in that division that relates to an offender, the department may apply directly assets that are in the department's possession and that are being held for that offender without further proceedings in aid of execution, and, if assets belonging to or subject to the direction of that offender are in the possession of a third party, the department may request the attorney general to initiate proceedings to collect the assets from the third party to satisfy the cost debt.

(C) Except as otherwise provided in division (E) or (G) of this section, all of the following assets of an offender shall be subject to attachment, collection, or application toward the cost debts described in division (D) of this section that are to be recovered under division (B) of this section:

(1) Subject to division (E) of this section, any pay the offender receives from the state;

(2) Subject to division (E) of this section, any funds the offender receives from persons on an approved visitor list;

(3) Any liquid assets belonging to the offender and in the custody of the department;

(4) Any assets the offender acquires or any other income the offender earns subsequent to the offender's commitment.

(D) Costs of incarceration or supervision that may be assessed against and collected from an offender under division (B) of this section as a debt to the state shall include, but are not limited to, all of the following costs that accrue while

the offender is in the custody or under the supervision of the department:

(1) Any user fee or copayment for services at a detention facility or housing facility, including, but not limited to, a fee or copayment for sick call visits;

(2) Assessment for damage to or destruction of property in a detention facility subsequent to commitment;

(3) Restitution to an offender or to a staff member of a state correctional institution for theft, loss, or damage to the personal property of the offender or staff member;

(4) The cost of housing and feeding the offender in a detention facility;

(5) The cost of supervision of the offender;

(6) The cost of any ancillary services provided to the offender;

(7) The cost of any medical care provided to the offender.

(E) The cost of housing and feeding an offender in a state correctional institution shall not be collected from a payment made to the offender for performing an activity at a state job or assignment that pays less than the minimum wage or from money the offender receives from visitors, unless the combined assets in the offender's institution personal account exceed, at any time, one hundred dollars. If the combined assets in that account exceed one hundred dollars, the cost of housing and feeding the offender may be collected from the amount in excess of one hundred dollars.

(F)(1) The department shall adopt rules pursuant to section 111.15 of the Revised Code ~~to implement the requirements~~

~~of this section.~~

~~(2) The rules adopted under division (F)(1) of this section shall include, but are not limited to, rules~~ that establish or contain all of the following:

(a) A process for ascertaining the items of cost to be assessed against an offender;

(b) Subject to division ~~(F)(3)~~ (F)(2) of this section, a process by which the offender shall have the opportunity to respond to the assessment of costs under division (B) of this section and to contest any item of cost in the department's calculation or as it applies to the offender;

(c) A requirement that the offender be notified, in writing, of a final decision to collect or apply the offender's assets under division (B) of this section and that the notification be provided after the offender has had an opportunity to contest the application or collection;

(d) Criteria for evaluating an offender's ongoing, permanent injury and evaluating the ability of that type of offender to provide for the offender after incarceration.

~~(3)~~ (2) The rules adopted under division (F)(1) of this section may allow the collection of a cost debt as a flat fee or over time in installments. If the cost debt is to be collected over time in installments, the rules are not required to permit the offender an opportunity to contest the assessment of each installment. The rules may establish a standard fee to apply to all offenders who receive a particular service.

(G) The department shall not collect cost debts or apply offender assets toward a cost debt under division (B) of this section if, due to an ongoing, permanent injury, the collection

or application would unjustly limit the offender's ability to provide for the offender after incarceration.

(H) If an offender acquires assets after the offender is convicted of or pleads guilty to an offense and if the transferor knows of the offender's status as an offender, the transferor shall notify the department in advance of the transfer.

(I) There is hereby created in the state treasury the offender financial responsibility fund. All moneys collected by or on behalf of the department under this section, and all moneys currently in the department's custody that are applied to satisfy an allowable cost debt under this section, shall be deposited into the fund. The department may expend moneys in the fund for goods and services of the same type as those for which offenders are assessed pursuant to this section.

Sec. 5120.65. (A) The department of rehabilitation and correction may establish in one or more of the institutions for women operated by the department a prison nursery program under which eligible inmates and children born to them while in the custody of the department may reside together in the institution. If the department establishes a prison nursery program in one or more institutions under this section, sections 5120.651 to ~~5120.657~~ 5120.656 of the Revised Code apply regarding the program. If the department establishes a prison nursery program and an inmate participates in the program, neither the inmate's participation in the program nor any provision of sections 5120.65 to 5120.657 of the Revised Code affects, modifies, or interferes with the inmate's custodial rights of the child or establishes legal custody of the child with the department.

(B) As used in sections 5120.651 to 5120.657 of the Revised Code:

(1) "Prison nursery program" means the prison nursery program established by the department of rehabilitation and correction under this section, if one is so established.

(2) "Public assistance" has the same meaning as in section 5101.58 of the Revised Code.

(3) "Support" means amounts to be paid under a support order.

(4) "Support order" has the same meaning as in section 3119.01 of the Revised Code.

Sec. 5122.33. The department of behavioral health may prescribe the form of applications, reports, records, and medical certificates provided for under this chapter, and the information required to be contained therein; require reports from the chief clinical officer of any public hospital relating to the admission, examination, diagnosis, release, or discharge of any patient; visit each such hospital regularly to review the admission procedures of all new patients admitted between visits; and investigate by personal visit complaints made by any patient or by any person on behalf of a patient~~; and adopt such rules as are reasonably necessary to effectuate the provisions of this chapter~~.

Sec. 5123.022. (A) As used in this section:

(1) "Community employment" means competitive employment that takes place in an integrated setting.

(2) "Competitive employment" means full-time or part-time work in the competitive labor market in which payment is at or

above the minimum wage but not less than the customary wage and level of benefits paid by the employer for the same or similar work performed by persons who are not disabled.

(3) "Integrated setting" means a setting typically found in the community where individuals with developmental disabilities interact with individuals who do not have disabilities to the same extent that individuals in comparable positions who are not disabled interact with other individuals, including in employment settings in which employees interact with the community through technology.

(B) It is hereby declared to be the policy of this state that employment services for individuals with developmental disabilities be directed at community employment. Every individual with a developmental disability is presumed capable of community employment.

The departments of developmental disabilities, education and workforce, medicaid, job and family services, and mental health and addiction services; the opportunities for Ohioans with disabilities agency; and each other state agency that provides employment services to individuals with developmental disabilities shall implement the policy of this state and ensure that it is followed whenever employment services are provided to individuals with developmental disabilities.

The department of developmental disabilities shall coordinate the actions taken by state agencies to comply with the state's policy. Agencies shall collaborate within their divisions and with each other to ensure that state programs, policies, procedures, and funding support competitive and integrated employment of individuals with developmental disabilities. State agencies shall share information with the

department, and the department shall track progress toward full implementation of the policy. The department, in coordination with any task force established by the governor, shall compile data and annually submit to the governor a report on implementation of the policy.

~~The department and state agencies may adopt rules to implement the state's policy.~~

(C) The state's policy articulated in this section is intended to promote the right of each individual with a developmental disability to informed choice; however, nothing in this section requires any employer to give preference in hiring to an individual because the individual has a disability.

Sec. 5123.025. It is hereby declared to be the policy of this state that individuals with developmental disabilities shall have access to innovative technology solutions. Technology can ensure that people with developmental disabilities have increased opportunities to live, work, and thrive in their homes, communities, and places of employment through state of the art planning, innovative technology, and supports that focus on their talents, interests, and skills.

The departments of developmental disabilities, education and workforce, medicaid, aging, job and family services, mental health and addiction services, and transportation; the opportunities for Ohioans with disabilities agency; and each other state agency that provides technology services to individuals with developmental disabilities shall implement the policy of this state and ensure that it is followed whenever technology services are provided to individuals with developmental disabilities.

The department of developmental disabilities, in partnership with the office of innovateohio, shall coordinate the actions taken by state agencies to comply with the state's policy. Agencies shall collaborate within their divisions and with each other to ensure that state programs, policies, procedures, and funding support the development of access to technology for individuals with developmental disabilities. State agencies shall share information with the department, and the department shall track progress toward full implementation of the policy. The department, in coordination with the technology first task force established under section 5123.026 of Revised Code, shall compile data and annually submit to the governor and lieutenant governor a report on implementation of the policy.

~~The department and state agencies may adopt rules to implement the state's policy.~~

Sec. 5123.026. (A) The director of developmental disabilities shall establish a technology first task force consisting of representatives from the office of innovateohio; the departments of developmental disabilities, education and workforce, medicaid, aging, job and family services, mental health and addiction services, children and youth, and transportation; and the opportunities for Ohioans with disabilities agency.

(B) The task force shall do all of the following:

(1) Expand innovative technology solutions within the operation and delivery of services to individuals with developmental disabilities;

(2) Use technology to reduce the barriers individuals with

developmental disabilities experience;

(3) Align policies for all state agencies on the task force.

(C) The department of developmental disabilities may enter into interagency agreements with any of the government entities on the task force. The interagency agreements may specify either or both of the following:

(1) The roles and responsibilities of the government entities that are members of the task force, including any money to be contributed by those entities;

(2) The projects and activities of the task force.

~~(D) The department and state agencies may adopt rules to implement the task force.~~

Sec. 5123.04. (A) The director of developmental disabilities is the executive head of the department of developmental disabilities. All duties conferred on the department and its institutions by law or by order of the director shall ~~be performed under such rules as the director prescribes, and shall~~ be under the director's control. The director shall establish bylaws for the government of all institutions under the jurisdiction of the department. Except as otherwise is provided as to appointments by chiefs of divisions, the director shall appoint such employees as are necessary for the efficient conduct of the department, and shall prescribe their titles and duties. If the director is not a licensed physician, decisions relating to medical diagnosis and treatment shall be the responsibility of a licensed physician appointed by the director.

(B) ~~The director shall adopt rules for the proper~~

~~execution of the powers and duties of the department.~~

~~(C)~~ The director shall adopt rules establishing standards that programs and facilities for persons with intellectual disabilities shall follow when performing evaluations of the mental condition of defendants ordered by the court under section 2919.271 or 2945.371 of the Revised Code, and for the treatment of defendants who have been found incompetent to stand trial under section 2945.38 of the Revised Code, and certify the compliance of such programs and facilities with the standards.

~~(D)~~ (C) On behalf of the department, the director has the authority to, and responsibility for, entering into contracts and other agreements.

~~(E)~~ (D) The director shall adopt rules in accordance with Chapter 119. of the Revised Code that do ~~all~~ both of the following:

(1) Specify the supplemental services that may be provided through a trust authorized by section 5815.28 of the Revised Code;

(2) Establish standards for the maintenance and distribution to a beneficiary of assets of a trust authorized by section 5815.28 of the Revised Code.

~~(F)~~ (E) The director shall provide monitoring of county boards of developmental disabilities.

Sec. 5123.0420. As used in this section, "evidence-based intervention" means a prevention or treatment service that has been demonstrated through scientific evaluation to produce a positive outcome.

The department of developmental disabilities shall

establish a voluntary training and certification program for individuals who provide evidence-based interventions to individuals with an autism spectrum disorder. The department shall administer the program or contract with a person or other government entity to administer the program. The program shall not conflict with or duplicate any other certification or licensure process administered by the state.

~~The director of developmental disabilities may adopt rules as necessary to implement this section. If the director adopts rules, the rules shall be adopted in accordance with Chapter 119. of the Revised Code.~~

Sec. 5123.081. (A) As used in this section:

(1)(a) "Applicant" means any of the following:

(i) A person who is under final consideration for appointment to or employment with the department of developmental disabilities or a county board of developmental disabilities;

(ii) A person who is being transferred to the department or a county board;

(iii) An employee who is being recalled to or reemployed by the department or a county board after a layoff;

(iv) A person under final consideration for a direct services position with a provider or subcontractor.

(b) Neither of the following is an applicant:

(i) A person who is employed by a responsible entity in a position for which a criminal records check is required by this section and either is being considered for a different position with the responsible entity or is returning after a leave of

absence or seasonal break in employment, unless the responsible entity has reason to believe that the person has committed a disqualifying offense;

(ii) A person who is to provide only respite care under a family support services program established under section 5126.11 of the Revised Code if a family member of the individual with a developmental disability who is to receive the respite care selects the person.

(2) "Criminal records check" has the same meaning as in section 109.572 of the Revised Code.

(3) "Direct services position" means an employment position in which the employee has the opportunity to be alone with or exercises supervision or control over one or more individuals with developmental disabilities.

(4) "Disqualifying offense" means any of the offenses listed or described in divisions (A)(3)(a) to (e) of section 109.572 of the Revised Code.

(5)(a) "Employee" means either of the following:

(i) A person appointed to or employed by the department of developmental disabilities or a county board of developmental disabilities;

(ii) A person employed in a direct services position by a provider or subcontractor.

(b) "Employee" does not mean a person who provides only respite care under a family support services program established under section 5126.11 of the Revised Code if a family member of the individual with a developmental disability who receives the respite care selected the person.

(6) "Minor drug possession offense" has the same meaning as in section 2925.01 of the Revised Code.

(7) "Provider" means a person that provides specialized services to individuals with developmental disabilities and employs one or more persons in direct services positions.

(8) "Responsible entity" means the following:

(a) The department of developmental disabilities in the case of either of the following:

(i) A person who is an applicant because the person is under final consideration for appointment to or employment with the department, being transferred to the department, or being recalled to or reemployed by the department after a layoff;

(ii) A person who is an employee because the person is appointed to or employed by the department.

(b) A county board of developmental disabilities in the case of either of the following:

(i) A person who is an applicant because the person is under final consideration for appointment to or employment with the county board, being transferred to the county board, or being recalled to or reemployed by the county board after a layoff;

(ii) A person who is an employee because the person is appointed to or employed by the county board.

(c) A provider in the case of either of the following:

(i) A person who is an applicant because the person is under final consideration for a direct services position with the provider;

(ii) A person who is an employee because the person is employed in a direct services position by the provider.

(d) A subcontractor in the case of either of the following:

(i) A person who is an applicant because the person is under final consideration for a direct services position with the subcontractor;

(ii) A person who is an employee because the person is employed in a direct services position by the subcontractor.

(9) "Specialized services" means any program or service designed and operated to serve primarily individuals with developmental disabilities, including a program or service provided by an entity licensed or certified by the department of developmental disabilities. If there is a question as to whether a provider or subcontractor is providing specialized services, the provider or subcontractor may request that the director of developmental disabilities make a determination. The director's determination is final.

(10) "Subcontractor" means a person to which both of the following apply:

(a) The person has either of the following:

(i) A subcontract with a provider to provide specialized services included in the contract between the provider and the department of developmental disabilities or a county board of developmental disabilities;

(ii) A subcontract with another subcontractor to provide specialized services included in a subcontract between the other subcontractor and a provider or other subcontractor.

(b) The person employs one or more persons in direct services positions.

(B) A responsible entity shall not employ an applicant or continue to employ an employee if either of the following applies:

(1) The applicant or employee fails to comply with division (D)(3) of this section.

(2) Except as provided in rules adopted under this section, the applicant or employee is found by a criminal records check required by this section to have been convicted of, pleaded guilty to, or been found eligible for intervention in lieu of conviction for a disqualifying offense.

(C) Before employing an applicant in a position for which a criminal records check is required by this section, a responsible entity shall require the applicant to submit a statement with the applicant's signature attesting that the applicant has not been convicted of, pleaded guilty to, or been found eligible for intervention in lieu of conviction for a disqualifying offense. The responsible entity also shall require the applicant to sign an agreement under which the applicant agrees to notify the responsible entity within fourteen calendar days if, while employed by the responsible entity, the applicant is formally charged with, is convicted of, pleads guilty to, or is found eligible for intervention in lieu of conviction for a disqualifying offense. The agreement shall provide that the applicant's failure to provide the notification may result in termination of the applicant's employment.

(D)(1) As a condition of employing any applicant in a position for which a criminal records check is required by this

section, a responsible entity shall request the superintendent of the bureau of criminal identification and investigation to conduct a criminal records check of the applicant. If rules adopted under this section require an employee to undergo a criminal records check, a responsible entity shall request the superintendent to conduct a criminal records check of the employee at times specified in the rules as a condition of the responsible entity's continuing to employ the employee in a position for which a criminal records check is required by this section. If an applicant or employee does not present proof that the applicant or employee has been a resident of this state for the five-year period immediately prior to the date upon which the criminal records check is requested, the responsible entity shall request that the superintendent obtain information from the federal bureau of investigation as a part of the criminal records check. If the applicant or employee presents proof that the applicant or employee has been a resident of this state for that five-year period, the responsible entity may request that the superintendent include information from the federal bureau of investigation in the criminal records check. For purposes of this division, an applicant or employee may provide proof of residency in this state by presenting, with a statement asserting that the applicant or employee has been a resident of this state for that five-year period, a valid driver's license, notification of registration as an elector, a copy of an officially filed federal or state tax form identifying the applicant's or employee's permanent residence, or any other document the responsible entity considers acceptable.

(2) A responsible entity shall do all of the following:

(a) Provide to each applicant and employee for whom a criminal records check is required by this section a copy of the

form prescribed pursuant to division (C)(1) of section 109.572 of the Revised Code and a standard impression sheet to obtain fingerprint impressions prescribed pursuant to division (C)(2) of section 109.572 of the Revised Code;

(b) Obtain the completed form and standard impression sheet from the applicant or employee;

(c) Forward the completed form and standard impression sheet to the superintendent at the time the criminal records check is requested.

(3) Any applicant or employee who receives pursuant to this division a copy of the form prescribed pursuant to division (C)(1) of section 109.572 of the Revised Code and a copy of the standard impression sheet prescribed pursuant to division (C)(2) of that section and who is requested to complete the form and provide a set of the applicant's or employee's fingerprint impressions shall complete the form or provide all the information necessary to complete the form and shall provide the standard impression sheet with the impressions of the applicant's or employee's fingerprints.

(4) A responsible entity shall pay to the bureau of criminal identification and investigation the fee prescribed pursuant to division (C)(3) of section 109.572 of the Revised Code for each criminal records check requested and conducted pursuant to this section.

(E) A responsible entity may request any other state or federal agency to supply the responsible entity with a written report regarding the criminal record of an applicant or employee. If an employee holds an occupational or professional license or other credentials, the responsible entity may request

that the state or federal agency that regulates the employee's occupation or profession supply the responsible entity with a written report of any information pertaining to the employee's criminal record that the agency obtains in the course of conducting an investigation or in the process of renewing the employee's license or other credentials. The responsible entity may consider the reports when determining whether to employ the applicant or to continue to employ the employee.

(F) As a condition of employing an applicant in a position for which a criminal records check is required by this section and that involves transporting individuals with developmental disabilities or operating a responsible entity's vehicles for any purpose, the responsible entity shall obtain the applicant's driving record from the bureau of motor vehicles. If rules adopted under this section require a responsible entity to obtain an employee's driving record, the responsible entity shall obtain the employee's driving record from the bureau at times specified in the rules as a condition of continuing to employ the employee. The responsible entity may consider the applicant's or employee's driving record when determining whether to employ the applicant or to continue to employ the employee.

(G) A responsible entity may employ an applicant conditionally pending receipt of a report regarding the applicant requested under this section. The responsible entity shall request the report before employing the applicant conditionally. The responsible entity shall terminate the applicant's employment if it is determined from a report that the applicant failed to inform the responsible entity that the applicant had been convicted of, pleaded guilty to, or been found eligible for intervention in lieu of conviction for a

disqualifying offense.

(H) A responsible entity may charge an applicant a fee for costs the responsible entity incurs in obtaining a report regarding the applicant under this section if the responsible entity notifies the applicant of the amount of the fee at the time of the applicant's initial application for employment and that, unless the fee is paid, the responsible entity will not consider the applicant for employment. The fee shall not exceed the amount of the fee, if any, the responsible entity pays for the report.

(I)(1) Any report obtained pursuant to this section is not a public record for purposes of section 149.43 of the Revised Code and shall not be made available to any person, other than the following:

(a) The applicant or employee who is the subject of the report or the applicant's or employee's representative;

(b) The responsible entity that requested the report or its representative;

(c) The department if a county board, provider, or subcontractor is the responsible entity that requested the report and the department requests the responsible entity to provide a copy of the report to the department;

(d) A county board if a provider or subcontractor is the responsible entity that requested the report and the county board requests the responsible entity to provide a copy of the report to the county board;

(e) Any court, hearing officer, or other necessary individual involved in a case dealing with any of the following:

(i) The denial of employment to the applicant or employee;

(ii) The denial, suspension, or revocation of a certificate under section 5123.166 or 5123.45 of the Revised Code;

(iii) A civil or criminal action regarding the medicaid program or a program the department administers.

(2) An applicant or employee for whom the responsible entity has obtained reports under this section may submit a written request to the responsible entity to have copies of the reports sent to any state agency, entity of local government, or private entity. The applicant or employee shall specify in the request the agencies or entities to which the copies are to be sent. On receiving the request, the responsible entity shall send copies of the reports to the agencies or entities specified.

(3) A responsible entity may request that a state agency, entity of local government, or private entity send copies to the responsible entity of any report regarding a records check or criminal records check that the agency or entity possesses, if the responsible entity obtains the written consent of the individual who is the subject of the report.

(4) A responsible entity shall provide each applicant and employee with a copy of any report obtained about the applicant or employee under this section.

~~(J)~~ (J)(1) The director of developmental disabilities ~~shall~~ may adopt rules in accordance with Chapter 119. of the Revised Code to ~~implement this section.~~

~~(1) The rules may~~ do the following:

(a) Require employees to undergo criminal records checks under this section;

(b) Require responsible entities to obtain the driving records of employees under this section;

(c) If the rules require employees to undergo criminal records checks, require responsible entities to obtain the driving records of employees, or both, exempt one or more classes of employees from the requirements.

(2) The ~~rules~~ director of developmental disabilities shall adopt rules in accordance with Chapter 119. of the Revised Code to do all of the following:

(a) If the rules require employees to undergo criminal records checks, require responsible entities to obtain the driving records of employees, or both, specify the times at which the criminal records checks are to be conducted and the driving records are to be obtained;

(b) Specify circumstances under which a responsible entity may employ an applicant or employee who is found by a criminal records check required by this section to have been convicted of, pleaded guilty to, or been found eligible for intervention in lieu of conviction for a disqualifying offense but meets standards in regard to rehabilitation set by the director;

(c) Require a responsible entity to request a criminal records check under this section before employing an applicant conditionally as permitted under division (G) of this section.

Sec. 5123.09. ~~Subject to the rules of the department of developmental disabilities, each~~ Each institution under the jurisdiction of the department shall be under the control of a managing officer to be known as a superintendent or by other

appropriate title. The managing officer shall be appointed by the director of developmental disabilities and shall be in the unclassified service and serve at the pleasure of the director. Each managing officer shall be of good moral character and have skill, ability, and experience in the managing officer's profession. Appointment to the position of managing officer of an institution may be made from persons holding positions in the classified service in the department.

The managing officer, under the director, shall have entire executive charge of the institution for which the managing officer is appointed, except as provided in section 5119.44 of the Revised Code. Subject to civil service rules ~~and rules adopted by the department~~, the managing officer shall appoint the necessary employees, and the managing officer or the director may remove those employees for cause. A report of all appointments, resignations, and discharges shall be filed with the appropriate division at the close of each month.

After conference with the managing officer of each institution, the director shall determine the number of employees to be appointed to the various institutions and clinics.

Sec. 5123.093. The citizen's advisory councils established under section 5123.092 of the Revised Code shall do all of the following:

(A) Transmit to the director of developmental disabilities verbal or written information, received from any person or organization associated with the institution or within the community, that an advisory council considers important;

(B) Review the records of all applicants to any

unclassified position at the institution, except for resident physician positions filled under section 5123.11 of the Revised Code;

(C) Review and evaluate institutional employee training and continuing education programs;

(D) On or before the thirty-first day of January of each year, submit a written report to the director of developmental disabilities regarding matters affecting the institution including, but not limited to, allegations of dehumanizing practices and violations of individual or legal rights;

(E) Review institutional budgets, programs, services, and planning;

(F) Develop and maintain within the community relationships with community developmental disabilities organizations;

(G) Participate in the formulation of the institution's objectives, administrative procedures, program philosophy, and long range goals;

(H) Bring any matter that an advisory council considers important to the attention of the director of developmental disabilities;

(I) Recommend to the director of developmental disabilities persons for appointment to citizen's advisory councils~~;~~

~~(J) Adopt any rules or procedures necessary to carry out this section~~.

The chairperson of the advisory council or the chairperson's designee shall be notified within twenty-four

hours of any alleged incident of abuse to a resident or staff member by anyone. Incidents of resident or staff abuse shall include, but not be limited to, sudden deaths, accidents, suicides, attempted suicides, injury caused by other persons, alleged criminal acts, errors in prescribing or administering medication, theft from clients, fires, epidemic disease, administering unprescribed drugs, unauthorized use of restraint, withholding of information concerning alleged abuse, neglect, or any deprivation of rights as defined in Chapter 5122. or 5123. of the Revised Code.

Sec. 5123.19. (A) As used in sections 5123.19 to 5123.20 of the Revised Code:

(1) "Independent living arrangement" means an arrangement in which an individual with a developmental disability resides in an individualized setting chosen by the individual or the individual's guardian, which is not dedicated principally to the provision of residential services for individuals with developmental disabilities, and for which no financial support is received for rendering such service from any governmental agency by a provider of residential services.

(2) "Licensee" means the person or government agency that has applied for a license to operate a residential facility and to which the license was issued under this section.

(3) "Political subdivision" means a municipal corporation, county, or township.

(4) "Related party" has the same meaning as in section 5123.16 of the Revised Code except that "provider" as used in the definition of "related party" means a person or government entity that held or applied for a license to operate a

residential facility, rather than a person or government entity certified to provide supported living.

(5)(a) Except as provided in division (A)(5)(b) of this section, "residential facility" means a home or facility, including an ICF/IID, in which an individual with a developmental disability resides.

(b) "Residential facility" does not mean any of the following:

(i) The home of a relative or legal guardian in which an individual with a developmental disability resides;

(ii) A respite care home certified under section 5126.05 of the Revised Code;

(iii) A county home or district home operated pursuant to Chapter 5155. of the Revised Code;

(iv) A dwelling in which the only residents with developmental disabilities are in independent living arrangements or are being provided supported living;

(v) A location registered as a pediatric transition care program under section 3712.042 of the Revised Code.

(B) Every person or government agency desiring to operate a residential facility shall apply for licensure of the facility to the director of developmental disabilities unless the residential facility is subject to section 3721.02, 5103.03, 5119.33, or division (B)(1)(b) of section 5119.34 of the Revised Code.

(C)(1) Subject to section 5123.196 of the Revised Code, the director of developmental disabilities shall license the operation of residential facilities. An initial license shall be

issued for a period that does not exceed one year, unless the director denies the license under division (D) of this section. A license shall be renewed for a period that does not exceed three years, unless the director refuses to renew the license under division (D) of this section. The director, when issuing or renewing a license, shall specify the period for which the license is being issued or renewed. A license remains valid for the length of the licensing period specified by the director, unless the license is terminated, revoked, or voluntarily surrendered.

(2) Notwithstanding sections 5123.043, 5123.196, and 5123.197 of the Revised Code ~~and rules adopted under section 5123.04 of the Revised Code~~, the director shall issue a new license for a residential facility if the facility meets the following conditions:

(a) The residential facility will be certified as an ICF/IID;

(b) The building in which the residential facility will be operated was operated as a residential facility under a lease for not fewer than twenty years before the date of application for a new license;

(c) The former operator of the residential facility relocated the beds previously in the facility to another site that will be licensed as a residential facility;

(d) The residential facility will be located in Preble, Clermont, or Warren county;

(e) The residential facility will contain eight beds;

(f) The licensee will make a good faith effort to serve multi-system youth or adults with severe behavioral challenges

at the residential facility or at one or more other residential facilities for which licenses are issued under division (C) of this section.

(3) The director shall issue not more than five licenses under division (C)(2) of this section.

(D) If it is determined that an applicant or licensee is not in compliance with a provision of this chapter that applies to residential facilities or the rules adopted under such a provision, the director may deny issuance of a license, refuse to renew a license, terminate a license, revoke a license, issue an order for the suspension of admissions to a facility, issue an order for the placement of a monitor at a facility, issue an order for the immediate removal of residents, or take any other action the director considers necessary consistent with the director's authority under this chapter regarding residential facilities. In the director's selection and administration of the sanction to be imposed, all of the following apply:

(1) The director may deny, refuse to renew, or revoke a license, if the director determines that the applicant or licensee has demonstrated a pattern of serious noncompliance or that a violation creates a substantial risk to the health and safety of residents of a residential facility.

(2) The director may terminate a license if more than twelve consecutive months have elapsed since the residential facility was last occupied by a resident or a notice required by division (J) of this section is not given.

(3) The director may issue an order for the suspension of admissions to a facility for any violation that may result in sanctions under division (D)(1) of this section and for any

other violation specified in rules adopted under division (G)(2) of this section. If the suspension of admissions is imposed for a violation that may result in sanctions under division (D)(1) of this section, the director may impose the suspension before providing an opportunity for an adjudication under Chapter 119. of the Revised Code. The director shall lift an order for the suspension of admissions when the director determines that the violation that formed the basis for the order has been corrected.

(4) The director may order the placement of a monitor at a residential facility for any violation specified in rules adopted under division (G)(2) of this section. The director shall lift the order when the director determines that the violation that formed the basis for the order has been corrected.

(5) When the director initiates license revocation proceedings, no opportunity for submitting a plan of correction shall be given. The director shall notify the licensee by letter of the initiation of the proceedings. The letter shall list the deficiencies of the residential facility and inform the licensee that no plan of correction will be accepted. The director shall also send a copy of the letter to the county board of developmental disabilities. Except in the case of a licensee that is an ICF/IID, the county board shall send a copy of the letter to each of the following:

(a) Each resident who receives services from the licensee;

(b) The guardian of each resident who receives services from the licensee if the resident has a guardian;

(c) The parent or guardian of each resident who receives

services from the licensee if the resident is a minor.

(6) Pursuant to rules which shall be adopted in accordance with Chapter 119. of the Revised Code, the director may order the immediate removal of residents from a residential facility whenever conditions at the facility present an immediate danger of physical or psychological harm to the residents.

(7) In determining whether a residential facility is being operated in compliance with a provision of this chapter that applies to residential facilities or the rules adopted under such a provision, or whether conditions at a residential facility present an immediate danger of physical or psychological harm to the residents, the director may rely on information obtained by a county board of developmental disabilities or other governmental agencies.

(8) In proceedings initiated to deny, refuse to renew, or revoke licenses, the director may deny, refuse to renew, or revoke a license regardless of whether some or all of the deficiencies that prompted the proceedings have been corrected at the time of the hearing.

(E)(1) Except as provided in division (E)(2) of this section, appeals from proceedings initiated to impose a sanction under division (D) of this section shall be conducted in accordance with Chapter 119. of the Revised Code.

(2) Appeals from proceedings initiated to order the suspension of admissions to a facility shall be conducted in accordance with Chapter 119. of the Revised Code, unless the order was issued before providing an opportunity for an adjudication, in which case all of the following apply:

(a) The licensee may request a hearing not later than ten

days after being served in accordance with sections 119.05 and 119.07 of the Revised Code.

(b) If a timely request for a hearing that includes the licensee's current address is made, the hearing shall commence not later than thirty days after the department receives the request.

(c) After commencing, the hearing shall continue uninterrupted, except for Saturdays, Sundays, and legal holidays, unless other interruptions are agreed to by the licensee and the director.

(d) If the hearing is conducted by a hearing examiner, the hearing examiner shall file a report and recommendations not later than ten days after the last of the following:

(i) The close of the hearing;

(ii) If a transcript of the proceedings is ordered, the hearing examiner receives the transcript;

(iii) If post-hearing briefs are timely filed, the hearing examiner receives the briefs.

(e) A copy of the written report and recommendation of the hearing examiner shall be sent, by certified mail, to the licensee and the licensee's attorney, if applicable, not later than five days after the report is filed.

(f) Not later than five days after the hearing examiner files the report and recommendations, the licensee may file objections to the report and recommendations.

(g) Not later than fifteen days after the hearing examiner files the report and recommendations, the director shall issue an order approving, modifying, or disapproving the report and

recommendations.

(h) Notwithstanding the pendency of the hearing, the director shall lift the order for the suspension of admissions when the director determines that the violation that formed the basis for the order has been corrected.

(F) Neither a person or government agency whose application for a license to operate a residential facility is denied nor a related party of the person or government agency may apply for a license to operate a residential facility before the date that is five years after the date of the denial. Neither a licensee whose residential facility license is revoked nor a related party of the licensee may apply for a residential facility license before the date that is five years after the date of the revocation.

(G) In accordance with Chapter 119. of the Revised Code, the director shall adopt and may amend and rescind rules ~~for licensing and regulating the operation of residential facilities. The rules for residential facilities that are ICFs/IID may differ from those for other residential facilities. The rules shall~~ that establish and specify the following:

(1) Procedures and criteria for issuing and renewing residential facility licenses, including procedures and criteria for determining the length of the licensing period that the director must specify for each license when it is issued or renewed;

(2) Procedures and criteria for denying, refusing to renew, terminating, and revoking licenses and for ordering the suspension of admissions to a facility, placement of a monitor at a facility, and the immediate removal of residents from a

facility;

(3) Fees for issuing and renewing licenses, which shall be deposited into the program fee fund created under section 5123.033 of the Revised Code;

(4) Procedures for surveying residential facilities;

(5) Classifications for the various types of residential facilities;

(6) The maximum number of individuals who may be served in a particular type of residential facility;

(7) Uniform procedures for admission of individuals to and transfers and discharges of individuals from residential facilities;

(8) ~~Other standards for the operation of residential facilities and the services provided at residential facilities;~~

~~(9)~~ Procedures for waiving any provision of any rule adopted under this section.

The rules for residential facilities that are ICFs/IID may differ from those for other residential facilities.

(H)(1) Before issuing a license, the director shall conduct a survey of the residential facility for which application is made. The director shall conduct a survey of each licensed residential facility at least once during the period the license is valid and may conduct additional inspections as needed. A survey includes but is not limited to an on-site examination and evaluation of the residential facility, its personnel, and the services provided there. The director may assign to a county board of developmental disabilities or the department of health the responsibility to conduct any survey or

inspection under this section.

(2) In conducting surveys, the director shall be given access to the residential facility; all records, accounts, and any other documents related to the operation of the facility; the licensee; the residents of the facility; and all persons acting on behalf of, under the control of, or in connection with the licensee. The licensee and all persons on behalf of, under the control of, or in connection with the licensee shall cooperate with the director in conducting the survey.

(3) Following each survey, the director shall provide the licensee with a report listing the date of the survey, any citations issued as a result of the survey, and the statutes or rules that purportedly have been violated and are the bases of the citations. The director shall also do both of the following:

(a) Specify a date by which the licensee may appeal any of the citations;

(b) When appropriate, specify a timetable within which the licensee must submit a plan of correction describing how the problems specified in the citations will be corrected and, the date by which the licensee anticipates the problems will be corrected.

(4) If the director initiates a proceeding to revoke a license, the director shall include the report required by division (H)(3) of this section with the notice of the proposed revocation the director sends to the licensee. In this circumstance, the licensee may not submit a plan of correction.

(5) After a plan of correction is submitted, the director shall approve or disapprove the plan. If the plan of correction is approved, a copy of the approved plan shall be provided, not

later than five business days after it is approved, to any person or government entity who requests it and made available on the internet web site maintained by the department of developmental disabilities. If the plan of correction is not approved and the director initiates a proceeding to revoke the license, a copy of the survey report shall be provided to any person or government entity that requests it and shall be made available on the internet web site maintained by the department.

(6) The director shall initiate disciplinary action against any department employee who notifies or causes the notification to any unauthorized person of an unannounced survey of a residential facility by an authorized representative of the department.

(I) In addition to any other information which may be required of applicants for a license pursuant to this section, the director shall require each applicant to provide a copy of an approved plan for a proposed residential facility pursuant to section 5123.042 of the Revised Code. This division does not apply to renewal of a license or to an applicant for an initial or modified license who meets the requirements of section 5123.197 of the Revised Code.

(J)(1) A licensee shall notify the owner of the building in which the licensee's residential facility is located of any significant change in the identity of the licensee or management contractor before the effective date of the change if the licensee is not the owner of the building.

(2) Pursuant to rules, which shall be adopted in accordance with Chapter 119. of the Revised Code, the director may require notification to the department of any significant change in the ownership of a residential facility or in the

identity of the licensee or management contractor. If the director determines that a significant change of ownership is proposed, the director shall consider the proposed change to be an application for development by a new operator pursuant to section 5123.042 of the Revised Code and shall advise the applicant within sixty days of the notification that the current license shall continue in effect or a new license will be required pursuant to this section. If the director requires a new license, the director shall permit the facility to continue to operate under the current license until the new license is issued, unless the current license is revoked, refused to be renewed, or terminated in accordance with Chapter 119. of the Revised Code.

(3) A licensee shall transfer to the new licensee or management contractor all records related to the residents of the facility following any significant change in the identity of the licensee or management contractor.

(K) A county board of developmental disabilities and any interested person may file complaints alleging violations of statute or department rule relating to residential facilities with the department. All complaints shall state the facts constituting the basis of the allegation. The department shall not reveal the source of any complaint unless the complainant agrees in writing to waive the right to confidentiality or until so ordered by a court of competent jurisdiction.

The department shall adopt rules in accordance with Chapter 119. of the Revised Code establishing procedures for the receipt, referral, investigation, and disposition of complaints filed with the department under this division.

(L) Before issuing a license under this section to a

residential facility that will accommodate at any time more than one individual with a developmental disability, the director shall, by first class mail, notify the following:

(1) If the facility will be located in a municipal corporation, the clerk of the legislative authority of the municipal corporation;

(2) If the facility will be located in unincorporated territory, the clerk of the appropriate board of county commissioners and the fiscal officer of the appropriate board of township trustees.

The director shall not issue the license for ten days after mailing the notice, excluding Saturdays, Sundays, and legal holidays, in order to give the notified local officials time in which to comment on the proposed issuance.

Any legislative authority of a municipal corporation, board of county commissioners, or board of township trustees that receives notice under this division of the proposed issuance of a license for a residential facility may comment on it in writing to the director within ten days after the director mailed the notice, excluding Saturdays, Sundays, and legal holidays. If the director receives written comments from any notified officials within the specified time, the director shall make written findings concerning the comments and the director's decision on the issuance of the license. If the director does not receive written comments from any notified local officials within the specified time, the director shall continue the process for issuance of the license.

(M) Any person may operate a licensed residential facility that provides room and board, personal care, habilitation

services, and supervision in a family setting for at least six but not more than eight individuals with developmental disabilities as a permitted use in any residential district or zone, including any single-family residential district or zone, of any political subdivision. These residential facilities may be required to comply with area, height, yard, and architectural compatibility requirements that are uniformly imposed upon all single-family residences within the district or zone.

(N) Any person may operate a licensed residential facility that provides room and board, personal care, habilitation services, and supervision in a family setting for at least nine but not more than sixteen individuals with developmental disabilities as a permitted use in any multiple-family residential district or zone of any political subdivision, except that a political subdivision that has enacted a zoning ordinance or resolution establishing planned unit development districts may exclude these residential facilities from those districts, and a political subdivision that has enacted a zoning ordinance or resolution may regulate these residential facilities in multiple-family residential districts or zones as a conditionally permitted use or special exception, in either case, under reasonable and specific standards and conditions set out in the zoning ordinance or resolution to:

(1) Require the architectural design and site layout of the residential facility and the location, nature, and height of any walls, screens, and fences to be compatible with adjoining land uses and the residential character of the neighborhood;

(2) Require compliance with yard, parking, and sign regulation;

(3) Limit excessive concentration of these residential

facilities.

(O) This section does not prohibit a political subdivision from applying to residential facilities nondiscriminatory regulations requiring compliance with health, fire, and safety regulations and building standards and regulations.

(P) Divisions (M) and (N) of this section are not applicable to municipal corporations that had in effect on June 15, 1977, an ordinance specifically permitting in residential zones licensed residential facilities by means of permitted uses, conditional uses, or special exception, so long as such ordinance remains in effect without any substantive modification.

(Q)(1) The director may issue an interim license to operate a residential facility to an applicant for a license under this section if either of the following is the case:

(a) The director determines that an emergency exists requiring immediate placement of individuals in a residential facility, that insufficient licensed beds are available, and that the residential facility is likely to receive a permanent license under this section within thirty days after issuance of the interim license.

(b) The director determines that the issuance of an interim license is necessary to meet a temporary need for a residential facility.

(2) To be eligible to receive an interim license, an applicant must meet the same criteria that must be met to receive a permanent license under this section, except for any differing procedures and time frames that may apply to issuance of a permanent license.

(3) An interim license shall be valid for thirty days and may be renewed by the director for a period not to exceed one hundred eighty days.

(4) The director shall adopt rules in accordance with Chapter 119. of the Revised Code ~~as the director considers necessary to administer~~ regarding the issuance of interim licenses.

(R) Notwithstanding rules adopted pursuant to this section establishing the maximum number of individuals who may be served in a particular type of residential facility, a residential facility shall be permitted to serve the same number of individuals being served by the facility on the effective date of the rules or the number of individuals for which the facility is authorized pursuant to a current application for a certificate of need with a letter of support from the department of developmental disabilities and which is in the review process prior to April 4, 1986.

This division does not preclude the department from suspending new admissions to a residential facility pursuant to a written order issued under section 5124.70 of the Revised Code.

(S) The director may enter at any time, for purposes of investigation, any home, facility, or other structure that has been reported to the director or that the director has reasonable cause to believe is being operated as a residential facility without a license issued under this section.

The director may petition the court of common pleas of the county in which an unlicensed residential facility is located for an order enjoining the person or governmental agency

operating the facility from continuing to operate without a license. The court may grant the injunction on a showing that the person or governmental agency named in the petition is operating a residential facility without a license. The court may grant the injunction, regardless of whether the residential facility meets the requirements for receiving a license under this section.

Sec. 5123.194. In the case of an individual who resides in a residential facility and is preparing to move into an independent living arrangement and the individual's liable relative, the department of developmental disabilities may waive the support collection requirements of sections 5121.04 and 5123.122 of the Revised Code for the purpose of allowing income or resources to be used to acquire items necessary for independent living. The department shall adopt rules in accordance with section 111.15 of the Revised Code ~~to implement this section, including rules~~ that establish the method the department shall use to determine when an individual is preparing to move into an independent living arrangement.

Sec. 5123.196. (A) Except as provided in division (E) of this section, the director of developmental disabilities shall not issue a license under section 5123.19 of the Revised Code on or after July 1, 2003, if issuance will result in there being more beds in all residential facilities licensed under that section than is permitted under division (B) of this section.

(B) The maximum number of beds for the purpose of division (A) of this section shall not exceed ten thousand eight hundred thirty-eight minus, except as provided in division (C) of this section, both of the following:

(1) The number of such beds that cease to be residential

facility beds on or after July 1, 2003, because a residential facility license is revoked, terminated, or not renewed for any reason or is surrendered in accordance with section 5123.19 of the Revised Code;

(2) The number of such beds for which a licensee voluntarily converts to use for supported living on or after July 1, 2003.

(C) The director is not required to reduce the maximum number of beds pursuant to division (B) of this section by a bed that ceases to be a residential facility bed if the director determines that the bed is needed to provide services to an individual with a developmental disability who resided in the residential facility in which the bed was located.

(D) The director shall maintain an up-to-date written record of the maximum number of residential facility beds provided for by division (B) of this section.

(E) The director may issue an interim license under division (Q) of section 5123.19 of the Revised Code and issue, pursuant to rules adopted under division ~~(G)(9)~~ (G)(8) of that section, a waiver allowing a residential facility to admit more residents than the facility is licensed to admit regardless of whether the interim license or waiver will result in there being more beds in all residential facilities licensed under that section than is permitted under division (B) of this section.

Sec. 5123.35. (A) There is hereby created the Ohio developmental disabilities council, which shall serve as an advocate for all persons with developmental disabilities. The council shall act in accordance with the "Developmental Disabilities Assistance and Bill of Rights Act of 2000," 42

U.S.C. 15001. The governor shall appoint the members of the council in accordance with 42 U.S.C. 15025.

(B) The council shall develop the state plan required by federal law as a condition of receiving federal assistance under 42 U.S.C. 15021 to 15029. The department of developmental disabilities, as the state agency selected by the governor for purposes of receiving the federal assistance, shall receive, account for, and disburse funds based on the state plan and shall provide assurances and other administrative support services required as a condition of receiving the federal assistance.

(C) The federal funds may be disbursed through grants to or contracts with persons and government agencies for the provision of necessary or useful goods and services for persons with developmental disabilities. The council may award the grants or enter into the contracts.

(D) The council may award grants to or enter into contracts with a member of the council or an entity that the member represents if all of the following apply:

(1) The member serves on the council as a representative of one of the principal state agencies concerned with services for persons with developmental disabilities as specified in 42 U.S.C. 15025(b)(4), a representative of a university affiliated program as defined in 42 U.S.C. 15002(5), or a representative of the Ohio protection and advocacy system, as defined in section 5123.60 of the Revised Code.

(2) The council determines that the member or the entity the member represents is capable of providing the goods or services specified under the terms of the grant or contract.

(3) The member has not taken part in any discussion or vote of the council related to awarding the grant or entering into the contract, including service as a member of a review panel established by the council to award grants or enter into contracts or to make recommendations with regard to awarding grants or entering into contracts.

(E) A member of the council is not in violation of Chapter 102. or section 2921.42 of the Revised Code with regard to receiving a grant or entering into a contract under this section if the requirements of division (D) of this section have been met.

(F)(1) Notwithstanding division (C) of section 121.22 of the Revised Code, the requirement for a member's presence in person at a meeting in order to be part of a quorum or to vote does not apply if the council holds a meeting by interactive video conference and all of the following apply:

(a) A primary meeting location that is open and accessible to the public is established for the meeting of the council;

(b) A clear video and audio connection is established that enables all meeting participants at the primary meeting location to witness the participation of each member;

(c) The minutes of the council identify which members participated by interactive video conference.

(2) Notwithstanding division (C) of section 121.22 of the Revised Code, the requirement for a member's presence in person at a meeting in order to be part of a quorum or to vote does not apply if the council holds a meeting by teleconference and all of the following apply:

(a) The council has determined its membership does not

have access to and the council cannot provide access to the equipment needed to conduct interactive video conferencing;

(b) A primary meeting location that is open and accessible to the public is established for the meeting of the council;

(c) A clear audio connection is established that enables all meeting participants at the primary meeting location to hear the participation of each member;

(d) The minutes of the council identify which members participated by teleconference.

(3) The council shall adopt ~~any~~ rules ~~the council considers necessary to implement this section. The rules shall be adopted~~ in accordance with Chapter 119. of the Revised Code~~. At a minimum, the rules shall~~that do all of the following:

(a) Authorize council members to remotely attend a council meeting by interactive video conference or teleconference in lieu of attending the meeting in person;

(b) Establish a minimum number of members required to be physically present in person at the primary meeting location if the council conducts a meeting by interactive video conference or teleconference;

(c) Establish a policy for distributing and circulating necessary documents to council members, the public, and the media in advance of a meeting at which members are permitted to attend by interactive video conference or teleconference;

(d) Establish a method for verifying the identity of a member who remotely attends a meeting by teleconference.

Sec. 5123.351. The director of developmental disabilities, with respect to the eligibility for state reimbursement of

expenses incurred by facilities and programs established and operated under Chapter 5126. of the Revised Code for persons with developmental disabilities, shall do all of the following:

~~(A) Make rules that may be necessary to carry out the purposes of Chapter 5126. and sections 5123.35, 5123.351, and 5123.36 of the Revised Code;~~

~~(B)~~ Define minimum standards for qualifications of personnel, professional services, and in-service training and educational leave programs;

~~(C)~~ (B) Review and evaluate community programs and make recommendations for needed improvements to county boards of developmental disabilities and to program directors;

~~(D)~~ (C) Withhold state reimbursement, in whole or in part, from any county or combination of counties for failure to comply with Chapter 5126. or section 5123.35 or 5123.351 of the Revised Code or rules of the department of developmental disabilities;

~~(E)~~ (D) Withhold state funds from an agency, corporation, or association denying or rendering service on the basis of race, color, sex, religion, ancestry, national origin, disability as defined in section 4112.01 of the Revised Code, or inability to pay;

~~(F)~~ (E) Provide consultative staff service to communities to assist in ascertaining needs and in planning and establishing programs.

Sec. 5123.40. There is hereby created in the state treasury the services fund for individuals with developmental disabilities. On the death of the beneficiary of a trust created pursuant to section 5815.28 of the Revised Code, the portion of the remaining assets of the trust specified in the trust

instrument shall be deposited to the credit of the fund.

Money credited to the fund shall be used for individuals with developmental disabilities. ~~In accordance with Chapter 119. of the Revised Code, the department of developmental disabilities may adopt any rules necessary to implement this section.~~

Sec. 5123.42. (A) Developmental disabilities personnel who are not specifically authorized by other provisions of the Revised Code to administer medications or perform health-related activities may do so pursuant to this section as part of the specialized services the developmental disabilities personnel provide to individuals with developmental disabilities in the following categories:

(1) Recipients of early intervention, preschool, and school-age services offered or provided pursuant to this chapter or Chapter 5126. of the Revised Code;

(2) Recipients of adult services, if the services are received in a setting where seventeen or more individuals receive the services and the services are offered or provided pursuant to this chapter or Chapter 5126. of the Revised Code;

(3) Recipients of adult services, if the services are received in a setting where not more than sixteen individuals receive the services and the services are offered or provided pursuant to this chapter or Chapter 5126. of the Revised Code;

(4) Recipients of family support services offered or provided pursuant to this chapter or Chapter 5126. of the Revised Code;

(5) Recipients of services from certified supported living providers, if the services are offered or provided pursuant to

this chapter or Chapter 5126. of the Revised Code;

(6) Recipients of residential support services from certified home and community-based services providers, if the services are received in a community living arrangement that includes not more than four individuals with developmental disabilities and the services are offered or provided pursuant to this chapter or Chapter 5126. of the Revised Code;

(7) Recipients of services not included in divisions (A)(1) to (6) of this section that are offered or provided pursuant to this chapter or Chapter 5126. of the Revised Code;

(8) Residents of a residential facility with not more than five resident beds;

(9) Residents of a residential facility with at least six resident beds.

(B)(1) In the case of individuals described in divisions (A)(1) to (9) of this section, developmental disabilities personnel may do all of the following without nursing delegation and without a certificate issued under section 5123.45 of the Revised Code:

(a) Activate a vagus nerve stimulator;

(b) To treat anaphylaxis, administer prescribed epinephrine either by autoinjector or intranasally;

(c) Administer topical over-the-counter medications for the purpose of cleaning, protecting, or comforting the skin, hair, nails, teeth, or oral surfaces, but not for the purpose of treating an open wound or a condition that requires a medical diagnosis, including a fungal infection.

(2) The authority of developmental disabilities personnel

to perform the health-related activity or administer the medications described in division (B)(1) of this section is subject to all of the following:

(a) Developmental disabilities personnel shall successfully complete the training course or courses developed under section 5123.43 of the Revised Code for developmental disabilities personnel. Developmental disabilities personnel shall perform the health-related activity or administer the medications described in division (B)(1) of this section only as authorized by the training completed.

(b) The employer of developmental disabilities personnel shall ensure that the personnel have been trained specifically with respect to each individual for whom they perform the health-related activity or administer the medications described in division (B)(1) of this section. Developmental disabilities personnel shall not perform such an activity or administer such medications for any individual for whom they have not been specifically trained.

(c) If the employer of developmental disabilities personnel believes that the personnel have not or will not safely perform the health-related activity or administer the medications described in division (B)(1) of this section, the employer shall prohibit the developmental disabilities personnel from continuing or commencing to do so. Developmental disabilities personnel shall not engage in the action or actions subject to an employer's prohibition.

(d) Developmental disabilities personnel shall activate a vagus nerve stimulator, administer prescribed epinephrine either by autoinjector or intranasally, or administer topical over-the-counter medications in accordance with the manufacturer's

instructions.

(C)(1) In the case of recipients of early intervention, preschool, and school-age services, as specified in division (A)(1) of this section, all of the following apply:

(a) With nursing delegation, developmental disabilities personnel may perform health-related activities.

(b) With nursing delegation, developmental disabilities personnel may administer oral and topical prescribed medications and topical over-the-counter musculoskeletal medications.

(c) With nursing delegation, developmental disabilities personnel may administer oxygen and metered dose inhaled medications.

(d) With nursing delegation, developmental disabilities personnel may administer prescribed medications through gastrostomy and jejunostomy tubes, if the tubes being used are stable and labeled.

(e) With nursing delegation, developmental disabilities personnel may administer routine doses of insulin through subcutaneous injections, inhalation, and insulin pumps.

(f) With nursing delegation, developmental disabilities personnel may administer prescribed medications for the treatment of metabolic glycemic disorders through subcutaneous injections.

(2) In the case of individuals described in divisions (A)(2), (7), and (9) of this section, all of the following apply:

(a) With nursing delegation, developmental disabilities personnel may perform health-related activities.

(b) With nursing delegation, developmental disabilities personnel may administer oral and topical prescribed medications and topical over-the-counter musculoskeletal medications.

(c) With nursing delegation, developmental disabilities personnel may administer oxygen and metered dose inhaled medications.

(d) With nursing delegation, developmental disabilities personnel may administer prescribed medications through gastrostomy and jejunostomy tubes, if the tubes being used are stable and labeled.

(e) With nursing delegation, developmental disabilities personnel may administer routine doses of insulin through subcutaneous injections, inhalation, and insulin pumps.

(f) With nursing delegation, developmental disabilities personnel may administer prescribed medications for the treatment of metabolic glycemic disorders through subcutaneous injections.

(3) In the case of individuals described in divisions (A)(3), (4), (5), (6), and (8) of this section, all of the following apply:

(a) Without nursing delegation, developmental disabilities personnel may perform health-related activities.

(b) Without nursing delegation, developmental disabilities personnel may administer oral and topical prescribed medications and topical over-the-counter musculoskeletal medications.

(c) Without nursing delegation, developmental disabilities personnel may administer oxygen and metered dose inhaled medications.

(d) With nursing delegation, developmental disabilities personnel may administer prescribed medications through gastrostomy and jejunostomy tubes, if the tubes being used are stable and labeled.

(e) With nursing delegation, developmental disabilities personnel may administer routine doses of insulin through subcutaneous injections, inhalation, and insulin pumps.

(f) With nursing delegation, developmental disabilities personnel may administer prescribed medications for the treatment of metabolic glycemic disorders through subcutaneous injections.

(D) The authority of developmental disabilities personnel to administer medications and perform health-related activities pursuant to division (C) of this section is subject to all of the following:

(1) To administer medications or perform health-related activities for individuals in the categories specified under divisions (A)(1) to (9) of this section, developmental disabilities personnel shall obtain the certificate or certificates required by the department of developmental disabilities and issued under section 5123.45 of the Revised Code. Developmental disabilities personnel shall administer medications and perform health-related activities only as authorized by the certificate or certificates held.

(2) If nursing delegation is required under division (C) of this section, developmental disabilities personnel shall not act without nursing delegation or in a manner that is inconsistent with the delegation.

(3) The employer of developmental disabilities personnel

shall ensure that the personnel have been trained specifically with respect to each individual for whom they administer medications or perform health-related activities. Developmental disabilities personnel shall not administer medications or perform health-related activities for any individual for whom they have not been specifically trained.

(4) If the employer of developmental disabilities personnel believes that the developmental disabilities personnel have not or will not safely administer medications or perform health-related activities, the employer shall prohibit the personnel from continuing or commencing to do so. Developmental disabilities personnel shall not engage in the action or actions subject to an employer's prohibition.

(E) In accordance with section 5123.46 of the Revised Code, the department of developmental disabilities shall adopt rules ~~governing its implementation of this section. The rules shall include~~ that establish both of the following:

(1) Requirements for documentation of the administration of medications and performance of health-related activities by developmental disabilities personnel pursuant to the authority granted under this section;

(2) Procedures for reporting errors that occur in the administration of medications and performance of health-related activities by developmental disabilities personnel pursuant to the authority granted under this section~~;~~

~~(3) Other standards and procedures the department considers necessary for implementation of this section~~.

Sec. 5123.43. (A) The department of developmental disabilities shall develop courses for the training of

developmental disabilities personnel in the administration of medications and performance of health-related activities pursuant to the authority granted under section 5123.42 of the Revised Code. The department may develop separate or combined training courses for the administration of prescribed medications, administration of over-the-counter medications, and performance of health-related activities. Training in the administration of prescribed medications through gastrostomy and jejunostomy tubes, the administration of insulin, the administration of medications for the treatment of metabolic glycemic disorders, the activation of a vagal nerve stimulator, and the administration of epinephrine through an autoinjector may be developed as separate courses or included in a course providing training in the administration of other prescribed medications.

(B)(1) The department shall adopt rules in accordance with section 5123.46 of the Revised Code that specify the content and length of the training courses developed under this section. ~~The rules may include any other standards the department considers necessary for the training courses.~~

(2) In adopting rules that specify the content of a training course or part of a training course that trains developmental disabilities personnel in the administration of prescribed medications, the department shall ensure that the content includes all of the following:

(a) Infection control and universal precautions;

(b) Correct and safe practices, procedures, and techniques for administering prescribed medications;

(c) Assessment of drug reaction, including known side

effects, interactions, and the proper course of action if a side effect occurs;

(d) The requirements for documentation of medications administered to each individual;

(e) The requirements for documentation and notification of medication errors;

(f) Information regarding the proper storage and care of medications;

(g) Information about proper receipt of prescriptions and transcription of prescriptions into an individual's medication administration record;

(h) Course completion standards that require successful demonstration of proficiency in administering prescribed medications~~;~~

~~(i) Any other material or course completion standards that the department considers relevant to the administration of prescribed medications by developmental disabilities personnel~~.

Sec. 5123.44. The department of developmental disabilities shall develop courses that train registered nurses to provide the developmental disabilities personnel training courses developed under section 5123.43 of the Revised Code. The department may develop courses that train registered nurses to provide all of the courses developed under section 5123.43 of the Revised Code or any one or more of the courses developed under that section.

The department shall adopt rules in accordance with section 5123.46 of the Revised Code that specify the content and length of the training courses. ~~The rules may include any other~~

~~standards the department considers necessary for the training courses.~~

Sec. 5123.45. (A) The department of developmental disabilities shall establish a program under which the department issues certificates to the following:

(1) Developmental disabilities personnel, for purposes of meeting the requirement of division (D)(1) of section 5123.42 of the Revised Code to obtain a certificate or certificates to administer medications and perform health-related activities pursuant to the authority granted under division (C) of that section;

(2) Registered nurses, for purposes of meeting the requirement of division (B) of section 5123.441 of the Revised Code to obtain a certificate or certificates to provide the developmental disabilities personnel training courses developed under section 5123.43 of the Revised Code.

(B) To receive a certificate issued under this section, developmental disabilities personnel and registered nurses shall successfully complete the applicable training course or courses and meet all other applicable requirements established in rules adopted pursuant to this section. The department shall issue the appropriate certificate or certificates to developmental disabilities personnel and registered nurses who meet the requirements for the certificate or certificates. The department shall issue the appropriate certificate or certificates in accordance with Chapter 4796. of the Revised Code to an applicant if either of the following applies:

(1) The applicant holds a certificate or certificates issued by another state.

(2) The applicant has satisfactory work experience, a government certification, or a private certification as described in that chapter as developmental disabilities personnel in a state that does not issue that certificate.

(C) Certificates issued to developmental disabilities personnel are valid for one year and may be renewed. Certificates issued to registered nurses are valid for two years and may be renewed.

To be eligible for renewal, developmental disabilities personnel and registered nurses shall meet the applicable continued competency requirements and continuing education requirements specified in rules adopted under division (D) of this section. In the case of registered nurses, continuing nursing education completed in compliance with the license renewal requirements established under Chapter 4723. of the Revised Code may be counted toward meeting the continuing education requirements established in the rules adopted under division (D) of this section.

(D) In accordance with section 5123.46 of the Revised Code, the department shall adopt rules that establish all of the following:

(1) Requirements that developmental disabilities personnel and registered nurses must meet to be eligible to take a training course, including having sufficient written and oral English skills to communicate effectively and reliably with patients, their families, and other medical professionals;

(2) Standards that must be met to receive a certificate, including requirements pertaining to an applicant's criminal background;

(3) Procedures to be followed in applying for a certificate and issuing a certificate;

(4) Standards and procedures for renewing a certificate, including requirements for continuing education and, in the case of developmental disabilities personnel who administer prescribed medications, standards that require successful demonstration of proficiency in administering prescribed medications~~;~~

~~(5) Any other standards or procedures the department considers necessary to administer the certification program~~.

Sec. 5123.54. The director of developmental disabilities shall adopt rules under Chapter 119. of the Revised Code to ~~implement sections 5123.51, 5123.52, and 5123.53 of the Revised Code. The rules shall~~ establish rehabilitation standards for the purposes of section 5123.53 of the Revised Code and specify circumstances, other than meeting the standards, that constitute good cause for the purposes of that section.

Sec. 5123.65. In addition to the rights specified in section 5123.62 of the Revised Code, individuals with developmental disabilities who can safely self-administer medication or receive assistance with self-administration of medication have the right to self-administer medication or receive assistance with the self-administration of medication. ~~The department of developmental disabilities shall adopt rules as it considers necessary to implement and enforce this section. The rules shall be adopted in accordance with Chapter 119. of the Revised Code.~~

Sec. 5124.01. As used in this chapter:

(A) "Addition" means an increase in an ICF/IID's square

footage.

(B) "Affiliated operator" means an operator affiliated with either of the following:

(1) The exiting operator for whom the affiliated operator is to assume liability for the entire amount of the exiting operator's debt under the medicaid program or the portion of the debt that represents the franchise permit fee the exiting operator owes;

(2) The entering operator involved in the change of operator with the exiting operator specified in division (B)(1) of this section.

(C) "Allowable costs" means an ICF/IID's costs that the department of developmental disabilities determines are reasonable. Fines paid under section 5124.99 of the Revised Code are not allowable costs.

(D) "Capital costs" means an ICF/IID's costs of ownership and costs of nonextensive renovation.

(E) "Case-mix score" means the measure determined under section 5124.192 or 5124.193 of the Revised Code of the relative direct-care resources needed to provide care and habilitation to an ICF/IID resident.

(F) "Change of operator" means an entering operator becoming the operator of an ICF/IID in the place of the exiting operator.

(1) Actions that constitute a change of operator include the following:

(a) A change in an exiting operator's form of legal organization, including the formation of a partnership or

corporation from a sole proprietorship;

(b) A transfer of all the exiting operator's ownership interest in the operation of the ICF/IID to the entering operator, regardless of whether ownership of any or all of the real property or personal property associated with the ICF/IID is also transferred;

(c) A lease of the ICF/IID to the entering operator or the exiting operator's termination of the exiting operator's lease;

(d) If the exiting operator is a partnership, dissolution of the partnership;

(e) If the exiting operator is a partnership, a change in composition of the partnership unless both of the following apply:

(i) The change in composition does not cause the partnership's dissolution under state law.

(ii) The partners agree that the change in composition does not constitute a change in operator.

(f) If the operator is a corporation, dissolution of the corporation, a merger of the corporation into another corporation that is the survivor of the merger, or a consolidation of one or more other corporations to form a new corporation.

(2) The following, alone, do not constitute a change of operator:

(a) A contract for an entity to manage an ICF/IID as the operator's agent, subject to the operator's approval of daily operating and management decisions;

(b) A change of ownership, lease, or termination of a lease of real property or personal property associated with an ICF/IID if an entering operator does not become the operator in place of an exiting operator;

(c) If the operator is a corporation, a change of one or more members of the corporation's governing body or transfer of ownership of one or more shares of the corporation's stock, if the same corporation continues to be the operator.

(G) "Cost center" means the following:

(1) Capital costs;

(2) Direct care costs;

(3) Indirect care costs;

(4) Other protected costs.

(H)(1) Except as provided in division (H)(2) of this section, "cost report year" means the calendar year immediately preceding the calendar year in which a fiscal year for which a medicaid payment rate determination is made begins.

(2) When a cost report the department of developmental disabilities accepts under division (A) or (C)(1)(b) of section 5124.101 of the Revised Code is used in determining an ICF/IID's medicaid payment rate, "cost report year" means the period that the cost report covers.

(I) "Costs of nonextensive renovations" means the actual expense incurred by an ICF/IID for depreciation or amortization and interest on renovations approved by the department of developmental disabilities as nonextensive renovations.

(J)(1) "Costs of ownership" means the actual expenses

incurred by an ICF/IID for all of the following:

(a) Subject to division (J)(2) of this section, depreciation and interest on any capital assets that cost five hundred dollars or more per item, including the following:

(i) Buildings;

(ii) Building improvements that are not approved as nonextensive renovations for the purpose of section 5124.17 of the Revised Code;

(iii) Equipment;

(iv) Transportation equipment.

(b) Amortization and interest on land improvements and leasehold improvements;

(c) Amortization of financing costs;

(d) Except as provided in division (AA) of this section, lease and rent of land, building, and equipment.

(2) The costs of capital assets of less than five hundred dollars per item may be considered costs of ownership in accordance with an ICF/IID provider's practice.

(K)(1) "Date of licensure" means the following:

(a) In the case of an ICF/IID that was originally licensed as a nursing home under Chapter 3721. of the Revised Code, the date that it was originally so licensed, regardless that it was subsequently licensed as a residential facility under section 5123.19 of the Revised Code;

(b) In the case of an ICF/IID that was originally licensed as a residential facility under section 5123.19 of the Revised Code, the date it was originally so licensed;

(c) In the case of an ICF/IID that was not required by law to be licensed as a nursing home or residential facility when it was originally operated as a residential facility, the date it first was operated as a residential facility, regardless of the date the ICF/IID was first licensed as a nursing home or residential facility.

(2) If, after an ICF/IID's original date of licensure, more residential facility beds are added to the ICF/IID or all or part of the ICF/IID undergoes an extensive renovation, the ICF/IID has a different date of licensure for the additional beds or extensively renovated portion of the ICF/IID. This does not apply, however, to additional beds when both of the following apply:

(a) The additional beds are located in a part of the ICF/IID that was constructed at the same time as the continuing beds already located in that part of the ICF/IID.

(b) The part of the ICF/IID in which the additional beds are located was constructed as part of the ICF/IID at a time when the ICF/IID was not required by law to be licensed as a nursing home or residential facility.

(3) The definition of "date of licensure" in this section applies in determinations of ICFs/IID's medicaid payment rates but does not apply in determinations of ICFs/IID's franchise permit fees under sections 5168.60 to 5168.71 of the Revised Code.

(L) "Desk-reviewed" means that an ICF/IID's costs as reported on a cost report filed under section 5124.10 or 5124.101 of the Revised Code have been subjected to a desk review under section 5124.108 of the Revised Code and

preliminarily determined to be allowable costs.

(M) "Developmental center" means a residential facility that is maintained and operated by the department of developmental disabilities.

(N) "Direct care costs" means all of the following costs incurred by an ICF/IID:

(1) Costs for registered nurses, licensed practical nurses, and nurse aides employed by the ICF/IID;

(2) Costs for direct care staff, administrative nursing staff, medical directors, respiratory therapists, physical therapists, physical therapy assistants, occupational therapists, occupational therapy assistants, speech therapists, audiologists, habilitation staff (including habilitation supervisors), qualified intellectual disability professionals, program directors, social services staff, activities staff, psychologists, psychology assistants, social workers, counselors, and other persons holding degrees qualifying them to provide therapy;

(3) Costs of purchased nursing services;

(4) Costs of training and staff development, employee benefits, payroll taxes, and workers' compensation premiums or costs for self-insurance claims and related costs as specified in rules adopted under section ~~5124.03~~ 5124.19 of the Revised Code, for personnel listed in divisions (N)(1), (2), and (3) of this section;

(5) Costs of quality assurance;

(6) Costs of consulting and management fees related to direct care;

(7) Allocated direct care home office costs;

(8) Costs of off-site day programming, including day programming that is provided in an area that is not certified by the director of health as an ICF/IID under Title XIX and regardless of either of the following:

(a) Whether or not the area in which the day programming is provided is less than two hundred feet away from the ICF/IID;

(b) Whether or not the day programming is provided by an individual or organization that is a related party to the ICF/IID provider.

(9) Costs of other direct-care resources that are specified as direct care costs in rules adopted under section ~~5124.03~~ 5124.19 of the Revised Code.

(O) "Downsized ICF/IID" means an ICF/IID that permanently reduced its medicaid-certified capacity pursuant to a plan approved by the department of developmental disabilities under section 5123.042 of the Revised Code.

(P) "Effective date of a change of operator" means the day the entering operator becomes the operator of the ICF/IID.

(Q) "Effective date of a facility closure" means the last day that the last of the residents of the ICF/IID resides in the ICF/IID.

(R) "Effective date of an involuntary termination" means the date the department of medicaid terminates the operator's provider agreement for the ICF/IID or the last day that such a provider agreement is in effect when the department cancels or refuses to revalidate it.

(S) "Effective date of a voluntary termination" means the

day the ICF/IID ceases to accept medicaid recipients.

(T) "Entering operator" means the person or government entity that will become the operator of an ICF/IID when a change of operator occurs or following an involuntary termination.

(U) "Exiting operator" means any of the following:

(1) An operator that will cease to be the operator of an ICF/IID on the effective date of a change of operator;

(2) An operator that will cease to be the operator of an ICF/IID on the effective date of a facility closure;

(3) An operator of an ICF/IID that is undergoing or has undergone a voluntary termination;

(4) An operator of an ICF/IID that is undergoing or has undergone an involuntary termination.

(V)(1) Subject to divisions (V)(2) and (3) of this section, "facility closure" means either of the following:

(a) Discontinuance of the use of the building, or part of the building, that houses the facility as an ICF/IID that results in the relocation of all of the facility's residents;

(b) Conversion of the building, or part of the building, that houses an ICF/IID to a different use with any necessary license or other approval needed for that use being obtained and one or more of the facility's residents remaining in the facility to receive services under the new use.

(2) A facility closure occurs regardless of any of the following:

(a) The operator completely or partially replacing the ICF/IID by constructing a new ICF/IID or transferring the

ICF/IID's license to another ICF/IID;

(b) The ICF/IID's residents relocating to another of the operator's ICFs/IID;

(c) Any action the department of health takes regarding the ICF/IID's medicaid certification that may result in the transfer of part of the ICF/IID's survey findings to another of the operator's ICFs/IID;

(d) Any action the department of developmental disabilities takes regarding the ICF/IID's license under section 5123.19 of the Revised Code.

(3) A facility closure does not occur if all of the ICF/IID's residents are relocated due to an emergency evacuation and one or more of the residents return to a medicaid-certified bed in the ICF/IID not later than thirty days after the evacuation occurs.

(W) "Fiscal year" means the fiscal year of this state, as specified in section 9.34 of the Revised Code.

(X) "Franchise permit fee" means the fee imposed by sections 5168.60 to 5168.71 of the Revised Code.

(Y) "Home and community-based services" has the same meaning as in section 5123.01 of the Revised Code.

(Z) "ICF/IID services" has the same meaning as in 42 C.F.R. 440.150.

(AA)(1) "Indirect care costs" means all reasonable costs incurred by an ICF/IID other than capital costs, direct care costs, and other protected costs. "Indirect care costs" includes costs of habilitation supplies, pharmacy consultants, medical and habilitation records, program supplies, incontinence

supplies, food, enterals, dietary supplies and personnel, laundry, housekeeping, security, administration, liability insurance, bookkeeping, purchasing department, human resources, communications, travel, dues, license fees, subscriptions, home office costs not otherwise allocated, legal services, accounting services, minor equipment, maintenance and repair expenses, help-wanted advertising, informational advertising, start-up costs, organizational expenses, other interest, property insurance, employee training and staff development, employee benefits, payroll taxes, and workers' compensation premiums or costs for self-insurance claims and related costs, as specified in rules adopted under section ~~5124.03~~ 5124.21 of the Revised Code, for personnel listed in this division. Notwithstanding division (J) of this section, "indirect care costs" also means the cost of equipment, including vehicles, acquired by operating lease executed before December 1, 1992, if the costs are reported as administrative and general costs on the ICF/IID's cost report for the cost reporting period ending December 31, 1992.

(2) For the purpose of division (AA)(1) of this section, an operating lease shall be construed in accordance with generally accepted accounting principles.

(BB) "Inpatient days" means both of the following:

(1) All days during which a resident, regardless of payment source, occupies a bed in an ICF/IID that is included in the ICF/IID's medicaid-certified capacity;

(2) All days for which payment is made under section 5124.34 of the Revised Code.

(CC) "Intermediate care facility for individuals with

intellectual disabilities" and "ICF/IID" mean an intermediate care facility for the mentally retarded as defined in the "Social Security Act," section 1905(d), 42 U.S.C. 1396d(d).

(DD) "Involuntary termination" means the department of medicaid's termination of, cancellation of, or refusal to revalidate the operator's provider agreement for the ICF/IID when such action is not taken at the operator's request.

(EE) "Maintenance and repair expenses" means expenditures that are necessary and proper to maintain an asset in a normally efficient working condition and that do not extend the useful life of the asset two years or more. "Maintenance and repair expenses" includes the costs of ordinary repairs such as painting and wallpapering.

(FF) "Medicaid-certified capacity" means the number of an ICF/IID's beds that are certified for participation in medicaid as ICF/IID beds.

(GG) "Medicaid days" means both of the following:

(1) All days during which a resident who is a medicaid recipient eligible for ICF/IID services occupies a bed in an ICF/IID that is included in the ICF/IID's medicaid-certified capacity;

(2) All days for which payment is made under section 5124.34 of the Revised Code.

(HH)(1) "New ICF/IID" means an ICF/IID for which the provider obtains an initial provider agreement following the director of health's medicaid certification of the ICF/IID, including such an ICF/IID that replaces one or more ICFs/IID for which a provider previously held a provider agreement.

(2) "New ICF/IID" does not mean either of the following:

(a) An ICF/IID for which the entering operator seeks a provider agreement pursuant to section 5124.511 or 5124.512 or (pursuant to section 5124.515) section 5124.07 of the Revised Code;

(b) A downsized ICF/IID or partially converted ICF/IID.

(II) "Nursing home" has the same meaning as in section 3721.01 of the Revised Code.

(JJ) "Operator" means the person or government entity responsible for the daily operating and management decisions for an ICF/IID.

(KK) "Other protected costs" means costs incurred by an ICF/IID for medical supplies; real estate, franchise, and property taxes; natural gas, fuel oil, water, electricity, sewage, and refuse and hazardous medical waste collection; allocated other protected home office costs; and any additional costs defined as other protected costs in rules adopted under section ~~5124.03~~ 5124.23 of the Revised Code.

(LL)(1) "Owner" means any person or government entity that has at least five per cent ownership or interest, either directly, indirectly, or in any combination, in any of the following regarding an ICF/IID:

(a) The land on which the ICF/IID is located;

(b) The structure in which the ICF/IID is located;

(c) Any mortgage, contract for deed, or other obligation secured in whole or in part by the land or structure on or in which the ICF/IID is located;

(d) Any lease or sublease of the land or structure on or in which the ICF/IID is located.

(2) "Owner" does not mean a holder of a debenture or bond related to an ICF/IID and purchased at public issue or a regulated lender that has made a loan related to the ICF/IID unless the holder or lender operates the ICF/IID directly or through a subsidiary.

(MM) "Partially converted ICF/IID" means an ICF/IID that converted some, but not all, of its beds to providing home and community-based services under the individual options waiver pursuant to section 5124.60 or 5124.61 of the Revised Code.

(NN) For the purpose of the total per medicaid day payment rate determined for an ICF/IID under division (A) of section 5124.15 of the Revised Code and the initial total per medicaid day payment rate determined for a new ICF/IID under section 5124.151 of the Revised Code:

(1) "Peer group 1" means each ICF/IID with a medicaid-certified capacity exceeding sixteen.

(2) "Peer group 2" means each ICF/IID with a medicaid-certified capacity exceeding eight but not exceeding sixteen.

(3) "Peer group 3" means each ICF/IID with a medicaid-certified capacity of seven or eight.

(4) "Peer group 4" means each ICF/IID with a medicaid-certified capacity not exceeding six, other than an ICF/IID that is in peer group 5-A.

(5) "Peer group 5" means each ICF/IID to which all of the following apply:

(a) The ICF/IID is first certified as an ICF/IID after

July 1, 2014.

(b) The ICF/IID has a medicaid-certified capacity not exceeding six.

(c) The ICF/IID has a contract with the department of developmental disabilities that is for fifteen years and includes a provision for the department to approve all admissions to, and discharges from, the ICF/IID.

(d) The ICF/IID's residents are admitted to the ICF/IID directly from a developmental center or have been determined by the department to be at risk of admission to a developmental center.

(6) "Peer group 6" means each ICF/IID to which all of the following apply:

(a) The ICF/IID has submitted a best practices protocol for providing services to youth up to twenty-one years of age in need of intensive behavior support services that has been approved by the department of developmental disabilities.

(b) The ICF/IID, or a distinct unit of the ICF/IID, has a medicaid-certified capacity not exceeding six.

(c) The ICF/IID has a contract with the department that includes a provision for the department to approve all admissions to the ICF/IID.

(d) The ICF/IID has agreed to be reimbursed in accordance with the reimbursement methodology established under the rules authorized by section ~~5124.03~~ 5124.15 of the Revised Code.

(OO)(1) Except as provided in division (OO)(2) of this section, "per diem" means an ICF/IID's desk-reviewed, actual, allowable costs in a given cost center in a cost reporting

period, divided by the facility's inpatient days for that cost reporting period.

(2) When determining indirect care costs for the purpose of section 5124.21 of the Revised Code, "per diem" means an ICF/IID's actual, allowable indirect care costs in a cost reporting period divided by the greater of the ICF/IID's inpatient days for that period or the number of inpatient days the ICF/IID would have had during that period if its occupancy rate had been eighty-five per cent.

(PP) "Provider" means an operator with a valid provider agreement.

(QQ) "Provider agreement" means a provider agreement, as defined in section 5164.01 of the Revised Code, that is between the department of medicaid and the operator of an ICF/IID for the provision of ICF/IID services under the medicaid program.

(RR) "Purchased nursing services" means services that are provided in an ICF/IID by registered nurses, licensed practical nurses, or nurse aides who are not employees of the ICF/IID.

(SS) "Reasonable" means that a cost is an actual cost that is appropriate and helpful to develop and maintain the operation of resident care facilities and activities, including normal standby costs, and that does not exceed what a prudent buyer pays for a given item or services. Reasonable costs may vary from provider to provider and from time to time for the same provider.

(TT) "Related party" means an individual or organization that, to a significant extent, has common ownership with, is associated or affiliated with, has control of, or is controlled by, a provider.

(1) An individual who is a relative of an owner is a related party.

(2) Common ownership exists when an individual or individuals possess significant ownership or equity in both the provider and the other organization. Significant ownership or equity exists when an individual or individuals possess five per cent ownership or equity in both the provider and a supplier. Significant ownership or equity is presumed to exist when an individual or individuals possess ten per cent ownership or equity in both the provider and another organization from which the provider purchases or leases real property.

(3) Control exists when an individual or organization has the power, directly or indirectly, to significantly influence or direct the actions or policies of an organization.

(4) An individual or organization that supplies goods or services to a provider shall not be considered a related party if all of the following conditions are met:

(a) The supplier is a separate bona fide organization.

(b) A substantial part of the supplier's business activity of the type carried on with the provider is transacted with others than the provider and there is an open, competitive market for the types of goods or services the supplier furnishes.

(c) The types of goods or services are commonly obtained by other ICFs/IID from outside organizations and are not a basic element of resident care ordinarily furnished directly to residents by the ICFs/IID.

(d) The charge to the provider is in line with the charge for the goods or services in the open market and no more than

the charge made under comparable circumstances to others by the supplier.

(UU) "Relative of owner" means an individual who is related to an owner of an ICF/IID by one of the following relationships:

(1) Spouse;

(2) Natural parent, child, or sibling;

(3) Adopted parent, child, or sibling;

(4) Stepparent, stepchild, stepbrother, or stepsister;

(5) Father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, or sister-in-law;

(6) Grandparent or grandchild;

(7) Foster caregiver, foster child, foster brother, or foster sister.

(VV) For the purpose of determining an ICF/IID's per medicaid day capital component rate under section 5124.17 of the Revised Code, "renovation" means an ICF/IID's betterment, improvement, or restoration, other than an addition, through a capital expenditure.

(WW) "Residential facility" has the same meaning as in section 5123.19 of the Revised Code.

(XX) "Secondary building" means a building or part of a building, other than an ICF/IID, in which the owner of one or more ICFs/IID has administrative work regarding the ICFs/IID performed or records regarding the ICFs/IID stored.

(YY) "Sponsor" means an adult relative, friend, or guardian of an ICF/IID resident who has an interest or

responsibility in the resident's welfare.

(ZZ) "Title XIX" means Title XIX of the "Social Security Act," 42 U.S.C. 1396, et seq.

(AAA) "Title XVIII" means Title XVIII of the "Social Security Act," 42 U.S.C. 1395, et seq.

(BBB) "Voluntary termination" means an operator's voluntary election to terminate the participation of an ICF/IID in the medicaid program but to continue to provide service of the type provided by a residential facility as defined in section 5123.19 of the Revised Code.

Sec. 5124.08. (A) Every provider agreement with an ICF/IID provider shall do both of the following:

(1) Except as provided by division (B) of this section, include any part of the ICF/IID that meets federal and state standards for medicaid certification;

(2) Prohibit the provider from doing either of the following:

(a) Discriminating against a resident on the basis of race, color, sex, creed, or national origin;

(b) Subject to division (D) of this section, failing or refusing to do either of the following:

(i) Admit as a resident of the ICF/IID an individual because the individual is, or may (as a resident of the ICF/IID) become, a medicaid recipient if less than eighty per cent of the ICF/IID's residents are medicaid recipients;

(ii) Retain as a resident of the ICF/IID an individual because the individual is, or may (as a resident of the ICF/IID)

become, a medicaid recipient.

(B) Unless otherwise required by federal law, an ICF/IID bed is not required to be included in a provider agreement if the bed is designated for respite care under a medicaid waiver component operated pursuant to a waiver sought under section 5166.20 of the Revised Code.

(C) For the purpose of division (A)(2)(b)(ii) of this section, a medicaid recipient who is a resident of an ICF/IID shall be considered a resident of the ICF/IID during any hospital stays totaling less than twenty-five days during any twelve-month period. A medicaid recipient identified by the department of developmental disabilities or its designee as requiring the level of care of an ICF/IID shall not be subject to a maximum period of absences during which the recipient is considered to be an ICF/IID resident if prior authorization of the department for visits with relatives and friends and participation in therapeutic programs is obtained in accordance with rules adopted under this section ~~5124.03 of the Revised Code~~.

(D) Nothing in this section shall bar a provider from doing any of the following:

(1) If the provider is a religious organization operating a religious or denominational ICF/IID, giving preference to persons of the same religion or denomination;

(2) Giving preference to persons with whom the provider has contracted to provide continuing care;

(3) Retaining residents who have resided in the provider's ICF/IID for not less than one year as private pay residents and who subsequently become medicaid recipients but refusing to

admit as a resident an individual who is, or may (as a resident of the ICF/IID) become, a medicaid recipient, if all of the following apply:

(a) The provider does not refuse to retain a resident who has resided in the provider's ICF/IID for not less than one year as a private pay resident because the resident becomes a medicaid recipient, except as necessary to comply with division (D)(3)(b) of this section.

(b) The number of medicaid recipients retained under division (D)(3) of this section does not at any time exceed ten per cent of all the ICF/IID's residents.

(c) On July 1, 1980, all the ICF/IID's residents were private pay residents.

(E) No provider shall violate the provider agreement obligations imposed by this section.

(F) To the extent authorized by section 5162.021 of the Revised Code, the director of developmental disabilities shall adopt rules in accordance with Chapter 119. of the Revised Code establishing a process by which an ICF/IID resident may obtain prior authorization for visits with relatives and friends and participation in therapeutic programs pursuant to division (C) of this section.

Sec. 5124.10. (A) Except as provided in division (D) of this section and divisions (C)(2) and (4) of section 5124.101 of the Revised Code, each ICF/IID provider shall file with the department of developmental disabilities an annual cost report for each of the provider's ICFs/IID for which the provider has a valid provider agreement. The cost report for a year shall cover the calendar year or portion of the calendar year during which

the ICF/IID participated in the medicaid program. Except as provided in division (E) of this section, the cost report is due not later than ninety days after the end of the calendar year, or portion of the calendar year, that the cost report covers.

(B)(1) If an ICF/IID undergoes a change of provider that the department determines, in accordance with rules adopted under this section ~~5124.03 of the Revised Code~~, is not an arms length transaction, the new provider shall file the ICF/IID's cost report in accordance with division (A) of this section and the cost report shall cover the portion of the calendar year during which the new provider operated the ICF/IID and the portion of the calendar year during which the previous provider operated the ICF/IID.

(2) If an ICF/IID undergoes a change of provider that the department determines, in accordance with rules adopted under this section ~~5124.03 of the Revised Code~~, is an arms length transaction, the new provider shall file with the department a cost report for the ICF/IID not later than, except as provided in division (E) of this section, ninety days after the end of the ICF/IID's first three full calendar months of operation under the new provider. The cost report shall cover the period that begins with the ICF/IID's first day of operation under the new provider and ends on the first day of the month immediately following the first three full months of operation under the new provider.

(C) If the medicaid payment rate for a new ICF/IID was most recently determined in accordance with section 5124.151 of the Revised Code, the provider shall file with the department a cost report for the new ICF/IID not later than, except as provided in division (E) of this section, ninety days after the

end of the new ICF/IID's first three full calendar months of operation. The cost report shall cover the period that begins with the ICF/IID's first day of operation and ends on the first day of the month immediately following the first three full months of operation.

(D) An ICF/IID provider is not required to file a cost report for an ICF/IID for a calendar year in accordance with division (A) of this section if the provider files a cost report for the ICF/IID under division (B)(2) or (C) of this section and that cost report covers a period that begins after the first day of October of that calendar year. The provider shall file a cost report for the ICF/IID in accordance with division (A) of this section for the immediately following calendar year.

(E) The department may grant to a provider a fourteen-day extension to file a cost report under this section or section 5124.101 of the Revised Code if the provider provides the department a written request for the extension and the department determines that there is good cause for the extension.

(F) To the extent authorized by section 5162.021 of the Revised Code, the director of developmental disabilities shall adopt rules in accordance with Chapter 119. of the Revised Code regarding how the department will determine if a change of provider is an arms length transaction for the purposes of division (B) of this section.

Sec. 5124.105. (A) The department of developmental disabilities shall develop an addendum to the cost report form that an ICF/IID provider may use to set forth costs that the provider believes the department may dispute. The department may consider such costs in determining an ICF/IID's medicaid payment

rate. If the department does not consider such costs in determining an ICF/IID's medicaid payment rate, the provider may seek reconsideration of the determination in accordance with section 5124.38 of the Revised Code. If the department subsequently includes such costs in an ICF/IID's medicaid payment rate, the department shall pay the provider interest at a reasonable rate established in rules adopted under this section ~~5124.03 of the Revised Code~~ for the period that the rate excluded the costs.

(B) To the extent authorized by section 5162.021 of the Revised Code, the director of developmental disabilities shall adopt rules in accordance with Chapter 119. of the Revised Code establishing a reasonable interest rate to pay a provider in the circumstances described in division (A) of this section.

Sec. 5124.109. (A) The department of developmental disabilities may conduct an audit, as defined in rules adopted under this section ~~5124.03 of the Revised Code~~, of any cost report filed under section 5124.10, 5124.101, or 5124.522 of the Revised Code. The decision whether to conduct an audit and the scope of the audit, which may be a desk or field audit, may be determined based on prior performance of the provider, a risk analysis, or other evidence that gives the department reason to believe that the provider has reported costs improperly. A desk or field audit may be performed annually, but is required whenever a provider does not pass the risk analysis tolerance factors.

(B) Audits shall be conducted by auditors under contract with the department, auditors working for firms under contract with the department, or auditors employed by the department.

The department may establish a contract for the auditing

of ICFs/IID by outside firms. Each contract entered into by bidding shall be effective for one to two years.

(C) The department shall notify a provider of the findings of an audit of a cost report by issuing an audit report. The department shall issue the audit report not later than three years after the earlier of the following:

(1) The date the cost report is filed;

(2) The date a desk or field audit of the cost report or a cost report for a subsequent cost reporting period is completed.

(D) The department shall prepare a written summary of any audit disallowance that is made after the effective date of the rate that is based on the cost. Where the provider is pursuing judicial or administrative remedies in good faith regarding the disallowance, the department shall not withhold from the provider's current payments any amounts the department claims to be due from the provider pursuant to section 5124.41 of the Revised Code.

(E)(1) The department shall establish an audit manual and program for field audits conducted under this section. Each auditor conducting a field audit under this section shall follow the audit manual and program, regardless of whether the auditor is under contract with the department, works for a firm under contract with the department, or is employed by the department. The manual and program shall do both of the following:

(a) Require each field audit to be conducted by an auditor to whom all of the following apply:

(i) During the period of the auditor's contract, firm's contract, or auditor's employment with the department, the auditor or firm does not have and is not committed to acquire

any direct or indirect financial interest in the ownership, financing, or operation of ICFs/IID in this state.

(ii) The auditor does not audit any provider that has been a client of the auditor or the auditor's firm.

(iii) The auditor is otherwise independent as determined by the standards of independence included in the government auditing standards produced by the United States government accountability office.

(b) Require each auditor conducting a field audit to do all of the following:

(i) Comply with applicable rules prescribed pursuant to Title XIX;

(ii) Consider generally accepted auditing standards prescribed by the American institute of certified public accountants;

(iii) Include a written summary as to whether the costs included in the cost report examined during the audit are allowable and are presented in accordance with state and federal laws and regulations, and whether, in all material respects, allowable costs are documented, reasonable, and related to patient care;

(iv) Complete the audit within the time period specified by the department;

(v) Provide to the provider complete written interpretations that explain in detail the application of all relevant contract provisions, regulations, auditing standards, rate formulae, and departmental policies, with explanations and examples, that are sufficient to permit the provider to

calculate with reasonable certainty those costs that are allowable and the rate to which the provider's ICF/IID is entitled.

(2) For the purpose of division (E)(1)(a)(i) of this section, employment of a member of an auditor's family by an ICF/IID that the auditor does not audit does not constitute a direct or indirect financial interest in the ownership, financing, or operation of the ICF/IID.

(F) To the extent authorized by section 5162.021 of the Revised Code, the director of developmental disabilities shall adopt rules in accordance with Chapter 119. of the Revised Code establishing a definition of cost report audits pursuant to division (A) of this section.

Sec. 5124.15. (A) Except as otherwise provided by section 5124.101 of the Revised Code, sections 5124.151 to 5124.154 of the Revised Code, and division (B) of this section, the total per medicaid day payment rate that the department of developmental disabilities shall pay to an ICF/IID provider for ICF/IID services the provider's ICF/IID provides during a fiscal year shall equal the sum of all of the following:

(1) The per medicaid day capital component rate determined for the ICF/IID under section 5124.17 of the Revised Code;

(2) The per medicaid day direct care costs component rate determined for the ICF/IID under section 5124.19 of the Revised Code;

(3) The per medicaid day indirect care costs component rate determined for the ICF/IID under section 5124.21 of the Revised Code;

(4) The per medicaid day other protected costs component

rate determined for the ICF/IID under section 5124.23 of the Revised Code;

(5) The sum of the following:

(a) The per medicaid day quality incentive payment determined for the ICF/IID under section 5124.24 of the Revised Code;

(b) A direct support personnel payment equal to two and four-hundredths per cent of the ICF/IID's desk-reviewed, actual, allowable, per medicaid day direct care costs from the applicable cost report year;

(c) For state fiscal year 2026, a professional workforce development payment equal to ten and four hundred five thousandths per cent of the ICF/IID's desk-reviewed, actual, allowable, per medicaid day direct care costs from the applicable cost report year.

(B) The department shall adjust the total per medicaid day payment rate otherwise determined for an ICF/IID under this section as directed by the general assembly through the enactment of law governing medicaid payments to ICF/IID providers.

(C)(1) In addition to paying an ICF/IID provider the total per medicaid day payment rate determined for the provider's ICF/IID under divisions (A) and (B) of this section for a fiscal year, the department may do either or both of the following:

(a) In accordance with section 5124.25 of the Revised Code, pay the provider a rate add-on for ventilator-dependent outlier ICF/IID services if the rate add-on is to be paid under that section and the department approves the provider's application for the rate add-on;

(b) In accordance with section 5124.26 of the Revised Code, pay the provider for outlier ICF/IID services the ICF/IID provides to residents identified as needing intensive behavioral health support services if the rate add-on is to be paid under that section and the department approves the provider's application for the rate add-on.

(2) The rate add-ons are not to be part of the ICF/IID's total per medicaid day payment rate.

(D) To the extent authorized by section 5162.021 of the Revised Code, the director of developmental disabilities shall adopt rules in accordance with Chapter 119. of the Revised Code establishing a reimbursement methodology to use when reimbursing ICFs/IID.

Sec. 5124.152. (A) The total per medicaid day payment rate determined under section 5124.15 of the Revised Code shall not be paid for ICF/IID services provided by an ICF/IID, or discrete unit of an ICF/IID, designated by the department of developmental disabilities as an outlier ICF/IID or unit. Instead, the provider of a designated outlier ICF/IID or unit shall be paid each fiscal year a total per medicaid day payment rate that the department shall prospectively determine in accordance with a methodology established in rules authorized by this section.

(B) The department may designate an ICF/IID, or discrete unit of an ICF/IID, as an outlier ICF/IID or unit if the ICF/IID or unit serves residents who have either of the following:

(1) Diagnoses or special care needs that require direct care resources that are not measured adequately by the resident assessment instrument specified in rules authorized by section

5124.191 of the Revised Code;

(2) Diagnoses or special care needs that are specified in rules authorized by this section as otherwise qualifying for consideration under this section.

(C) Notwithstanding any other provision of this chapter, the costs incurred by a designated outlier ICF/IID or unit shall not be considered in establishing medicaid payment rates for other ICFs/IID or units.

~~(D) The~~ (D)(1)(a) To the extent authorized by section 5162.021 of the Revised Code the director of developmental disabilities shall adopt rules ~~under section 5124.03 of the Revised Code as necessary to implement this section.~~

~~(1)(a) The rules shall~~in accordance with Chapter 119. of the Revised Code that do both of the following:

(i) Specify the criteria and procedures the department will apply when designating an ICF/IID, or discrete unit of an ICF/IID, as an outlier ICF/IID or unit;

(ii) Establish a methodology for prospectively determining the total per medicaid day payment rate that will be paid each fiscal year for ICF/IID services provided by a designated outlier ICF/IID or unit.

(b) The rules adopted under division (D)(1)(a)(i) of this section regarding the criteria for designating outlier ICFs/IID and units shall do both of the following:

(i) Provide for consideration of whether all of the allowable costs of an ICF/IID, or discrete unit of an ICF/IID, would be paid by the rate determined under section 5124.15 of the Revised Code;

(ii) Specify the minimum number of ICF/IID beds that an ICF/IID, or discrete unit of an ICF/IID, must have to be designated an outlier ICF/IID or unit.

(c) The rules authorized by division (D)(1)(a)(i) of this section regarding the criteria for designating outlier ICFs/IID and units shall not limit the designation to ICFs/IID, or discrete units of ICFs/IID, located in large cities.

(d) The rules authorized by division (D)(1)(a)(ii) of this section regarding the methodology for prospectively determining the rates of designated outlier ICFs/IID and units shall provide for the methodology to consider the historical costs of providing ICF/IID services to the residents of designated outlier ICFs/IID and units.

(2)(a) ~~The~~ To the extent authorized by section 5162.021 of the Revised Code, the director of developmental disabilities may adopt rules ~~may~~in accordance with Chapter 119. of the Revised Code that do both of the following:

(i) Include for designation as an outlier ICF/IID or unit, an ICF/IID, or discrete unit of an ICF/IID, that serves residents who have complex medical conditions or severe behavioral problems;

(ii) Require that a designated outlier ICF/IID or unit receive authorization from the department before admitting or retaining a resident.

(b) If the director adopts rules authorized by division (D)(2)(a)(ii) of this section regarding the authorization of a designated outlier ICF/IID or unit to admit or retain a resident, the rules shall specify the criteria and procedures the department will apply when granting the authorization.

Sec. 5124.153. (A) To the extent, if any, provided for in rules authorized by this section, the total per medicaid day payment rate determined under section 5124.15 of the Revised Code shall not be paid for ICF/IID services that an ICF/IID not designated as an outlier ICF/IID or unit provides to a resident who meets the criteria for admission to a designated outlier ICF/IID or unit, as specified in rules authorized by section 5124.152 of the Revised Code. Instead, the provider of an ICF/IID providing ICF/IID services to such a resident shall be paid each fiscal year a total per medicaid day payment rate that the department shall prospectively determine in accordance with a methodology established in rules authorized by this section.

(B) ~~The~~ To the extent authorized by section 5162.021 of the Revised Code, the director of developmental disabilities may adopt rules ~~under section 5124.03 of the Revised Code to implement this section. The rules may~~ in accordance with Chapter 119. of the Revised Code to require that an ICF/IID receive authorization from the department before admitting or retaining a resident who meets the criteria for admission to a designated outlier ICF/IID or unit. If the director adopts such rules, the rules shall specify the criteria and procedures the department will apply when granting the authorization.

Sec. 5124.17. (A) For each fiscal year, the department of developmental disabilities shall determine each ICF/IID's per medicaid day capital component rate. An ICF/IID's rate for a fiscal year shall equal the sum of the following:

(1) The lesser of the following:

(a) The sum of all of the following:

(i) The ICF/IID's per diem fair rental value rate for the

fiscal year as determined under division (B) of this section;

(ii) The ICF/IID's per diem equipment rate for the fiscal year as determined under division (D) of this section;

(iii) The ICF/IID's per diem secondary building rate for the fiscal year as determined under division (E) of this section.

(b) The sum determined for the fiscal year under division (G) of this section.

(2) The ICF/IID's per diem nonextensive renovation rate for the fiscal year as determined under division (H) of this section.

(B) An ICF/IID's per diem fair rental value rate for a fiscal year is the quotient of the following:

(1) The ICF/IID's fair rental value as determined under division (C) of this section;

(2) The greater of the following:

(a) The number of the ICF/IID's inpatient days for the applicable cost report year;

(b) The number of inpatient days the ICF/IID would have had during the applicable cost report year if its occupancy rate had been ninety-two per cent that year.

(C)(1) An ICF/IID's fair rental value is the product of the following:

(a) The sum of the following:

(i) The ICF/IID's depreciated current asset value as determined under division (C)(2) of this section;

(ii) The ICF/IID's land value as determined under division (C)(10) of this section.

(b) Eleven per cent.

(2) An ICF/IID's depreciated current asset value is its current asset value, as determined under division (C)(3) of this section, depreciated by the product of the following:

(a) The ICF/IID's effective age as determined under division (C)(5) of this section;

(b) One and six-tenths per cent.

(3) An ICF/IID's current asset value is the product of the following:

(a) The ICF/IID's value per square foot as determined under division (C)(4) of this section;

(b) The lesser of the ICF/IID's square footage and the following:

(i) If the ICF/IID is in peer group 1 and is a downsized ICF/IID, its medicaid-certified capacity on the last day of the applicable cost report year multiplied by one thousand;

(ii) If the ICF/IID is in peer group 1 and is not a downsized ICF/IID, its medicaid-certified capacity on the last day of the applicable cost report year multiplied by five hundred fifty;

(iii) If the ICF/IID is in peer group 2 and is a downsized ICF/IID, its medicaid-certified capacity on the last day of the applicable cost report year multiplied by one thousand;

(iv) If the ICF/IID is in peer group 2 and is not a downsized ICF/IID, its medicaid-certified capacity on the last

day of the applicable cost report year multiplied by seven hundred fifty;

(v) If the ICF/IID is in peer group 3, its medicaid-certified capacity on the last day of the applicable cost report year multiplied by eight hundred fifty;

(vi) If the ICF/IID is in peer group 4 or peer group 5, its medicaid-certified capacity on the last day of the applicable cost report year multiplied by nine hundred.

(4)(a) An ICF/IID's value per square foot shall be determined by using the version of the following RS means data that was most recently published at the time the determination is made:

(i) If the ICF/IID is in peer group 1 or peer group 2, the RS means data for assisted-senior living facility construction costs;

(ii) If the ICF/IID is in peer group 3, peer group 4, or peer group 5, the RS means data for nursing home construction costs.

(b) Except as provided in division (C)(4)(c) of this section, in determining an ICF/IID's value per square foot, the following modifier shall be used:

(i) If the ICF/IID is located in Summit county, the modifier specified in the applicable RS means data for Akron;

(ii) If the ICF/IID is located in Athens county, the modifier specified in the applicable RS means data for Athens;

(iii) If the ICF/IID is located in Ashtabula, Geauga, Lake, Medina, Portage, Stark, Trumbull, or Wayne county, the modifier specified in the applicable RS means data for Canton;

(iv) If the ICF/IID is located in Ross county, the modifier specified in the applicable RS means data for Chillicothe;

(v) If the ICF/IID is located in Hamilton county, the modifier specified in the applicable RS means data for Cincinnati;

(vi) If the ICF/IID is located in Cuyahoga county, the modifier specified in the applicable RS means data for Cleveland;

(vii) If the ICF/IID is located in Franklin county, the modifier specified in the applicable RS means data for Columbus;

(viii) If the ICF/IID is located in Montgomery county, the modifier specified in the applicable RS means data for Dayton;

(ix) If the ICF/IID is located in Brown, Butler, Clermont, Clinton, Champaign, Darke, Greene, Logan, Miami, Preble, Shelby, or Warren county, the modifier specified in the applicable RS means data for Hamilton;

(x) If the ICF/IID is located in Allen, Auglaize, Defiance, Erie, Fulton, Hancock, Henry, Huron, Mercer, Paulding, Putnam, Ottawa, Sandusky, Seneca, Van Wert, Williams, or Wood county, the modifier specified in the applicable RS means data for Lima;

(xi) If the ICF/IID is located in Lorain county, the modifier specified in the applicable RS means data for Lorain;

(xii) If the ICF/IID is located in Ashland, Crawford, Delaware, Fairfield, Fayette, Hardin, Knox, Licking, Madison, Morrow, Pickaway, Richland, Union, or Wyandot county, the modifier specified in the applicable RS means data for

Mansfield;

(xiii) If the ICF/IID is located in Marion county, the modifier specified in the applicable RS means data for Marion;

(xiv) If the ICF/IID is located in Clark county, the modifier specified in the applicable RS means data for Springfield;

(xv) If the ICF/IID is located in Jefferson county, the modifier specified in the applicable RS means data for Steubenville;

(xvi) If the ICF/IID is located in Lucas county, the modifier specified in the applicable RS means data for Toledo;

(xvii) If the ICF/IID is located in Mahoning county, the modifier specified in the applicable RS means data for Youngstown;

(xviii) If the ICF/IID is located in Adams, Belmont, Carroll, Columbiana, Coshocton, Gallia, Guernsey, Harrison, Highland, Hocking, Holmes, Jackson, Lawrence, Meigs, Monroe, Morgan, Muskingum, Noble, Perry, Pike, Scioto, Tuscarawas, Vinton, or Washington county, the modifier specified in the applicable RS means data for Zanesville.

(c) If a modifier ceases to be specified in the applicable RS means data for a city listed in division (C)(4)(b) of this section, the director of developmental disabilities shall specify in rules adopted under this section ~~5124.03 of the Revised Code~~ a different modifier for the counties that are affected by the change.

(5) An ICF/IID's effective age shall be determined as follows:

(a) Determine the sum of the numbers of the ICF/IID's new bed equivalents for renovations for the applicable cost report year and the immediately preceding thirty-nine calendar years as determined for each of those years under division (C)(7)(a) of this section;

(b) Determine the sum of the numbers of the ICF/IID's new bed equivalents for additions that do not increase the ICF/IID's medicaid-certified capacity for the applicable cost report year and the immediately preceding thirty-nine calendar years as determined for each of those years under division (C)(8)(a) of this section;

(c) Determine the sum of the numbers of the ICF/IID's new beds resulting from additions that increase the ICF/IID's medicaid-certified capacity for the applicable cost report year and the immediately preceding thirty-nine calendar years as determined for each of those years under division (C)(9)(a) of this section;

(d) Determine the sum of the sums determined under divisions (C)(5)(a), (b), and (c) of this section;

(e) Determine the difference of the following:

(i) The ICF/IID's medicaid-certified capacity on the last day of the applicable cost report year;

(ii) The lesser of the amount specified in division (C)(5)(e)(i) of this section and the sum determined under division (C)(5)(d) of this section.

(f) For the purpose of determining the weighted age of the ICF/IID's original beds, determine the product of the following:

(i) The difference determined under division (C)(5)(e) of

this section;

(ii) The ICF/IID's age as determined under division (C)(6) of this section.

(g) Determine the sum of the weighted ages of the ICF/IID's new bed equivalents for renovations for the applicable cost report year and the immediately preceding thirty-nine calendar years as determined for each of those years under division (C)(7)(c) of this section;

(h) Determine the sum of the weighted ages of the ICF/IID's new bed equivalents for additions that do not increase its medicaid-certified capacity for the applicable cost report year and the immediately preceding thirty-nine calendar years as determined for each of those years under division (C)(8)(d) of this section;

(i) Determine the sum of the weighted ages of the ICF/IID's new beds resulting from additions that increase its medicaid-certified capacity for the applicable cost report year and the immediately preceding thirty-nine calendar years as determined for that period and each of those years under division (C)(9)(b) of this section;

(j) Determine the sum of the following:

(i) The product determined under division (C)(5)(f) of this section;

(ii) The sum of the sums determined under divisions (C)(5)(g), (h), and (i) of this section.

(k) Determine the quotient of the following:

(i) The sum determined under division (C)(5)(j) of this section;

(ii) The ICF/IID's medicaid-certified capacity on the last day of the applicable cost report year.

(6) An ICF/IID's age is the lesser of the following:

(a) The difference between the following:

(i) The calendar year in which occurs the last day of the period covered by the cost report being used to determine the ICF/IID's rate under this section;

(ii) The calendar year in which the ICF/IID was initially constructed.

(b) Forty.

(7)(a) The number, for a year, of an ICF/IID's new bed equivalents for renovations is the quotient of the following:

(i) The ICF/IID's desk-reviewed, actual, allowable renovation costs for the year;

(ii) Seventy thousand dollars.

(b) The age of an ICF/IID's new bed equivalents for renovations is the difference of the following:

(i) The calendar year in which occurs the last day of the period covered by the cost report being used to determine the ICF/IID's rate under this section;

(ii) The calendar year the renovations were completed.

(c) The weighted age, for a year, of an ICF/IID's new bed equivalents for renovations is the product of the following:

(i) The number, for that year, of the ICF/IID's new bed equivalents for renovations as determined under division (C)(7)(a) of this section;

(ii) The age of those new bed equivalents as determined under division (C)(7)(b) of this section.

(8)(a) The number, for a year, of an ICF/IID's new bed equivalents for additions that do not increase its medicaid-certified capacity is the quotient of the following:

(i) The value of such additions made to the ICF/IID that year as determined under division (C)(8)(b) of this section;

(ii) Seventy thousand dollars.

(b) The value of additions that do not increase an ICF/IID's medicaid-certified capacity is the product of the following:

(i) The total square footage of the additions;

(ii) The ICF/IID's value per square foot as determined under division (C)(4) of this section.

(c) The age of an ICF/IID's new bed equivalents for additions that do not increase its medicaid-certified capacity is the difference of the following:

(i) The calendar year in which occurs the last day of the period covered by the cost report being used to determine the ICF/IID's rate under this section;

(ii) The calendar year the additions were completed.

(d) The weighted age, for a year, of an ICF/IID's new bed equivalents for additions that do not increase its medicaid-certified capacity is the product of the following:

(i) The number, for that year, of the ICF/IID's new bed equivalents for such additions as determined under division (C)(8)(a) of this section;

(ii) The age of those new bed equivalents as determined under division (C)(8)(c) of this section.

(9)(a) The number, for a year, of new beds resulting from additions that increase an ICF/IID's medicaid-certified capacity is the number by which the new beds increased the ICF/IID's medicaid-certified capacity that year.

(b) The weighted age, for a year, of new beds resulting from additions that increase an ICF/IID's medicaid-certified capacity is the product of the following:

(i) The number by which those new beds increased the ICF/IID's medicaid-certified capacity that year;

(ii) The difference of the calendar year in which occurs the last day of the period covered by the cost report being used to determine the ICF/IID's rate under this section and the calendar year the ICF/IID's medicaid-certified capacity was so increased.

(10) An ICF/IID's land value is the product of the following:

(a) The ICF/IID's current asset value as determined under division (C)(3) of this section;

(b) Ten per cent.

(D) An ICF/IID's per diem equipment rate for a fiscal year shall be the lesser of the following:

(1) The quotient of the following:

(a) The ICF/IID's costs for capital equipment for the applicable cost report year;

(b) The greater of the following:

(i) The number of the ICF/IID's inpatient days for the applicable cost report year;

(ii) The number of inpatient days the ICF/IID would have had during the applicable cost report year if its occupancy rate had been ninety-two per cent that year.

(2) The following amount:

(a) If the ICF/IID is in peer group 1, five dollars;

(b) If the ICF/IID is in peer group 2, six dollars and fifty cents;

(c) If the ICF/IID is in peer group 3, eight dollars;

(d) If the ICF/IID is in peer group 4 or peer group 5, nine dollars.

(E) An ICF/IID's per diem secondary building rate for a fiscal year is the quotient of the following:

(1) The ICF/IID's secondary building value as determined under division (F) of this section;

(2) The greater of the following:

(a) The number of the ICF/IID's inpatient days for the applicable cost report year;

(b) The number of inpatient days the ICF/IID would have had during the applicable cost report year if its occupancy rate had been ninety-two per cent that year.

(F)(1) An ICF/IID's secondary building value is the product of the following:

(a) The sum of the following:

(i) The sum of the depreciated current asset values of the

ICF/IID's secondary buildings as determined under division (F)(2) of this section;

(ii) The sum of the land values of the ICF/IID's secondary buildings as determined under division (F)(6) of this section.

(b) A rental rate of eleven per cent.

(2) The depreciated current asset value of an ICF/IID's secondary building is the current asset value of the secondary building, as determined under division (F)(3) of this section, depreciated by the product of the following:

(a) The age of the secondary building as determined under division (F)(5) of this section;

(b) One and six-tenths per cent.

(3) The current asset value of an ICF/IID's secondary building is the product of the following:

(a) The part of the secondary building's square footage that is allocated to the ICF/IID;

(b) The secondary building's value per square foot as determined under division (F)(4) of this section.

(4) The value per square foot of an ICF/IID's secondary building shall be determined by using the following:

(a) Except as provided in division (F)(4)(b) of this section, the most recent national average commercial cost estimate for office/warehouse buildings according to information available at buildingjournal.com on the last day of the applicable cost report year;

(b) If the national average commercial cost estimate for office/warehouse buildings ceases to be available at

buildingjournal.com, the most recent comparable cost estimate as specified in rules the director of developmental disabilities shall adopt under this section ~~5124.03 of the Revised Code~~.

(5) The age of an ICF/IID's secondary building is the lesser of the following:

(a) The difference of the following:

(i) The calendar year in which occurs the last day of the period covered by the cost report being used to determine the ICF/IID's rate under this section;

(ii) The calendar year the secondary building was initially constructed.

(b) Forty.

(6) The land value of an ICF/IID's secondary building is the product of the following:

(a) The current asset value of the ICF/IID's secondary building as determined under division (F)(3) of this section;

(b) Ten per cent.

(G) For the purposes of divisions (A)(1)(b) and (H)(1)(b)(ii) of this section, the department shall determine the sum of the following for each ICF/IID for each fiscal year:

(1) The quotient of the following:

(a) The ICF/IID's desk-reviewed, actual, allowable capital costs for the applicable cost report year;

(b) The greater of the following:

(i) The number of the ICF/IID's inpatient days for the applicable cost report year;

(ii) The number of inpatient days the ICF/IID would have had during the applicable cost report year if its occupancy rate had been ninety-two per cent that year.

(2) The following amount:

(a) If the ICF/IID is in peer group 1 or peer group 2, three dollars;

(b) If the ICF/IID is in peer group 3, peer group 4, or peer group 5, five dollars.

(3) The greater of the following:

(a) Ten per cent of the difference of the following:

(i) The sum of the quotient determined for the fiscal year under division (G)(1) of this section and the applicable amount specified in division (G)(2) of this section;

(ii) The sum determined for the fiscal year under division (A)(1)(a) of this section.

(b) Zero.

(H) An ICF/IID's per diem nonextensive renovation rate for a fiscal year is the following:

(1) If the sum of the ICF/IID's per diem costs of nonextensive renovations for the applicable cost report year as determined under division (I) of this section and the ICF/IID's per diem costs of ownership for the applicable cost report year as determined under division (J) of this section is greater than the sum determined for the ICF/IID for the fiscal year under division (G) of this section, the lesser of the following:

(a) The ICF/IID's per diem costs of nonextensive renovations for the applicable cost report year as determined

under division (I) of this section;

(b) The difference of the following:

(i) The sum of the ICF/IID's per diem costs of nonextensive renovation for the applicable cost report year as determined under division (I) of this section and the ICF/IID's per diem costs of ownership for the applicable cost report year as determined under division (J) of this section;

(ii) The sum determined for the ICF/IID for the fiscal year under division (G) of this section.

(2) If the sum of the ICF/IID's per diem costs of nonextensive renovation for the applicable cost report year as determined under division (I) of this section and the ICF/IID's per diem costs of ownership for the applicable cost report year as determined under division (J) of this section is less than or equal to the sum determined for the ICF/IID for the fiscal year under division (G) of this section, zero.

(I) An ICF/IID's per diem costs of nonextensive renovations for an applicable cost report year are the quotient of the following:

(1) The ICF/IID's desk-reviewed, actual, allowable costs of nonextensive renovations for the applicable cost report year;

(2) The greater of the following:

(a) The number of the ICF/IID's inpatient days for the applicable cost report year;

(b) The number of inpatient days the ICF/IID would have had during the applicable cost report year if its occupancy rate had been ninety-two per cent that year.

(J) An ICF/IID's per diem costs of ownership for an applicable cost report year are the quotient of the following:

(1) The ICF/IID's desk-reviewed, actual, allowable costs of ownership for the applicable cost report year;

(2) The greater of the following:

(a) The number of the ICF/IID's inpatient days for the applicable cost report year;

(b) The number of inpatient days the ICF/IID would have had during the applicable cost report year if its occupancy rate had been ninety-two per cent that year.

(K) To the extent authorized by section 5162.021 of the Revised Code, the director of developmental disabilities shall adopt rules in accordance with Chapter 119. of the Revised Code that do both of the following:

(1) Specify a modifier for counties that are not specified in RS means data pursuant to division (C)(4)(c) of this section;

(2) Specify the comparable cost estimate for the value per square foot of an ICF/IID's secondary building if the national average commercial cost estimate for office/warehouse buildings ceases to be available at buildingjournal.com pursuant to division (F)(4)(b) of this section.

Sec. 5124.19. (A) For each fiscal year, the department of developmental disabilities shall determine each ICF/IID's per medicaid day direct care costs component rate. An ICF/IID's rate shall be determined as follows:

(1) Determine the product of the following:

(a) The ICF/IID's quarterly case-mix score determined or

assigned under section 5124.193 of the Revised Code for the following calendar quarter:

(i) For the rate determined for fiscal year 2019, the calendar quarter ending December 31, 2017;

(ii) For the rate determined for each subsequent fiscal year, the calendar quarter ending on the last day of March of the calendar year in which the fiscal year begins.

(b) The lesser of the following:

(i) The ICF/IID's cost per case-mix unit for the applicable cost report year as determined under division (B) of this section;

(ii) The maximum cost per case-mix unit for the ICF/IID's peer group for the fiscal year for which the rate is determined as determined under division (C) of this section.

(2) Adjust the product determined under division (A)(1) of this section by the inflation rate estimated under division (D) of this section.

(B) To determine an ICF/IID's cost per case-mix unit for a cost report year, the department shall determine the quotient of the following:

(1) The ICF/IID's desk-reviewed, actual, allowable, per diem direct care costs for the cost report year;

(2) The ICF/IID's annual average case-mix score as determined under section 5124.193 of the Revised Code for the fiscal year for which the rate is determined.

(C)(1) The maximum cost per case-mix unit for a peer group for a fiscal year, other than peer group 5, is the following

percentage above the peer group's median cost per case-mix unit for that fiscal year:

(a) For peer group 1, sixteen per cent;

(b) For peer group 2, fourteen per cent;

(c) For peer group 3, eighteen per cent;

(d) For peer group 4, twenty-two per cent.

(2) The maximum cost per case-mix unit for peer group 5 for a fiscal year is the ninety-fifth percentile of all ICFs/IID in peer group 5 for the applicable cost report year.

(3) In determining the maximum cost per case-mix unit for a peer group under division (C)(1) of this section, the department shall exclude from its determination the cost per case-mix unit of any ICF/IID in the peer group that participated in the medicaid program under the same provider for less than twelve months during the applicable cost report year.

(4) In determining the maximum cost per case-mix unit for a peer group under division (C)(1) or (2) of this section, the department shall exclude from its determination the cost per case-mix unit of any ICF/IID in the peer group that has a case-mix score that was assigned by the department to the ICF/IID under division (B) of section 5124.193 of the Revised Code.

(5) The department shall not reset a peer group's maximum cost per case-mix unit for a fiscal year under division (C)(1) or (2) of this section based on additional information that the department receives after it sets the maximum for that fiscal year. The department shall reset a peer group's maximum cost per case-mix unit for a fiscal year only if it made an error in setting the maximum for that fiscal year based on information

available to the department at the time it originally sets the maximum for that fiscal year.

(D) The department shall estimate the rate of inflation for the eighteen-month period beginning on the first day of July of the applicable cost report year and ending on the last day of December of the fiscal year for which the rate is determined, using the following:

(1) Subject to division (D)(2) of this section, the employment cost index for total compensation, health care and social assistance component, published by the United States bureau of labor statistics;

(2) If the United States bureau of labor statistics ceases to publish the index specified in division (D)(1) of this section, the index that is subsequently published by the bureau and covers the staff costs of ICFs/IID.

(E) To the extent authorized by section 5162.021 of the Revised Code, the director of developmental disabilities may adopt rules in accordance with Chapter 119. of the Revised Code establishing the following:

(1) Costs related to training and staff development, employee benefits, payroll taxes, and workers' compensation premiums or costs for self-insurance claims for the personnel listed in divisions (N)(1) to (3) of section 5124.01 of the Revised Code to be included in calculations of direct care costs;

(2) Direct-care resources that are not listed in division (N) of section 5124.01 of the Revised Code but are to be included in calculations of direct care costs.

Sec. 5124.191. (A) As used in sections 5124.191 to

5124.193 of the Revised Code, "ICF/IID resident" includes an individual who is on hospital or therapeutic leave from an ICF/IID.

(B) ~~In accordance with rules adopted under section 5124.03 of the Revised Code, the~~ The department of developmental disabilities shall assess each ICF/IID resident regardless of payment source and compile complete assessment data on the residents. The department shall perform the initial assessment of an ICF/IID resident. The department may perform a subsequent assessment of an ICF/IID resident under any of the following circumstances:

(1) The provider of the ICF/IID in which the resident resides or from which the resident is on hospital or therapeutic leave has submitted to the department under division (D) of this section revised assessment data for the resident or an attestation of no changes in the resident's assessment data and the department has reason to believe that the revised assessment data or attestation is inaccurate;

(2) The department has reason to believe that the resident's most recent assessment no longer accurately reflects the resident's condition;

(3) The department determines that the resident's most recent assessment should be updated because of the passage of time since that assessment was performed.

(C) If an ICF/IID provider disagrees with the results of an assessment performed by the department under this section, the provider may request that the department reconsider the results in accordance with rules adopted under this section~~—5124.03 of the Revised Code~~.

(D) After the department assesses an ICF/IID resident under this section, the provider of the ICF/IID in which the resident resides or from which the resident is on hospital or therapeutic leave shall submit to the department, not later than fifteen days after the end of each subsequent calendar quarter and through the medium or media specified in rules adopted under this section ~~5124.03 of the Revised Code~~, either of the following:

(1) Revised assessment data for the resident if there are changes in the resident's assessment data;

(2) An attestation that there are no changes in the resident's assessment data.

(E) A resident assessment instrument specified in rules adopted under this section ~~5124.03 of the Revised Code~~ shall be used to compile or revise assessment data of ICF/IID residents under this section.

(F) To the extent authorized by section 5162.021 of the Revised Code, the director of developmental disabilities shall adopt rules in accordance with Chapter 119. of the Revised Code that do all of the following:

(1) Establish a process for an ICF/IID provider to request that the department reconsider the results of an assessment performed by the department pursuant to division (C) of this section;

(2) Specify the medium or media through which a provider shall submit revised assessment data or an attestation that there are no changes in a resident's assessment data pursuant to division (D) of this section;

(3) Specify a resident assessment instrument to compile or

revise assessment data of ICF/IID residents pursuant to division (E) of this section.

Sec. 5124.192. (A) The department of developmental disabilities shall establish six acuity groups for the purpose of assigning case-mix scores to ICF/IID residents. An ICF/IID resident's case-mix score shall be the score of the resident's acuity group as specified in rules authorized by this section.

(B) The department shall place each ICF/IID resident into one of the acuity groups. In determining which acuity group an ICF/IID resident is to be placed into, the department shall do all of the following:

(1) In accordance with rules authorized by this section and using the most recent resident assessment data for the ICF/IID resident available to the department, calculate for the resident an assessment score for each of the medical, behavioral, and adaptive skills domains on the resident assessment instrument used to compile or revise assessment data for ICF/IID residents under section 5124.191 of the Revised Code;

(2) For each of the ICF/IID resident's domain assessment scores and using values specified in rules authorized by this section, assign the following points:

(a) If the resident's assessment score for the domain is more than one standard deviation above the mean assessment score for the domain for all ICF/IID residents as of December 31, 2017, one point;

(b) If the resident's assessment score for the domain is more than one-half standard deviation above the mean assessment score for the domain for all ICF/IID residents as of December

31, 2017, and not more than one standard deviation above that mean, two points;

(c) If the resident's assessment score for the domain is more than the mean assessment score for the domain for all ICF/IID residents as of December 31, 2017, and not more than one-half standard deviation above that mean, three points;

(d) If the resident's assessment score for the domain is not more than the mean assessment score for the domain for all ICF/IID residents as of December 31, 2017, and not more than one-half standard deviation below that mean, four points;

(e) If the resident's assessment score for the domain is more than one-half standard deviation below the mean assessment score for the domain for all ICF/IID residents as of December 31, 2017, and not more than one standard deviation below that mean, five points;

(f) If the resident's assessment score for the domain is more than one standard deviation below the mean assessment score for the domain for all ICF/IID residents as of December 31, 2017, six points.

(3) Using the following weights, determine the weighted sum of the points assigned under division (B)(2) of this section to each of the ICF/IID resident's domain assessment scores and round the weighted sum to the nearest whole number:

(a) Points assigned to the resident's assessment score for the medical domain shall be weighted at thirty-five per cent.

(b) Points assigned to the resident's assessment score for the behavioral domain shall be weighted at thirty per cent.

(c) Points assigned to the resident's assessment score for

the adaptive skills domain shall be weighted at thirty-five per cent.

(4) Place the ICF/IID resident into the following acuity group:

(a) If the resident's weighted sum of points is five or lower, group one;

(b) If the resident's weighted sum of points is at least six and not more than eight, group two;

(c) If the resident's weighted sum of points is nine or ten, group three;

(d) If the resident's weighted sum of points is eleven or twelve, group four;

(e) If the resident's weighted sum of points is at least thirteen and not more than fifteen, group five;

(f) If the resident's weighted sum of points is sixteen or higher, group six.

(C)(1) ~~The~~ To the extent authorized by section 5162.021 of the Revised Code, the director of developmental disabilities shall adopt ~~rules under section 5124.03 of the Revised Code as necessary to implement this section, including~~ rules in accordance with Chapter 119. of the Revised Code that do all of the following:

(a) Subject to division (C)(2) of this section, specify case-mix scores for each acuity group established under this section;

(b) Prescribe a methodology for calculating assessment scores for the medical, behavioral, and adaptive skills domains

on the resident assessment instrument used to compile or revise assessment data of ICF/IID residents under section 5124.191 of the Revised Code;

(c) Specify values to be used in assigning points to domain assessment scores.

(2) The case-mix score specified for an acuity group shall be based on relative resource use by ICF/IID residents who are placed in the group and were included in a time study of ICF/IID residents performed by the department.

Sec. 5124.193. (A) Except as provided in division (B) of this section, the department of developmental disabilities shall do both of the following:

(1) For each calendar quarter, determine a case-mix score for each ICF/IID using both of the following:

(a) The most recent (as of the date the determination is made) resident assessment data compiled and revised for the ICF/IID's residents under section 5124.191 of the Revised Code;

(b) The case-mix scores of the ICF/IID's residents as determined under section 5124.192 of the Revised Code.

(2) After the end of each calendar year, determine an annual average case-mix score for each ICF/IID using the ICF/IID's quarterly case-mix scores for that calendar year.

(B)(1) Subject to divisions (B)(2) and (3) of this section, the department, for one or more months of a calendar quarter, may assign to an ICF/IID a case-mix score that is five per cent less than the ICF/IID's case-mix score as of the day immediately preceding the day on which the reduction takes effect if the provider does not timely comply with division (D)

of section 5124.191 of the Revised Code.

(2) Subject to division (B)(3) of this section, before assigning a case-mix score to an ICF/IID under division (B)(1) of this section, the department shall permit the provider to come into compliance with division (D) of section 5124.191 of the Revised Code. The department may assign the case-mix score if the provider fails to comply not later than forty-five days after the end of the calendar quarter to which the noncompliance pertains or a later date specified in rules authorized by this section.

(3) The department shall take action under division (B)(1) or (2) of this section only in accordance with rules authorized by this section. The department shall not take an action that affects medicaid payment rates for prior payment periods except in accordance with sections 5124.41 and 5124.42 of the Revised Code.

(C) ~~The~~ To the extent authorized by section 5162.021 of the Revised Code, the director of developmental disabilities ~~shall~~ may adopt rules ~~under section 5124.03 of the Revised Code as necessary to implement this section~~in accordance with Chapter 119. of the Revised Code to specify a timeframe after which the department may assign the case-mix score if the provider fails to comply with division (D) of section 5124.191 of the Revised Code pursuant to division (B)(2) of this section.

Sec. 5124.21. (A) For each fiscal year, the department of developmental disabilities shall determine each ICF/IID's per medicaid day indirect care costs component rate. An ICF/IID's rate shall be the lesser of the individual rate determined under division (B) of this section and the maximum rate determined for the ICF/IID's peer group under division (C) of this section.

(B) An ICF/IID's individual rate is the sum of the following:

(1) The ICF/IID's desk-reviewed, actual, allowable, per diem indirect care costs for the applicable cost report year, adjusted for the inflation rate estimated under division (E) of this section;

(2) Subject to division (D) of this section, an efficiency incentive equal to the difference between the amount of the per diem indirect care costs for the applicable cost report year determined for the ICF/IID under division (B)(1) of this section and the maximum rate established for the ICF/IID's peer group under division (C) of this section for that year.

(C)(1) The maximum rate for an ICF/IID's peer group shall be the following percentage above the peer group's median per diem indirect care costs for the applicable cost report year:

(a) For ICFs/IID in peer group 1, eight per cent;

(b) For ICFs/IID in peer group 2 or peer group 3, ten per cent;

(c) For ICFs/IID in peer group 4 or peer group 5, twelve per cent.

(2) The department shall not redetermine a peer group's maximum rate under division (C)(1) of this section based on additional information that it receives after the maximum rate is set. The department shall redetermine a peer group's maximum rate only if the department made an error in computing the maximum rate based on the information available to the department at the time of the original calculation.

(D) The efficiency incentive for an ICF/IID shall not

exceed the following:

(1) If the ICF/IID is in peer group 1, five per cent of the peer group's maximum rate established under division (C)(1)(a) of this section;

(2) If the ICF/IID is in peer group 2, peer group 3, peer group 4, or peer group 5, six per cent of the peer group's maximum rate established under division (C)(1)(b) or (c) of this section.

(E) When adjusting rates for inflation under division (B)(1) of this section, the department shall estimate the rate of inflation for the eighteen-month period beginning on the first day of July of the applicable cost report year and ending on the thirty-first day of December of the fiscal year for which the rate is determined. To estimate the rate of inflation, the department shall use the following:

(1) Subject to division (E)(2) of this section, the consumer price index for all items for all urban consumers for the midwest region, published by the United States bureau of labor statistics;

(2) If the United States bureau of labor statistics ceases to publish the index specified in division (E)(1) of this section, a comparable index that the bureau publishes and the department determines is appropriate.

(F) To the extent authorized by section 5162.021 of the Revised Code, the director of developmental disabilities may adopt rules in accordance with Chapter 119. of the Revised Code establishing costs related to the indirect care costs specified in division (AA) of section 5124.01 of the Revised Code to be included in calculations of indirect care costs.

Sec. 5124.23. (A) For each fiscal year, the department of developmental disabilities shall determine each ICF/IID's per medicaid day other protected costs component rate. An ICF/IID's rate shall be the ICF/IID's desk-reviewed, actual, allowable, per diem other protected costs from the applicable cost report year, adjusted for inflation using the following:

~~(A)~~ (1) Subject to division (B) of this section, the consumer price index for all urban consumers for nonprescription drugs and medical supplies, as published by the United States bureau of labor statistics;

~~(B)~~ (2) If the United States bureau of labor statistics ceases to publish the index specified in division (A) of this section, the index that is subsequently published by the bureau and covers nonprescription drugs and medical supplies.

(B) To the extent authorized by section 5162.021 of the Revised Code, the director of developmental disabilities may adopt rules in accordance with Chapter 119. of the Revised Code establishing other protected costs in addition to the other protected costs specified in division (KK) of section 5124.01 of the Revised Code.

Sec. 5124.24. (A) For fiscal year 2022 and each fiscal year thereafter, the department of developmental disabilities shall determine in accordance with division (C) of this section a per medicaid day quality incentive payment for each ICF/IID that earns for the fiscal year at least one point under division (B) of this section.

(B) Each fiscal year beginning with fiscal year 2022, the department, in accordance with rules authorized by this section, shall award to an ICF/IID points for quality indicators the

ICF/IID meets for the fiscal year. The quality indicators used under this division shall be based on the recommendations contained in the report submitted to the director of developmental disabilities by the ICF/IID quality indicators workgroup established by Section 261.230 ~~this act~~ of H.B. 166 of the 133rd General Assembly.

(C) An ICF/IID's per medicaid day quality incentive payment for a fiscal year shall be the product of the following:

(1) The relative weight point value for the fiscal year as determined under division (D) of this section;

(2) The number of points the ICF/IID was awarded under division (B) of this section for the fiscal year.

(D) The relative weight point value for a fiscal year shall be determined as follows:

(1) For each ICF/IID, determine the product of the following:

(a) The number of inpatient days the ICF/IID had for the applicable cost report year;

(b) The number of points the ICF/IID was awarded under division (B) of this section for the fiscal year.

(2) Determine the sum of all of the products determined under division (D)(1) of this section for the fiscal year;

(3) Determine the amount equal to one per cent of the total desk-reviewed, actual, allowable direct care costs of all ICFs/IID for the applicable cost report year;

(4) Divide the amount determined under division (D)(3) of this section by the sum determined under division (D)(2) of this

section.

(E) ~~The~~ To the extent authorized by section 5162.021 of the Revised Code, the director of developmental disabilities shall adopt ~~rules under section 5124.03 of the Revised Code as necessary to implement this section, including~~ rules in accordance with Chapter 119. of the Revised Code that specify or establish all of the following:

(1) The data needed for the department to determine whether an ICF/IID meets the quality indicators specified in division (B) of this section, the medium through which a report of the data is to be submitted to the department, and the date by which the report of the data must be submitted to the department;

(2) Satisfactory evidence needed to determine that an ICF/IID has met the quality indicators;

(3) The method by which ICFs/IID are to be awarded points under division (B) of this section and the number of points that each quality indicator is worth based on the quality indicator's relative importance compared to the other quality indicators.

Sec. 5124.26. (A) Subject to division (D) of this section, the department of developmental disabilities may pay a medicaid rate add-on to an ICF/IID provider for outlier ICF/IID services the ICF/IID provides to residents identified as needing intensive behavioral support services, if the provider applies to the department to receive the rate add-on and the department approves the application. The department may approve a provider's application if both of the following apply:

(1) The provider submits to the department a best practices protocol for providing outlier ICF/IID services under

this section and the department determines that the protocol is acceptable;

(2) The provider meets all other eligibility requirements for the rate add-on established in rules adopted under this section ~~5124.03 of the Revised Code~~.

(B) An ICF/IID that has been approved by the department to provide outlier ICF/IID services under this section shall provide the services in accordance with both of the following:

(1) The best practices protocol described in division (A)(1) of this section;

(2) Requirements regarding the services established in rules adopted under this section ~~5124.03 of the Revised Code~~.

(C) To qualify to receive outlier ICF/IID services from an ICF/IID under this section, a resident of the ICF/IID must be a medicaid recipient, be determined to need intensive behavioral support services, and meet all other eligibility requirements established in rules adopted under this section ~~5124.03 of the Revised Code~~.

(D) The department shall negotiate with the department of medicaid the amount of the medicaid payment rate add-on, if any, to be paid under this section or the method by which that amount is to be determined.

(E) To the extent authorized by section 5162.021 of the Revised Code, the director of developmental disabilities shall adopt rules in accordance with Chapter 119. of the Revised Code that establish all of the following:

(1) Eligibility requirements for the rate add-on to an ICF/IID provider for outlier ICF/IID services the ICF/IID

provides to residents identified as needing intensive behavioral support services pursuant to division (A)(2) of this section;

(2) Requirements for the provision of outlier ICF/IID services pursuant to division (B)(2) of this section;

(3) Eligibility requirements to receive outlier ICF/IID services from an ICF/IID pursuant to division (C) of this section.

Sec. 5124.29. Except as otherwise provided in section 5124.30 of the Revised Code, the department of developmental disabilities, in determining whether an ICF/IID's direct care costs and indirect care costs are allowable, shall place no limit on specific categories of reasonable costs other than compensation of owners, compensation of relatives of owners, and compensation of administrators.

Compensation cost limits for owners and relatives of owners shall be based on compensation costs for individuals who hold comparable positions but who are not owners or relatives of owners, as reported on ICFs/IID's cost reports. As used in this section, "comparable position" means the position that is held by the owner or the owner's relative, if that position is listed separately on the cost report form, or if the position is not listed separately, the group of positions that is listed on the cost report form and that includes the position held by the owner or the owner's relative. ~~In~~

Based on civil service equivalents and to the extent authorized by section 5162.021 of the Revised Code, the director of developmental disabilities shall adopt rules in accordance with Chapter 119. of the Revised Code establishing the compensation cost limit in the case of an owner or owner's

relative who serves the ICFs/IID in a capacity such as corporate officer, proprietor, or partner for which no comparable position or group of positions is listed on the cost report form~~, the compensation cost limit shall be based on civil service equivalents and shall be specified in rules adopted under section 5124.03 of the Revised Code~~.

Compensation cost limits for administrators shall be based on compensation costs for administrators who are not owners or relatives of owners, as reported on ICFs/IID's cost reports.

Sec. 5124.34. (A) As used in this section, "participation in therapeutic programs" includes visits to potential new residential settings.

(B) The department of developmental disabilities shall pay an ICF/IID provider one hundred per cent of the total per medicaid day payment rate determined for the ICF/IID under this chapter to reserve a bed for a resident who is a medicaid recipient if all of the following apply:

(1) The recipient is temporarily absent from the ICF/IID for a reason that makes the absence qualified for payments under this section as specified in rules authorized by this section;

(2) The resident's plan of care provides for the absence;

(3) Federal financial participation is available for the payments.

(C) The maximum period during which medicaid payments may be made to reserve a bed shall not exceed the maximum period specified in federal regulations and shall not be more than thirty days during any calendar year for hospital stays, visits with relatives and friends, and participation in therapeutic programs. However, a resident shall not be subject to a maximum

period during which payments may be made to reserve a bed if prior authorization of the department is obtained for hospital stays, visits with relatives and friends, and participation in therapeutic programs.

(D)(1) ~~The~~ To the extent authorized by section 5162.021 of the Revised Code, the director of developmental disabilities shall adopt ~~rules under section 5124.03 of the Revised Code as necessary to implement this section, including~~ rules in accordance with Chapter 119. of the Revised Code that do the following:

(a) Specify the reasons for which a temporary absence from an ICF/IID makes the absence qualify for payments under this section;

(b) Establish conditions under which prior authorization may be obtained for the purpose of division (C) of this section.

(2) The rules authorized by division (D)(1)(a) of this section shall include the following as reasons for which a temporary absence from an ICF/IID qualifies for payments under this section:

(a) Hospitalization for acute conditions;

(b) Visits with relatives and friends;

(c) Participation in therapeutic programs outside the ICF/IID.

Sec. 5124.38. (A) The director of developmental disabilities shall establish a process under which an ICF/IID provider, or a group or association of ICF/IID providers, may seek reconsideration of medicaid payment rates established under this chapter. Except as provided in divisions (B) to (E) of this

section, the only issue that a provider, group, or association may raise in the rate reconsideration is whether the rate was calculated in accordance with this chapter and the rules adopted under this section ~~5124.03 of the Revised Code~~. The provider, group, or association may submit written arguments or other materials that support its position. The provider, group, or association and department shall take actions regarding the rate reconsideration within time frames specified in rules authorized by this section.

If the department determines, as a result of the rate reconsideration, that the rate established for one or more ICFs/IID is less than the rate to which the ICF/IID is entitled, the department shall increase the rate. If the department has paid the incorrect rate for a period of time, the department shall pay the provider of the ICF/IID the difference between the amount the provider was paid for that period for the ICF/IID and the amount the provider should have been paid for the ICF/IID.

(B)(1) The department, through the rate reconsideration process, may increase during a fiscal year the medicaid payment rate determined for an ICF/IID under this chapter if the provider demonstrates that the ICF/IID's actual, allowable costs have increased because of any of the following extreme circumstances:

(a) A natural disaster;

(b) If the ICF/IID has an appropriate claims management program, an increase in the ICF/IID's workers' compensation experience rating of greater than five per cent;

(c) If the ICF/IID is an inner-city ICF/IID, increased security costs;

(d) A change of ownership that results from bankruptcy, foreclosure, or findings by the department of health of violations of medicaid certification requirements;

(e) Other extreme circumstances specified in rules authorized by this section.

(2) An ICF/IID may qualify for a rate increase under this division only if its per diem, actual, allowable costs have increased to a level that exceeds its total rate. An increase under this division is subject to any rate limitations or maximum rates established by this chapter for specific cost centers. Any rate increase granted under this division shall take effect on the first day of the first month after the department receives the request.

(C) The department, through the rate reconsideration process, may increase an ICF/IID's rate as determined under this chapter if the department, in the department's sole discretion, determines that the rate as determined under those sections works an extreme hardship on the ICF/IID.

(D)(1) Subject to any applicable limitation under section 5124.17 of the Revised Code, when beds certified for the medicaid program are added to an existing ICF/IID or replaced at the same site, the department, through the rate reconsideration process, may proportionately increase the ICF/IID's per medicaid day capital component rate determined under that section to account for the costs of the beds that are added or replaced.

(2) If the department grants an increase under division (D)(1) of this section, the increase shall go into effect one month after the first day of the month after the department receives sufficient documentation needed to determine the amount

of the increase.

(3) The provider of an ICF/IID that has its per medicaid day payment rate for reasonable capital costs increased under division (D)(1) of this section shall report double accumulated depreciation in an amount equal to the depreciation included in the rate adjustment on its cost report for the first year of operation. During the term of any loan used to finance a project for which the rate increase is granted, the provider, if the ICF/IID is operated by the same provider, shall subtract from the interest costs it reports on the ICF/IID's cost report an amount equal to the difference between the following:

(a) The actual, allowable interest costs for the loan during the calendar year for which the costs are being reported;

(b) The actual, allowable interest costs attributable to the loan that were used to calculate the rates paid to the provider for the ICF/IID during the same calendar year.

(E) If the provider of an ICF/IID submits to the department revised assessment data for a resident of the ICF/IID under division (D) of section 5124.191 of the Revised Code and the revised assessment data results in at least a fifteen per cent increase in the ICF/IID's case-mix score determined under section 5124.193 of the Revised Code, the provider may request that the department, through the rate reconsideration process, increase the ICF/IID's per medicaid day direct care costs component rate determined under section 5124.19 of the Revised Code to account for the increase in the ICF/IID's case-mix score. If the department determines that the revised assessment data so increases the ICF/IID's case-mix score, the department shall grant the rate increase. The increase shall go into effect one month after the first day of the month after the department

receives sufficient documentation needed to determine the amount of the increase.

(F) The department's decision at the conclusion of a rate reconsideration process is not subject to any administrative proceedings under Chapter 119. or any other provision of the Revised Code.

(G) ~~The~~ To the extent authorized by section 5162.021 of the Revised Code, the director of developmental disabilities shall adopt rules establishing a timeline for the process through which an ICF/IID provider, or a group or association of ICF/IID providers, may seek reconsideration of medicaid payment rates pursuant to division (A) of this section.

(H) To the extent authorized by section 5162.021 of the Revised Code, the director of developmental disabilities ~~shall~~ may adopt rules ~~under section 5124.03 of the Revised Code as necessary to implement this section~~specifying extreme circumstances under which the department may increase during a fiscal year the medicaid payment rate determined for an ICF/IID pursuant to division (B)(1)(e) of this section.

Sec. 5124.516. ~~The~~ To the extent authorized by section 5162.021 of the Revised Code, the director of developmental disabilities may adopt rules ~~under section 5124.03 of the Revised Code~~ in accordance with Chapter 119. of the Revised Code governing adjustments to the medicaid reimbursement rate for an ICF/IID that undergoes a change of operator. No rate adjustment resulting from a change of operator shall be effective before the effective date of the entering operator's provider agreement. This is the case regardless of whether the provider agreement is entered into under section 5124.511, section 5124.512, or, pursuant to section 5124.515, section 5124.07 of

the Revised Code.

Sec. 5124.53. ~~The~~ To the extent authorized by section 5162.021 of the Revised Code, the director of developmental disabilities shall adopt rules ~~under section 5124.03 of the Revised Code to implement sections 5124.50 to 5124.53 of the Revised Code. The rules shall~~ in accordance with Chapter 119. of the Revised Code that specify all of the following:

(A) The method by which written notices to the department required by sections 5124.50 to 5124.53 of the Revised Code are to be provided;

(B) The forms and documents that are to be provided to the department under sections 5124.511 and 5124.512 of the Revised Code, which shall include, in the case of such forms and documents provided by entering operators, all the fully executed leases, management agreements, merger agreements and supporting documents, and fully executed sales contracts and any other supporting documents culminating in the change of operator;

(C) The method by which the forms and documents identified in division (B) of this section are to be provided to the department.

Sec. 5126.0220. (A) The superintendent of the county board of developmental disabilities shall do all of the following:

(1) Administer the work of the board~~, subject to the board's rules~~;

(2) Recommend to the board the changes necessary to increase the effectiveness of the programs and services offered pursuant to Chapters 3323. and 5126. of the Revised Code;

(3) Employ persons for all positions authorized by the

board, approve contracts of employment for management employees that are for a term of one year or less, and approve personnel actions that involve employees in the classified civil service as may be necessary for the work of the board;

(4) Approve compensation for employees within the limits set by the salary schedule and budget set by the board, and ensure that all employees and consultants are properly reimbursed for actual and necessary expenses incurred in the performance of official duties;

(5) Provide consultation to public agencies as defined in division (C) of section 102.01 of the Revised Code, including other county boards of developmental disabilities, and to individuals, agencies, or organizations providing services supported by the board.

(B) The superintendent may authorize the payment of board obligations by the county auditor.

Sec. 5126.04. (A) Each county board of developmental disabilities shall plan and set priorities based on available resources for the provision of facilities, programs, and other services to meet the needs of county residents who are individuals with developmental disabilities, former residents of the county residing in state institutions or, before September 29, 2011, placed under purchase of service agreements under section 5123.18 of the Revised Code, and children subject to a determination made pursuant to section 121.38 of the Revised Code.

Each county board shall assess the facility and service needs of the individuals with developmental disabilities who are residents of the county or former residents of the county

residing in state institutions or, before September 29, 2011, placed under purchase of service agreements under section 5123.18 of the Revised Code.

Each county board shall require individual habilitation or service plans for individuals with developmental disabilities who are being served or who have been determined eligible for services and are awaiting the provision of services. Each board shall ensure that methods of having their service needs evaluated are available.

(B)(1) If a foster child is in need of assessment for eligible services or is receiving services from a county board of developmental disabilities and that child is placed in a different county, the agency that placed the child, immediately upon placement, shall inform the county board in the new county all of the following:

(a) That a foster child has been placed in that county;

(b) The name and other identifying information of the foster child;

(c) The name of the foster child's previous county of residence;

(d) That the foster child was in need of assessment for eligible services or was receiving services from the county board of developmental disabilities in the previous county.

(2) Upon receiving the notice described in division (B)(1) of this section or otherwise learning that the child was in need of assessment for eligible services or was receiving services from a county board of developmental disabilities in the previous county, the county board in the new county shall communicate with the county board of the previous county to

determine how services for the foster child shall be provided in accordance with each board's plan and priorities as described in division (A) of this section.

If the two county boards are unable to reach an agreement within ten days of the child's placement, the county board in the new county shall send notice to the Ohio department of developmental disabilities of the failure to agree. The department shall decide how services shall be provided for the foster child within ten days of receiving notice that the county boards could not reach an agreement. The department may decide that one, or both, of the county boards shall provide services. The services shall be provided in accordance with the board's plan and priorities as described in division (A) of this section.

(C) ~~The department of developmental disabilities may adopt rules in accordance with Chapter 119. of the Revised Code as necessary to implement this section. To the extent that rules adopted under this section apply to the identification and placement of children with disabilities under Chapter 3323. of the Revised Code, the rules shall be consistent with the standards and procedures established under sections 3323.03 to 3323.05 of the Revised Code.~~

~~(D)~~ The responsibility or authority of a county board to provide services under this chapter does not affect the responsibility of any other entity of state or local government to provide services to individuals with developmental disabilities.

~~(E)~~ (D) On or before the first day of February prior to a school year, a county board of developmental disabilities may elect not to participate during that school year in the

provision of or contracting for educational services for children ages six through twenty-one years of age, provided that on or before that date the board gives notice of this election to the director of education and workforce, each school district in the county, and the educational service center serving the county. If a board makes this election, it shall not have any responsibility for or authority to provide educational services that school year for children ages six through twenty-one years of age. If a board does not make an election for a school year in accordance with this division, the board shall be deemed to have elected to participate during that school year in the provision of or contracting for educational services for children ages six through twenty-one years of age.

~~(F)~~ (E) If a county board of developmental disabilities elects to provide educational services during a school year to individuals six through twenty-one years of age who have multiple disabilities, the board may provide these services to individuals who are appropriately identified and determined eligible pursuant to Chapter 3323. of the Revised Code, and in accordance with applicable rules of the department of education and workforce. The county board may also provide related services to individuals six through twenty-one years of age who have one or more disabling conditions, in accordance with section 3317.20 and Chapter 3323. of the Revised Code and applicable rules of the department of education and workforce.

Sec. 5126.08. (A) The director of developmental disabilities shall adopt rules in accordance with Chapter 119. of the Revised Code ~~for all programs and services offered by a county board of developmental disabilities. Such rules shall include, but are not limited~~ to~~,~~ establish the following:

(1) Determination of what constitutes a program or service offered by a county board of developmental disabilities;

(2) Standards to be followed by a board in administering, providing, arranging, or operating programs and services;

(3) Standards for determining the nature and degree of developmental disability;

(4) Standards and procedures for making eligibility determinations for the programs and services;

(5) Procedures for obtaining consent for the arrangement of services under section 5126.31 of the Revised Code and for obtaining signatures on individualized service plans under that section;

(6) Specification of the service and support administration to be provided by a county board and standards for resolving grievances in connection with service and support administration.

(B) The director shall be the final authority in determining the nature and degree of developmental disability.

Sec. 5126.081. (A) In addition to the rules adopted under division (A)(2) of section 5126.08 of the Revised Code establishing standards for the administration, provision, arrangement, and operation of programs and services by county boards of developmental disabilities, the department of developmental disabilities shall establish a system of accreditation for county boards of developmental disabilities to ensure that the boards are in compliance with federal and state statutes and rules. The department shall adopt rules in accordance with Chapter 119. of the Revised Code ~~governing the system of accreditation. The rules shall include~~ specifying

appropriate timelines for compliance when a board is found to be not in compliance and appropriate actions to be taken by boards in complying with the accreditation requirements.

(B) Prior to accrediting a board, the department shall conduct a comprehensive, on-site review of the board. During the review, the department shall document the board's compliance with the department's accreditation requirements. After completing the review, the department shall conduct an exit conference with the president of the board, the superintendent of the board, and any other officials the board asks to have present. The department shall discuss its findings from the review with the board's representatives and provide a written report of its findings not later than thirty days following the exit conference. If the department finds that the board is in compliance with the requirements for accreditation, the department shall issue evidence of accreditation to the board.

Accreditation may be granted for periods of up to five years and may be renewed. Not less than once prior to the date a board's accreditation is scheduled to expire, the department shall conduct a comprehensive, on-site review of the board.

Each board shall conduct an annual audit of itself to evaluate its compliance with the requirements for accreditation. The department may conduct an interim review of any new program or service initiated by a board after its last comprehensive review. The department may conduct other reviews and investigations as necessary to enforce this section.

(C) If the department determines through its review of a board that the board is not in compliance with the requirements for accreditation, the department shall, except as provided in division (F) of this section, grant the board an opportunity to

correct the matters in which it is not in compliance. The department shall grant the board an appropriate length of time to comply with the requirements prior to taking any action to deny accreditation to the board. To avoid denial of accreditation, the board superintendent shall prepare a plan of correction to remediate the matters specified in the department's written report as not being in compliance with the requirements for accreditation. The superintendent shall submit the plan to the board for review, and the board shall review the plan. If the board believes that the plan is sufficient to correct the matters, the board shall approve the plan by resolution and submit the plan to the department for its review. The department shall review the plan of correction. If the department approves the plan, the board shall commence action to implement the plan. The department shall, as necessary, conduct follow-up reviews of the board to determine whether it has met the requirements for accreditation. If the plan of correction submitted by a board is disapproved, the department shall inform the board of the reasons for disapproval and may grant the board an opportunity to submit a revised plan of correction.

A board may request technical assistance from the department, other boards, or professional organizations in preparing plans of correction and in implementing plans of correction.

(D) If, after being given the opportunity to implement a plan of correction, a board continues to fail to meet the requirements for accreditation, the department shall issue an order denying accreditation to the board. The department may deny accreditation to the board for all or part of the programs or services offered by the board.

The department shall simultaneously notify all of the following officials in the county: the members of the board of county commissioners, the senior probate judge, the county auditor, and the president and superintendent of the county board of developmental disabilities. The notice shall identify the programs and services that have been denied accreditation, the requirements for accreditation with which the board is not in compliance, and the responsibilities of the county officials to contract under division (E)(1) of this section to have the board's programs and services administered by another party or become subject to administrative receivership under division (E)(2) of this section.

(E)(1) When a board is denied accreditation, the department shall first give the board the option of contracting to have the board's programs and services that were denied accreditation administered by an accredited county board of developmental disabilities or another qualified entity subject to the approval of the department. The board may contract with more than one board that has been accredited. When a board enters into a contract, the board shall, by resolution, give the contractor full administrative authority over the programs and services that the contractor will administer.

(2) If a board fails to exercise its option of entering into a contract under division (E)(1) of this section sooner than thirty days after the department denies accreditation, the department shall appoint an administrative receiver of the board's programs and services that were denied accreditation. The department may appoint employees of the department, management personnel from county boards of developmental disabilities, or individuals from other entities as necessary to meet its needs for appointing an administrative receiver, except

that individuals from other entities may be appointed only when qualified department employees or board management personnel are unavailable. The department may not appoint an individual who is employed by or affiliated with an entity that is under contract with the board. The administrative receiver shall assume full administrative responsibility for the board's programs and services that were denied accreditation.

(3) The board or entity that contracts with a board under division (E)(1) of this section, or the administrative receiver appointed under division (E)(2) of this section, shall develop and implement a plan of correction to remediate the matters that caused the department to deny accreditation. The contractor or administrative receiver shall submit the plan to the department, and the department shall review the plan. If the plan is approved by the department, the contractor or administrative receiver shall commence action to implement the plan. The contractor or administrative receiver shall report to the department any findings it can make pertaining to issues or circumstances that are beyond the control of the board and result in the unlikelihood that compliance with the requirements for accreditation can be achieved unless the issues or circumstances are remediated.

(4) For purposes of divisions (E)(1) and (2) of this section, the department shall require the board that has been denied accreditation to transfer control of state and federal funds it is eligible to receive for the board's programs and services that have been denied accreditation in an amount necessary for the contractor or administrative receiver to fulfill its duties in administering the programs and services for the board. The transfer of control of funds does not cause any programs and services of the board that are accredited to

lose their accreditation. If the board refuses to transfer control of funds, the department may withhold state and federal funds from the board in an amount necessary for the contractor or administrative receiver to fulfill its duties. The amount transferred or withheld from a board shall include reimbursements for the personnel of the contractor or administrative receiver, including amounts for time worked, travel, and related expenses.

A contractor or administrative receiver that has assumed the administration of a board's programs and services has the right to authorize the payment of bills in the same manner that a board may authorize payment of bills under this chapter and section 319.16 of the Revised Code.

(F) When the department's review of a board reveals serious health and safety issues within the programs and services offered by the board, the department shall order the board to correct the violations immediately or appoint an administrative receiver.

(G) At any time a board can demonstrate that it is capable of assuming its duties in compliance with the department's requirements for accreditation, the department shall reverse its order denying accreditation and issue evidence of accreditation to the board.

A board may appeal the department's denial of accreditation or refusal to reverse a denial of accreditation only by filing a complaint under section 5123.043 of the Revised Code. If in its appeal the board can demonstrate that it is capable of assuming its duties in compliance with the department's requirements for accreditation, the department shall reverse its order denying accreditation and shall issue

evidence of accreditation to the board.

(H) All notices issued to a board by the department under this section shall be delivered to the board's president and superintendent.

(I) A board's president may designate another member of the board as the individual to be responsible for fulfilling all or part of the president's responsibilities established under this section.

Sec. 5126.11. (A) As used in this section, "respite care" means appropriate, short-term, temporary care that is provided to an individual with a developmental disability to sustain the family structure or to meet planned or emergency needs of the family.

(B) Subject to rules adopted by the director of developmental disabilities, and subject to the availability of money from state and federal sources, the county board of developmental disabilities shall establish a family support services program. Under such a program, the board shall make payments to an individual with a developmental disability or the family of an individual with a developmental disability who desires to remain in and be supported in the family home. Payments shall be made for all or part of costs incurred or estimated to be incurred for services that would promote self-sufficiency and normalization, prevent or reduce inappropriate institutional care, and further the unity of the family by enabling the family to meet the special needs of the individual and to live as much like other families as possible. Payments may be made in the form of reimbursement for expenditures or in the form of vouchers to be used to purchase services.

(C) Payment shall not be made under this section to an individual or the individual's family if the individual is living in a residential facility that is providing residential services under contract with the department of developmental disabilities or a county board.

(D) Payments may be made for the following services:

(1) Respite care, in or out of the home;

(2) Counseling, supervision, training, and education of the individual, the individual's caregivers, and members of the individual's family that aid the family in providing proper care for the individual, provide for the special needs of the family, and assist in all aspects of the individual's daily living;

(3) Special diets, purchase or lease of special equipment, or modifications of the home, if such diets, equipment, or modifications are necessary to improve or facilitate the care and living environment of the individual;

(4) Providing support necessary for the individual's continued skill development, including such services as development of interventions to cope with unique problems that may occur within the complexity of the family, enrollment of the individual in special summer programs, provision of appropriate leisure activities, and other social skills development activities;

(5) Any other services that are consistent with the purposes specified in division (B) of this section and specified in the individual's service plan.

(E) In order to be eligible for payments under a family support services program, the individual or the individual's family must reside in the county served by the county board, and

the individual must be in need of habilitation. Payments shall be adjusted for income in accordance with the payment schedule established in rules adopted under this section. Payments shall be made only after the county board has taken into account all other available assistance for which the individual or family is eligible.

(F) Before incurring expenses for a service for which payment will be sought under a family support services program, the individual or family shall apply to the county board for a determination of eligibility and approval of the service. The service need not be provided in the county served by the county board. After being determined eligible and receiving approval for the service, the individual or family may incur expenses for the service or use the vouchers received from the county board for the purchase of the service.

If the county board refuses to approve a service, an appeal may be made in accordance with rules adopted by the department under this section.

(G) To be reimbursed for expenses incurred for approved services, the individual or family shall submit to the county board a statement of the expenses incurred accompanied by any evidence required by the board. To redeem vouchers used to purchase approved services, the entity that provided the service shall submit to the county board evidence that the service was provided and a statement of the charges. The county board shall make reimbursements and redeem vouchers not later than forty-five days after it receives the statements and evidence required by this division.

(H) A county board shall consider the following objectives in carrying out a family support services program:

(1) Enabling individuals to return to their families from an institution under the jurisdiction of the department of developmental disabilities;

(2) Enabling individuals found to be subject to institutionalization by court order under section 5123.76 of the Revised Code to remain with their families with the aid of payments provided under this section;

(3) Providing services to eligible children and adults currently residing in the community;

(4) Providing services to individuals with developmental disabilities who are not receiving other services from the board.

(I) The director shall adopt, and may amend and rescind, rules ~~for the implementation of family support services programs by county boards. The rules shall include~~ specifying all of the following regarding family support services programs by county boards:

(1) A payment schedule adjusted for income;

(2) Standards for supervision, training, and quality control in the provision of respite care services;

(3) Eligibility standards and procedures for providing temporary emergency respite care;

(4) Procedures for hearing and deciding appeals made under division (F) of this section.

Rules adopted under division (I)(1) of this section shall be adopted in accordance with section 111.15 of the Revised Code. Rules adopted under divisions (I)(2) to (4) of this section shall be adopted in accordance with Chapter 119. of the

Revised Code.

(J) All individuals certified by the superintendent of the county board as eligible for temporary emergency respite care in accordance with rules adopted under this section shall be considered eligible for temporary emergency respite care for not more than five days to permit the determination of eligibility for family support services. The requirements of divisions (E) and (F) of this section do not apply to temporary emergency respite care.

(K) The county board shall not be required to make payments for family support services at a level that exceeds available state and federal funds for such payments.

Sec. 5126.131. (A)(1) Each regional council established under section 5126.13 of the Revised Code shall file with the department of developmental disabilities an annual cost report detailing the regional council's income and expenditures.

(2) Each county board of developmental disabilities shall file with the department an annual cost report detailing the board's income and expenditures.

(B)(1)(a) Unless the department establishes a later date for all regional council cost reports, each council shall file its cost report not later than the last day of April. At the written request of a regional council, the department may grant a fourteen-day extension for filing the cost report.

(b) Unless the department establishes a later date for all county board cost reports, each board shall file its cost report not later than the last day of May. At the written request of a board, the department may grant a fourteen-day extension for filing the board's cost report.

(2) The cost report shall contain information on the previous calendar year's income and expenditures. Once filed by a regional council or board, no changes may be made to the cost report, including the submission of additional documentation, except as otherwise provided in this section.

(C) Each cost report filed under this section by a regional council or board may be audited by the department or an entity designated by the department, utilizing methodology approved by the United States centers for medicare and medicaid services. The department or designated entity shall notify the regional council or board of the date on which the audit is to begin. The department may permit a regional council or board to submit changes to the cost report before the audit begins.

If the department or designated entity determines that a filed cost report is not auditable, it shall provide written notification to the regional council or board of the cost report's deficiencies and may request additional documentation. If the department or designated entity requests additional documentation, the regional council or board shall be given sixty days after the request is made to provide the additional documentation. After sixty days, the department or designated entity shall determine whether the cost report is auditable with any additional documentation provided and shall notify the regional council or board of its determination. The determination of the department or designated entity is final.

(D) The department or designated entity shall certify its audit as complete and file a copy of the certified audit in the office of the clerk of the governing body, executive officer of the governing body, and chief fiscal officer of the audited regional council or board. Changes may not be made to a cost

report once the department or designated entity files the certified audit. The cost report is not a public record under section 149.43 of the Revised Code until copies of the cost report are filed pursuant to this section.

(E) The department may withhold any funds that it distributes to a regional council or board as subsidy payments if either of the following is the case:

(1) The cost report is not timely filed by the regional council or board with the department in accordance with division (B) of this section.

(2) The cost report is determined not auditable under division (C) of this section after the department or designated entity gives the regional council or board sixty days to provide additional documentation.

(F) Cost reports shall be retained by regional councils and boards for seven years. The department shall provide annual training to regional council and board employees regarding cost reports required by this section.

(G) The department, in accordance with Chapter 119. of the Revised Code, may adopt any rules ~~necessary to implement this section~~regarding annual cost reports filed with the department by regional councils and county boards of developmental disabilities.

Sec. 5126.25. (A) The director of developmental disabilities shall adopt rules under division (C) of this section establishing uniform standards and procedures for the certification and registration of persons, other than the persons described in division (I) of this section, who are seeking employment with or are employed by either of the

following:

(1) A county board of developmental disabilities;

(2) An entity that contracts with a county board to operate programs and services for individuals with developmental disabilities.

(B) No person shall be employed in a position for which certification or registration is required pursuant to the rules adopted under this section without the certification or registration that is required for that position. The person shall not be employed or shall not continue to be employed if the required certification or registration is denied, revoked, or not renewed.

(C) The director shall adopt rules in accordance with Chapter 119. of the Revised Code ~~as the director considers necessary to implement and administer this section, including rules~~ establishing all of the following:

(1) Positions of employment that are subject to this section and, for each position, whether a person must receive certification or receive registration to be employed in that position;

(2) Requirements that must be met to receive the certification or registration required to be employed in a particular position, including standards regarding education, specialized training, and experience, taking into account the needs of individuals with developmental disabilities and the specialized techniques needed to serve them, except that the rules shall not require a person designated as a service employee under section 5126.22 of the Revised Code to have or obtain a bachelor's or higher degree;

(3) Procedures to be followed in applying for initial certification or registration and for renewing the certification or registration.

(4) Requirements that must be met for renewal of certification or registration, which may include continuing education and professional training requirements;

(5) Subject to section 5126.23 of the Revised Code, grounds for which certification or registration may be denied, suspended, or revoked and procedures for appealing the denial, suspension, or revocation;

(6) The time period, which must be at least one year after the effective date of new rules, that a person with valid certification or registration under this section on the effective date of any rules adopted under this section has to meet new certification or registration standards.

(D) Each person seeking certification or registration for employment shall apply in the manner established in rules adopted under this section.

(E)(1) Except as provided in division (E)(2) of this section, the superintendent of each county board is responsible for taking all actions regarding certification and registration of employees, other than the position of superintendent, early intervention specialist, or investigative agent. For the position of superintendent, early intervention specialist, or investigative agent, the director of developmental disabilities is responsible for taking all such actions.

Actions that may be taken by the superintendent or director include issuing, renewing, denying, suspending, and revoking certification and registration. All actions shall be

taken in accordance with the rules adopted under this section.

The superintendent may charge a fee to persons applying for certification or registration. The superintendent shall establish the amount of the fee according to the costs the county board incurs in administering its program for certification and registration of employees.

A person subject to the denial, suspension, or revocation of certification or registration may appeal the decision. The appeal shall be made in accordance with the rules adopted under this section.

(2) Pursuant to division (C) of section 5126.05 of the Revised Code, the superintendent may enter into a contract with any other entity under which the entity is given authority to carry out all or part of the superintendent's responsibilities under division (E)(1) of this section.

(F) A person with valid certification or registration under this section on the effective date of any rules adopted under this section that increase the standards applicable to the certification or registration shall have such period as the rules prescribe, but not less than one year after the effective date of the rules, to meet the new certification or registration standards.

(G) A person with valid certification or registration is qualified to be employed according to that certification or registration by any county board or entity contracting with a county board.

(H) The director shall monitor county boards to ensure that their employees and the employees of their contracting entities have the applicable certification or registration

required under this section and that the employees are performing only those functions they are authorized to perform under the certification or registration. The superintendent of each county board or the superintendent's designee shall maintain in appropriate personnel files evidence acceptable to the director that the employees have met the requirements. On request, representatives of the department of developmental disabilities shall be given access to the evidence.

(I) The certification and registration requirements of this section and the rules adopted under it do not apply to either of the following:

(1) A person who holds a valid license issued or certificate issued under Chapter 3319. of the Revised Code and performs no duties other than teaching or supervision of a teaching program;

(2) A person who holds a valid license or certificate issued under Title XLVII of the Revised Code and performs only those duties governed by the license or certificate.

(J)(1) Beginning January 1, 2025, the rules adopted under this section shall not require an individual employed by a county board of developmental disabilities to be certified to provide, or supervise the provision of, adult services.

(2) Beginning on the date that is one year after ~~the effective date of this amendment~~ April 6, 2023, the rules adopted under this section shall not establish varying levels of certification for an individual to receive an investigative agent certification and instead shall establish uniform qualifications for all applicants and a process for converting any existing certificates of varying levels to a single level of

certification for investigative agents.

(K) The director shall issue a certification or registration in accordance with Chapter 4796. of the Revised Code to a person if either of the following applies:

(1) The person holds a license, certification, or registration in another state.

(2) The person has satisfactory work experience, a government certification, or a private certification as described in that chapter in a state that does not issue that license, certification, or registration.

Sec. 5139.04. The department of youth services shall do all of the following:

(A) Support service districts through a central administrative office that shall have as its administrative head a deputy director who shall be appointed by the director of the department. When a vacancy occurs in the office of that deputy director, an assistant deputy director shall act as that deputy director until the vacancy is filled. The position of deputy director and assistant deputy director described in this division shall be in the unclassified civil service of the state.

(B) Receive custody of all children committed to it under Chapter 2152. of the Revised Code, cause a study to be made of those children, and issue any orders, as it considers best suited to the needs of any of those children and the interest of the public, for the treatment of each of those children;

(C) Obtain personnel necessary for the performance of its duties;

~~(D) Adopt rules that regulate its organization and operation, that implement sections 5139.34 and 5139.41 to 5139.43 of the Revised Code, and that pertain to the administration of other sections of this chapter;~~

~~(E)~~ Submit reports of its operations to the governor and the general assembly by the thirty-first day of January of each odd-numbered year;

~~(F)~~ (E) Conduct a program of research in diagnosis, training, and treatment of delinquent children to evaluate the effectiveness of the department's services and to develop more adequate methods;

~~(G)~~ (F) Develop a standard form for the disposition investigation report that a juvenile court is required pursuant to section 2152.18 of the Revised Code to complete and provide to the department when the court commits a child to the legal custody of the department;

~~(H)~~ (G) Provide the state public defender the reasonable access authorized under division (I) of section 120.06 of the Revised Code in order to fulfill the department's constitutional obligation to provide juveniles who have been committed to the department's care access to the courts.

~~(I)~~ (H) Do all other acts, except for adopting rules, necessary or desirable to carry out this chapter.

Sec. 5139.281. The department of youth services shall adopt rules prescribing the manner of application for financial assistance under this section for the operation and maintenance of a detention facility provided, or district detention facility established, under section 2151.41 of the Revised Code and prescribing minimum standards of operation, including criteria

for programs of education, training, counseling, recreation, health, and safety, and qualifications of personnel with which a facility shall comply as a condition of eligibility for assistance under this section. If the board of county commissioners providing a detention facility or the board of trustees of a district detention facility applies to the department for assistance and if the department finds that the application is in accordance with the rules adopted under this section and that the facility meets the minimum standards adopted under this section, the department may grant assistance to the applicant board for the operation and maintenance of each facility in an amount not to exceed fifty per cent of the approved annual operating cost. The board shall make a separate application for each year for which assistance is requested.

The department shall adopt ~~any necessary~~ rules for the care, treatment, and training in a district detention facility of children found to be delinquent children and committed to the facility by the juvenile court under section 2151.19 of the Revised Code and may approve for this purpose any facility that is found to be in compliance with the rules it adopts.

The department shall fund, at least once every six months, in-service training programs approved by the department for staff members of detention facilities or district detention facilities.

Sec. 5139.33. (A) The department of youth services shall make grants in accordance with this section to encourage counties to use community-based programs and services for juveniles who are adjudicated delinquent children for the commission of acts that would be felonies if committed by an adult.

(B) Each county seeking a grant under this section shall file an application with the department of youth services. The application shall be filed at the time and in accordance with procedures established by the department in rules adopted under this section. Each application shall be accompanied by a plan designed to reduce the county's commitment percentage, or to enable it to maintain or attain a commitment percentage that is equal to or below the statewide average commitment percentage. A county's commitment percentage is the percentage determined by dividing the number of juveniles the county committed to the department during the year by the number of juveniles who were eligible to be committed. The statewide average commitment percentage is the percentage determined by dividing the number of juveniles in the state committed to the department during the year by the number of juveniles who were eligible to be committed. These percentages shall be determined by the department using the most reliable data available to it.

Each plan shall include a method of ensuring equal access for minority youth to the programs and services for which the grant will be used.

The department shall review each application and plan to ensure that the requirements of this division are satisfied. Any county applying for a grant under this section that received a grant under this section during the preceding year and that failed to meet its commitment goals for that year shall make the changes in its plan that the department requires in order to continue to be eligible for grants under this section.

(C) Subject to division (E) of this section, the amounts appropriated for the purpose of making grants under this section shall be distributed annually on a per capita basis among the

counties that have complied with division (B) of this section.

(D) The department shall adopt rules to ~~implement this section. The rules shall include, but are not limited to,~~establish procedures and schedules for submitting applications and plans under this section, including procedures allowing joint-county applications and plans; and procedures for monitoring and evaluating the effectiveness of the programs and services financed with grant money, the enhancement of the use of local facilities and services, and the adequacy of the supervision and treatment provided to juveniles by those programs and services.

(E)(1) Three months prior to the implementation of the felony delinquent care and custody program described in section 5139.43 of the Revised Code, each county that is entitled to a grant under this section shall receive its grant money for the fiscal year or the remainder of its grant money for the fiscal year, other than any grant money to which it is entitled and that is set aside by the department of youth services for purposes of division (E)(2) of this section. The grant money so distributed shall be paid in a lump sum.

(2) During the first twelve months that the felony delinquent care and custody program described in section 5139.43 of the Revised Code is implemented in a county, any grant or the remainder of any grant to which a county is entitled and that is payable from the appropriation made to the department of youth services for community sanctions shall be distributed as follows:

(a) In the first quarter of the twelve-month period, the county shall receive one hundred per cent of the quarterly distribution.

(b) In the second quarter of the twelve-month period, the county shall receive seventy-five per cent of the quarterly distribution.

(c) In the third quarter of the twelve-month period, the county shall receive fifty per cent of the quarterly distribution.

(d) In the fourth quarter of the twelve-month period, the county shall receive twenty-five per cent of the quarterly distribution.

(3) Grant moneys received pursuant to divisions (E)(1) and (2) of this section shall be transmitted by the juvenile court of the recipient county to the county treasurer, shall be deposited by the county treasurer into the felony delinquent care and custody fund created pursuant to division (B)(1) of section 5139.43 of the Revised Code, and shall be used by the juvenile court in accordance with division (B)(2) of that section. The grant moneys shall be in addition to, and shall not be used to reduce, any usual annual increase in county funding that the juvenile court is eligible to receive or the current level of county funding of the juvenile court and of any programs or services for delinquent children, unruly children, or juvenile traffic offenders.

(4) One year after the commencement of its operation of the felony delinquent care and custody program described in section 5139.43 of the Revised Code, the department shall not make any further grants under this section.

Sec. 5139.34. (A) Funds may be appropriated to the department of youth services for the purpose of granting state subsidies to counties. A county or the juvenile court that

serves a county shall use state subsidies granted to the county pursuant to this section only in accordance with divisions (B)(2)(a) and (3)(a) of section 5139.43 of the Revised Code ~~and the rules pertaining to the state subsidy funds that the department adopts pursuant to division (D) of section 5139.04 of the Revised Code~~. The department shall not grant financial assistance pursuant to this section for the provision of care and services for children in a placement facility unless the facility has been certified, licensed, or approved by a state or national agency with certification, licensure, or approval authority, including, but not limited to, the department of children and youth, department of education and workforce, department of mental health and addiction services, department of developmental disabilities, or American correctional association. For the purposes of this section, placement facilities do not include a state institution or a county or district children's home.

The department of youth services also shall not grant financial assistance pursuant to this section for the provision of care and services for children, including, but not limited to, care and services in a detention facility, in another facility, or in out-of-home placement~~, unless the minimum standards applicable to the care and services that the department prescribes in rules adopted pursuant to division (D) of section 5139.04 of the Revised Code have been satisfied~~.

(B) The department of youth services shall apply the following formula to determine the amount of the annual grant that each county is to receive pursuant to division (A) of this section, subject to the appropriation for this purpose to the department made by the general assembly:

(1) Each county shall receive a basic annual grant of fifty thousand dollars.

(2) The sum of the basic annual grants provided under division (B)(1) of this section shall be subtracted from the total amount of funds appropriated to the department of youth services for the purpose of making grants pursuant to division (A) of this section to determine the remaining portion of the funds appropriated. The remaining portion of the funds appropriated shall be distributed on a per capita basis to each county that has a population of more than twenty-five thousand for that portion of the population of the county that exceeds twenty-five thousand.

(C)(1) Prior to a county's receipt of an annual grant pursuant to this section, the juvenile court that serves the county shall prepare, submit, and file in accordance with division (B)(3)(a) of section 5139.43 of the Revised Code an annual grant agreement and application for funding that is for the combined purposes of, and that satisfies the requirements of, this section and section 5139.43 of the Revised Code. In addition to the subject matters described in division (B)(3)(a) of section 5139.43 of the Revised Code ~~or in the rules that the department adopts to implement that division~~, the annual grant agreement and application for funding shall address fiscal accountability and performance matters pertaining to the programs, care, and services that are specified in the agreement and application and for which state subsidy funds granted pursuant to this section will be used.

(2) The county treasurer of each county that receives an annual grant pursuant to this section shall deposit the state subsidy funds so received into the county's felony delinquent

care and custody fund created pursuant to division (B)(1) of section 5139.43 of the Revised Code. Subject to exceptions prescribed in section 5139.43 of the Revised Code that may apply to the disbursement, the department shall disburse the state subsidy funds to which a county is entitled in a lump sum payment that shall be made in July of each calendar year.

(3) Upon an order of the juvenile court that serves a county and subject to appropriation by the board of county commissioners of that county, a county treasurer shall disburse from the county's felony delinquent care and custody fund the state subsidy funds granted to the county pursuant to this section for use only in accordance with this section, the applicable provisions of section 5139.43 of the Revised Code, and the county's approved annual grant agreement and application for funding.

(4) The moneys in a county's felony delinquent care and custody fund that represent state subsidy funds granted pursuant to this section are subject to appropriation by the board of county commissioners of the county; shall be disbursed by the county treasurer as required by division (C)(3) of this section; shall be used in the manners referred to in division (C)(3) of this section; shall not revert to the county general fund at the end of any fiscal year; shall carry over in the felony delinquent care and custody fund from the end of any fiscal year to the next fiscal year; shall be in addition to, and shall not be used to reduce, any usual annual increase in county funding that the juvenile court is eligible to receive or the current level of county funding of the juvenile court and of any programs, care, or services for alleged or adjudicated delinquent children, unruly children, or juvenile traffic offenders or for children who are at risk of becoming delinquent

children, unruly children, or juvenile traffic offenders; and shall not be used to pay for the care and custody of felony delinquents who are in the care and custody of an institution pursuant to a commitment, recommitment, or revocation of a release on parole by the juvenile court of that county or who are in the care and custody of a community corrections facility pursuant to a placement by the department as described in division (E) of section 5139.36 of the Revised Code.

(5) As a condition of the continued receipt of state subsidy funds pursuant to this section, each county and the juvenile court that serves each county that receives an annual grant pursuant to this section shall comply with divisions (B)(3)(b), (c), and (d) of section 5139.43 of the Revised Code.

Sec. 5139.43. (A) The department of youth services shall operate a felony delinquent care and custody program that shall be operated in accordance with the formula developed pursuant to section 5139.41 of the Revised Code, subject to the conditions specified in this section.

(B)(1) Each juvenile court shall use the moneys disbursed to it by the department of youth services pursuant to division (B) of section 5139.41 of the Revised Code in accordance with the applicable provisions of division (B)(2) of this section and shall transmit the moneys to the county treasurer for deposit in accordance with this division. The county treasurer shall create in the county treasury a fund that shall be known as the felony delinquent care and custody fund and shall deposit in that fund the moneys disbursed to the juvenile court pursuant to division (B) of section 5139.41 of the Revised Code. The county treasurer also shall deposit into that fund the state subsidy funds granted to the county pursuant to section 5139.34 of the Revised

Code. The moneys disbursed to the juvenile court pursuant to division (B) of section 5139.41 of the Revised Code and deposited pursuant to this division in the felony delinquent care and custody fund shall not be commingled with any other county funds except state subsidy funds granted to the county pursuant to section 5139.34 of the Revised Code; shall not be used for any capital construction projects; upon an order of the juvenile court and subject to appropriation by the board of county commissioners, shall be disbursed to the juvenile court for use in accordance with the applicable provisions of division (B)(2) of this section; shall not revert to the county general fund at the end of any fiscal year; and shall carry over in the felony delinquent care and custody fund from the end of any fiscal year to the next fiscal year. The maximum balance carry-over at the end of each respective fiscal year in the felony delinquent care and custody fund in any county from funds allocated to the county pursuant to sections 5139.34 and 5139.41 of the Revised Code in the previous fiscal year shall not exceed an amount to be calculated as provided in the formula set forth in this division, unless that county has applied for and been granted an exemption by the director of youth services.

Beginning June 30, 2008, the maximum balance carry-over at the end of each respective fiscal year shall be determined by the following formula: for fiscal year 2008, the maximum balance carry-over shall be one hundred per cent of the allocation for fiscal year 2007, to be applied in determining the fiscal year 2009 allocation; for fiscal year 2009, it shall be fifty per cent of the allocation for fiscal year 2008, to be applied in determining the fiscal year 2010 allocation; for fiscal year 2010, it shall be twenty-five per cent of the allocation for fiscal year 2009, to be applied in determining the fiscal year 2011 allocation; and for each fiscal year subsequent to fiscal

year 2010, it shall be twenty-five per cent of the allocation for the immediately preceding fiscal year, to be applied in determining the allocation for the next immediate fiscal year. The department shall withhold from future payments to a county an amount equal to any moneys in the felony delinquent care and custody fund of the county that exceed the total maximum balance carry-over that applies for that county for the fiscal year in which the payments are being made and shall reallocate the withheld amount. The department shall adopt rules for the withholding and reallocation of moneys disbursed under sections 5139.34 and 5139.41 of the Revised Code and for the criteria and process for a county to obtain an exemption from the withholding requirement. The moneys disbursed to the juvenile court pursuant to division (B) of section 5139.41 of the Revised Code and deposited pursuant to this division in the felony delinquent care and custody fund shall be in addition to, and shall not be used to reduce, any usual annual increase in county funding that the juvenile court is eligible to receive or the current level of county funding of the juvenile court and of any programs or services for delinquent children, unruly children, or juvenile traffic offenders.

(2)(a) A county and the juvenile court that serves the county shall use the moneys in its felony delinquent care and custody fund ~~in accordance with rules that the department of youth services adopts pursuant to division (D) of section 5139.04 of the Revised Code and~~ as follows:

(i) The moneys in the fund that represent state subsidy funds granted to the county pursuant to section 5139.34 of the Revised Code shall be used to aid in the support of prevention, early intervention, diversion, treatment, and rehabilitation programs that are provided for alleged or adjudicated unruly

children or delinquent children or for children who are at risk of becoming unruly children or delinquent children. The county shall not use for capital improvements more than fifteen per cent of the moneys in the fund that represent the applicable annual grant of those state subsidy funds.

(ii) The moneys in the fund that were disbursed to the juvenile court pursuant to division (B) of section 5139.41 of the Revised Code and deposited pursuant to division (B)(1) of this section in the fund shall be used to provide programs and services for the training, treatment, or rehabilitation of felony delinquents that are alternatives to their commitment to the department, including, but not limited to, community residential programs, day treatment centers, services within the home, and electronic monitoring, and shall be used in connection with training, treatment, rehabilitation, early intervention, or other programs or services for any delinquent child, unruly child, or juvenile traffic offender who is under the jurisdiction of the juvenile court.

The fund also may be used for prevention, early intervention, diversion, treatment, and rehabilitation programs that are provided for alleged or adjudicated unruly children, delinquent children, or juvenile traffic offenders or for children who are at risk of becoming unruly children, delinquent children, or juvenile traffic offenders. Consistent with division (B)(1) of this section, a county and the juvenile court of a county shall not use any of those moneys for capital construction projects.

(iii) Moneys in the fund shall not be used to support programs or services that do not comply with federal juvenile justice and delinquency prevention core requirements or to

support programs or services that research has shown to be ineffective. Research-supported, outcome-based programs and services, to the extent they are available, shall be encouraged.

(iv) The county and the juvenile court that serves the county may use moneys in the fund to provide out-of-home placement of children only in detention centers, community rehabilitation centers, or community corrections facilities approved by the department pursuant to standards adopted by the department, licensed by an authorized state agency, or accredited by the American correctional association or another national organization recognized by the department.

(b) Each juvenile court shall comply with division (B)(3)(d) of this section as implemented by the department. If a juvenile court fails to comply with division (B)(3)(d) of this section, the department shall not be required to make any disbursements in accordance with division (C) of section 5139.41 or division (C)(2) of section 5139.34 of the Revised Code.

(3) ~~In accordance with rules adopted by the department pursuant to division (D) of section 5139.04 of the Revised Code, each~~ Each juvenile court and the county served by that juvenile court shall do all of the following that apply:

(a) The juvenile court shall prepare an annual grant agreement and application for funding that satisfies the requirements of this section and section 5139.34 of the Revised Code and that pertains to the use, upon an order of the juvenile court and subject to appropriation by the board of county commissioners, of the moneys in its felony delinquent care and custody fund for specified programs, care, and services as described in division (B)(2)(a) of this section, shall submit that agreement and application to the county family and children

first council, the regional family and children first council, or the local intersystem services to children cluster as described in sections 121.37 and 121.38 of the Revised Code, whichever is applicable, and shall file that agreement and application with the department for its approval. The annual grant agreement and application for funding shall include a method of ensuring equal access for minority youth to the programs, care, and services specified in it.

The department may approve an annual grant agreement and application for funding only if the juvenile court involved has complied with the preparation, submission, and filing requirements described in division (B)(3)(a) of this section. If the juvenile court complies with those requirements and the department approves that agreement and application, the juvenile court and the county served by the juvenile court may expend the state subsidy funds granted to the county pursuant to section 5139.34 of the Revised Code only in accordance with division (B)(2)(a) of this section~~, the rules pertaining to state subsidy funds that the department adopts pursuant to division (D) of section 5139.04 of the Revised Code,~~ and the approved agreement and application.

(b) By the thirty-first day of August of each year, the juvenile court shall file with the department a report that contains all of the statistical and other information for each month of the prior state fiscal year. If the juvenile court fails to file the report required by division (B)(3)(b) of this section by the thirty-first day of August of any year, the department shall not disburse any payment of state subsidy funds to which the county otherwise is entitled pursuant to section 5139.34 of the Revised Code and shall not disburse pursuant to division (B) of section 5139.41 of the Revised Code the

applicable allocation until the juvenile court fully complies with division (B)(3)(b) of this section.

(c) If the department requires the juvenile court to prepare monthly statistical reports and to submit the reports on forms provided by the department, the juvenile court shall file those reports with the department on the forms so provided. If the juvenile court fails to prepare and submit those monthly statistical reports within the department's timelines, the department shall not disburse any payment of state subsidy funds to which the county otherwise is entitled pursuant to section 5139.34 of the Revised Code and shall not disburse pursuant to division (B) of section 5139.41 of the Revised Code the applicable allocation until the juvenile court fully complies with division (B)(3)(c) of this section. If the juvenile court fails to prepare and submit those monthly statistical reports within one hundred eighty days of the date the department establishes for their submission, the department shall not disburse any payment of state subsidy funds to which the county otherwise is entitled pursuant to section 5139.34 of the Revised Code and shall not disburse pursuant to division (B) of section 5139.41 of the Revised Code the applicable allocation, and the state subsidy funds and the remainder of the applicable allocation shall revert to the department. If a juvenile court states in a monthly statistical report that the juvenile court adjudicated within a state fiscal year five hundred or more children to be delinquent children for committing acts that would be felonies if committed by adults and if the department determines that the data in the report may be inaccurate, the juvenile court shall have an independent auditor or other qualified entity certify the accuracy of the data on a date determined by the department.

(d) If the department requires the juvenile court and the county to participate in a fiscal monitoring program or another monitoring program that is conducted by the department to ensure compliance by the juvenile court and the county with division (B) of this section, the juvenile court and the county shall participate in the program and fully comply with any guidelines for the performance of audits adopted by the department pursuant to that program and all requests made by the department pursuant to that program for information necessary to reconcile fiscal accounting. If an audit that is performed pursuant to a fiscal monitoring program or another monitoring program described in this division determines that the juvenile court or the county used moneys in the county's felony delinquent care and custody fund for expenses that are not authorized under division (B) of this section, within forty-five days after the department notifies the county of the unauthorized expenditures, the county either shall repay the amount of the unauthorized expenditures from the county general revenue fund to the state's general revenue fund or shall file a written appeal with the department. If an appeal is timely filed, the director of the department shall render a decision on the appeal and shall notify the appellant county or its juvenile court of that decision within forty-five days after the date that the appeal is filed. If the director denies an appeal, the county's fiscal agent shall repay the amount of the unauthorized expenditures from the county general revenue fund to the state's general revenue fund within thirty days after receiving the director's notification of the appeal decision.

(C) The determination of which county a reduction of the care and custody allocation will be charged against for a particular youth shall be made as outlined below for all youths

who do not qualify as public safety beds. The determination of which county a reduction of the care and custody allocation will be charged against shall be made as follows until each youth is released:

(1) In the event of a commitment, the reduction shall be charged against the committing county.

(2) In the event of a recommitment, the reduction shall be charged against the original committing county until the expiration of the minimum period of institutionalization under the original order of commitment or until the date on which the youth is admitted to the department of youth services pursuant to the order of recommitment, whichever is later. Reductions of the allocation shall be charged against the county that recommitted the youth after the minimum expiration date of the original commitment.

(3) In the event of a revocation of a release on parole, the reduction shall be charged against the county that revokes the youth's parole.

(D) A juvenile court is not precluded by its allocation amount for the care and custody of felony delinquents from committing a felony delinquent to the department of youth services for care and custody in an institution or a community corrections facility when the juvenile court determines that the commitment is appropriate.

Sec. 5145.03. (A) ~~The department of rehabilitation and correction, subject to the approval of the governor, shall make any rules for the government of prisoners that tend to promote their reformation, or be necessary for the purpose of sections 5145.01 to 5145.27 of the Revised Code, except that any rules~~

~~that govern penal manufacturing and service industries and agriculture or labor performed by prisoners and that do not govern security shall be adopted pursuant to division (B) of this section. The department shall make provisions for the separation or classification of prisoners, their division into different grades with promotion or degradation according to merit or demerit, their instruction in industrial pursuits, and their education.~~

~~(B)~~ The director of the department of rehabilitation and correction shall adopt rules ~~for the administration of the department's program for employment of prisoners that is established pursuant to section 5145.16 of the Revised Code. The rules shall be adopted, amended, and rescinded pursuant to Chapter 119. of the Revised Code, except that rules governing security shall not be adopted pursuant to that chapter and except that no prisoner who is in the custody of the department and who is incarcerated has any legal right to attend any hearing that is held on the rules pursuant to that chapter and that is held outside the institution in which the prisoner is incarcerated; however, the attorney for any prisoner may attend the hearing on behalf of the prisoner. The director may hold hearings on the rules pursuant to~~ that ~~chapter at any of the department's correctional institutions to receive comment from prisoners, which hearings may be attended by prisoners incarcerated at the institution at which any of the hearings is held. The rules shall~~ provide for the following:

(1) A procedure for seeking the employment of prisoners in penal industries and agriculture, in private industry and agriculture located within or outside the department's institutions, in public works, in institutional jobs necessary for the proper maintenance or operation of the department's

institutions, and in other appropriate forms of labor;

(2) A system of compensation, allowances, hours, conditions of employment, and advancement for prisoners who are employed in any form of labor;

(3) The regulation of the working conditions for prisoners who are employed in any form of labor;

(4) The categorization of all jobs performed by prisoners into levels, grades within the levels, or other appropriate categories based upon the skills required to perform the job, the security required for the job, the location at which the job is performed, and any other relevant characteristics of the job;

(5) A procedure for the assignment of prisoners to perform jobs in correctional industries and agriculture, and in private industry and agriculture, that are located in institutions under the control of the department other than the institutions to which the prisoners are committed;

(6) A procedure for the periodic review of each prisoner's performance at ~~his~~the prisoner's jobs and for the periodic evaluation of the prisoner's qualifications for other jobs at higher grades, levels, or categories, with different skill requirements, with different career potential, with other training potentials, or with other working conditions or schedules;

(7) An accounting system for the allocation of the earnings of each prisoner;

(8) A procedure for the transportation of prisoners whenever necessary between institutions and to and from private industry or agriculture to perform jobs;

(9) A disciplinary procedure for violations of work or security requirements~~;~~

~~(10) Any other rules on any subject that are otherwise necessary to administer sections 5145.16 and 5145.161 of the Revised Code or to provide employment for as many prisoners as possible~~.

~~(C)~~ (B) The department shall keep a correct daily record of the conduct of each prisoner and of ~~his~~the prisoner's fidelity and diligence in the performance of ~~his~~the prisoner's work.

Sec. 5145.14. Labor or service shall not be performed by a prisoner within a correctional institution, unless the labor or service is expressly authorized by rules adopted by the department of rehabilitation and correction pursuant to division ~~(B)~~ (A) of section 5145.03 of the Revised Code.

Sec. 5145.15. The department of rehabilitation and correction may, in accordance with rules adopted pursuant to division ~~(B)~~ (A) of section 5145.03 of the Revised Code, employ a portion of the prisoners in the manufacture of articles that are used by the state, any other state, any political subdivision or institution of this state, any other state, or the United States, or private persons. The department may procure machinery and prepare shop room for that purpose. The department may employ a portion of the prisoners in the preparation and manufacture of any or all forms of road-making material for use in the construction, improvement, maintenance, and repair of highways, roads, or streets.

For these purposes the department may, with the approval of the governor, purchase the necessary land, quarries, buildings, machinery, and erect buildings and shops for these

purposes, and employ any persons necessary to instruct the prisoners in such manufacture. The terms and manner of employment of the persons who instruct the prisoners shall be fixed and determined by the department.

Sec. 5145.161. (A) The program for the employment of prisoners within the custody of the department of rehabilitation and correction that the department is required to establish by division (A) of section 5145.16 of the Revised Code shall be administered in accordance with any rules adopted pursuant to division ~~(B)~~ (A) of section 5145.03 of the Revised Code and with the following requirements:

(1) The department shall consider the nature of the offense committed by a prisoner, the availability of employment, the security requirements for the prisoner, the prisoner's present state of mind, the prisoner's record in the institution to which the prisoner has been committed, and all other relevant factors when assigning a prisoner to the prisoner's initial job assignment. The department, when making a prisoner's initial job assignment, shall attempt to develop the prisoner's work skills, provide rehabilitation for the prisoner, consider the proximity to the prisoner's family, and permit the prisoner to provide support for the prisoner's dependents if the prisoner's earnings are sufficient for that to be feasible.

(2)(a) Except as provided in division (A)(2)(b) of this section, no prisoner shall be assigned to any job with the Ohio penal industries, or to any other job level or job grade of prisoner employment that the director of rehabilitation and correction may designate, unless the prisoner has obtained, or enrolled in an education program that leads to, a high school diploma or a certificate of high school equivalence.

(b) Division (A)(2)(a) of this section does not apply to either of the following:

(i) A prisoner who is determined, in accordance with a procedure approved by the director, to be incapable of obtaining a diploma or certificate of high school equivalence;

(ii) A prisoner working in the Ohio penal industries as of February 1, 1999, who applied on or before May 1, 1999, for enrollment in a program leading to a diploma or a certificate of high school equivalence, and who has been enrolled in that program for less than one year.

(3) Each prisoner shall be required to perform the prisoner's job satisfactorily, be permitted to be absent from the prisoner's job only for legitimate reasons, be required to comply with all security requirements, and be required to comply with any other reasonable job performance standards.

(4) A prisoner who advances from one job grade to the next higher job grade within the job level, advances from one job level to the next higher job level, or advances from one job category to the next highest job category shall receive additional benefits in accordance with the rules adopted pursuant to division ~~(B)~~ (A) of section 5145.03 of the Revised Code.

(5) A prisoner shall not be eligible for a job in private industry or agriculture, unless the prisoner meets the requirements of the department for private employment that are set forth in rules adopted pursuant to division ~~(B)~~ (A) of section 5145.03 of the Revised Code.

(6) A prisoner who violates the work requirements of any job grade, level, or category shall be disciplined pursuant to

the disciplinary procedure adopted pursuant to division ~~(B)(9)~~ (A)(9) of section 5145.03 of the Revised Code.

(B) The department of rehabilitation and correction may administer the program that it is required to establish by division (A) of section 5145.16 of the Revised Code in any manner that is consistent with division (A) of this section, division ~~(B)~~ (A) of section 5145.03, and section 5145.16 of the Revised Code.

Sec. 5147.30. (A) As used in this section, "prisoner" means any person confined in the county jail in lieu of bail while awaiting trial, any person committed to jail for nonpayment of a fine, or any person sentenced by a court to the jail.

(B) A board of county commissioners, by resolution adopted by a majority vote of its members, may approve the establishment of a county jail industry program for its county in accordance with this section.

(C) Upon the adoption by the board of the resolution described in division (B) of this section, a jail industry board shall be established, consisting of three voting members appointed by the board of county commissioners, three voting members appointed by the county sheriff, and one voting member appointed jointly by the board of county commissioners and the county sheriff. One of these voting members shall have knowledge of and experience in the social services, one in the field of labor, one in law enforcement, and one in business. The initial appointments to the jail industry board shall be made on the same date. Of the initial appointments, one by the board of county commissioners and one by the county sheriff shall be for terms ending one year after the date of appointment, two by the

board of county commissioners and two by the county sheriff shall be for terms ending two years after that date, and the joint appointment shall be for a term ending three years after that date. Thereafter, terms of office for all appointed members shall be for three years, with each term ending on the same day of the same month as did the term that it succeeds. Any vacancy on the board shall be filled in the same manner as the original appointment. Any member appointed to fill a vacancy occurring prior to the expiration date of the term for which the member's predecessor was appointed shall hold office as a member for the remainder of that term. Any member shall continue in office subsequent to the expiration date of the member's term until the member's successor takes office, or until a period of sixty days has elapsed, whichever occurs first.

The jail industry board, by majority vote, may appoint additional persons to serve as nonvoting members of the board.

Each member of the jail industry board shall be reimbursed for expenses actually and necessarily incurred in the performance of the member's duties as a board member. The board of county commissioners, by resolution, shall approve the expenses to be reimbursed.

(D) A jail industry board established under division (C) of this section shall establish a program for the employment of as many prisoners as possible, except those unable to perform labor because of illness or other health problems, security requirements, routine processing, disciplinary action, or other reasonable circumstances or because they are engaged in education or vocational or other training. The employment may be in jail manufacturing and service industries and agriculture, in private industry or agriculture that is located within or

outside the jail, in public works, in institutional jobs necessary for the proper maintenance and operation of the jail, or in any other appropriate form of labor. The county shall attempt to employ, provide employment for, and seek employment for as many prisoners as possible through the program. The county is not required to provide employment for every employable prisoner when the available funds, facilities, or jobs are insufficient to provide the employment; however, a county that has a county jail industry program shall continuously seek sources of employment for as many employable prisoners as possible.

(E) The jail industry program established under division (D) of this section shall do all of the following:

(1) Establish a system for assigning prisoners to perform jobs, for periodically evaluating the job performance of each prisoner, and for periodically evaluating the qualifications of each prisoner for other jobs;

(2) Attempt to provide jobs and job training for prisoners that will be useful to them in obtaining employment when released, except that institutional jobs at the jail need not be related to any previous employment of the prisoner or relevant to any job the prisoner intends to pursue after release from jail;

(3) Establish an accounting system to administer and allocate the earnings of each prisoner. The accounting system may permit earnings to be used for payment of the employee taxes and workers' compensation of the prisoner, for reimbursing the county for room and board and for the expense of providing employment to the prisoner, for restitution to the victims of the prisoner's offenses if the prisoner voluntarily requests or

is under court order to make restitution payments, for fines and court costs, for support of the dependents of the prisoner, and for an account for the prisoner.

(4) Require all persons who employ prisoners to meet all applicable work safety standards.

(F) The jail industry board, with the approval of the county sheriff, shall adopt rules ~~for the establishment and administration of the~~ regarding the jail industry program~~. The rules shall~~ that provide for all of the following:

(1) A procedure for seeking the employment of prisoners in penal industries and agriculture, in private industry and agriculture located within or outside the county jail, in public works, in institutional jobs necessary for the proper maintenance or operation of the county's institutions, and in other appropriate forms of labor;

(2) A system of compensation, allowances, hours, conditions of employment, and advancement for prisoners employed in any form of labor;

(3) The regulation of the working conditions of prisoners employed in any form of labor;

(4) An accounting system for the allocation of the earnings of each prisoner~~;~~

~~(5) Any other rules on any subject that are necessary to administer the program or to provide employment for as many prisoners as possible~~.

(G) In establishing and administering a county jail industry program, the board of county commissioners, upon the recommendation of the jail industry board and the county sheriff

may do any of the following:

(1) Enter into contracts with private industry, agriculture, and other organizations or persons, and receive grants to establish test work programs within or outside institutions under the control of the county;

(2) Enter into contracts with private industry for the establishment of manufacturing and service industries within or near institutions under the control of the county for the employment of prisoners;

(3) Enter into contracts with private industry, agriculture, and other organizations or persons to provide employment for prisoners;

(4) Enter into any other contracts or perform any other functions that are necessary for the county jail industry program.

(H) The jail industry program established under division (D) of this section shall be administered in accordance with any rules adopted by the jail industry board pursuant to division (F) of this section and with the following requirements:

(1) The county sheriff at all times shall be responsible for the security and discipline of the prisoners in the program. The sheriff shall adopt a procedure for the discipline of a prisoner who violates the requirements of a job in the program, and the sheriff may remove a prisoner from the program if the sheriff determines that considerations of security or discipline require it.

(2) When making the initial job assignment for a prisoner whom the county sheriff has approved for participation in the program, the board shall consider the nature of the offense

committed by the prisoner, the availability of employment, the security requirements of the prisoner, the prisoner's present state of mind, the prisoner's jail record, and all other relevant factors. When making the initial job assignment of a prisoner, the board shall attempt to develop the work skills of the prisoner, provide the prisoner rehabilitation, consider the proximity of the job to the prisoner's family, and permit the prisoner to provide support for the prisoner's dependents if the prisoner's earnings are sufficient to make that feasible.

(3) Each prisoner shall be required to perform satisfactorily the job to which the prisoner is assigned, be permitted to be absent from that job only for legitimate reasons, be required to comply with all security requirements, and be required to comply with any other reasonable job performance standards.

(4) A prisoner who violates the work requirements of any job shall be disciplined pursuant to the disciplinary procedure adopted by the county sheriff pursuant to division (H)(1) of this section.

Sec. 5149.101. (A)(1)(a) A victim of a violation of section 2903.01 or 2903.02 of the Revised Code, an offense of violence that is a felony of the first, second, or third degree, or an offense punished by a sentence of life imprisonment, the victim's representative, or any person described in division (B)(5) of this section may request, through the office of victims' services, for the board to hold a full board hearing that relates to the proposed parole or re-parole of the person that committed the violation. If a victim, victim's representative, or any person described in division (B)(5) of this section requests a full board hearing pursuant to this division, the

board shall hold a full board hearing.

(b) A family member of a victim who is not described in division (B)(5) of this section may request, through the office of victims' services, for the board to hold a full board hearing that relates to the proposed parole or re-parole of a person who committed a violation of section 2903.01 or 2903.02 of the Revised Code, an offense of violence that is a felony of the first, second, or third degree, or an offense punished by a sentence of life imprisonment. At a meeting of the board at which a majority of board members are present, the majority of those present shall determine whether a full board hearing shall be held, if a family member of the victim makes a request pursuant to this division.

(c) If a person is convicted of a violation of section 2903.01 or 2903.02 of the Revised Code, an offense of violence that is a felony of the first, second, or third degree, or an offense punished by a sentence of life imprisonment, the prosecuting attorney may submit a request directly to the board to hold a full board hearing that relates to the proposed parole or re-parole of the person who committed the violation. If the prosecutor requests a full board hearing pursuant to this division, the board shall hold a full board hearing.

(2) At least thirty days before the full hearing, except as otherwise provided in this division, the board shall give notice of the date, time, and place of the hearing to the victim regardless of whether the victim has requested the notification. The notice of the date, time, and place of the hearing shall not be given under this division to a victim if the victim has requested pursuant to division (B)(2) of section 2930.03 of the Revised Code that the notice not be provided to the victim. At

least thirty days before the full board hearing and regardless of whether the victim has requested that the notice be provided or not be provided under this division to the victim, the board shall give similar notice to the prosecuting attorney in the case, the law enforcement agency that arrested the prisoner if any officer of that agency was a victim of the offense, and, if different than the victim, the person who requested the full hearing. If the prosecuting attorney has not previously been sent an institutional summary report with respect to the prisoner, upon the request of the prosecuting attorney, the board shall include with the notice sent to the prosecuting attorney an institutional summary report that covers the offender's participation while confined in a state correctional institution in training, work, and other rehabilitative activities and any disciplinary action taken against the offender while so confined. Upon the request of a law enforcement agency that has not previously been sent an institutional summary report with respect to the prisoner, the board also shall send a copy of the institutional summary report to the law enforcement agency. If notice is to be provided as described in this division, the board may give the notice by any reasonable means, including regular mail, telephone, and electronic mail, in accordance with division (D)(1) of section 2930.16 of the Revised Code. If the notice is based on an offense committed prior to March 22, 2013, the notice also shall include the opt-out information described in division (D)(1) of section 2930.16 of the Revised Code. The board, in accordance with division (D)(2) of section 2930.16 of the Revised Code, shall keep a record of all attempts to provide the notice, and of all notices provided, under this division.

The preceding paragraph, and the notice-related provisions

of divisions (E)(2) and (K) of section 2929.20, division (D)(1) of section 2930.16, division (H) of section 2967.12, division (E)(1)(b) of section 2967.19 as it existed prior to April 4, 2023, division (A)(3)(b) of section 2967.26, and division (D)(1) of section 2967.28 of the Revised Code enacted in the act in which this paragraph was enacted, shall be known as "Roberta's Law."

(B) At a full board hearing that relates to the proposed parole or re-parole of a prisoner and that has been petitioned for or requested in accordance with division (A) of this section, the parole board shall permit the following persons to appear and to give testimony or to submit written statements:

(1) The prosecuting attorney of the county in which the original indictment against the prisoner was found and members of any law enforcement agency that assisted in the prosecution of the original offense;

(2) The judge of the court of common pleas who imposed the original sentence of incarceration upon the prisoner, or the judge's successor;

(3) The victim of the original offense for which the prisoner is serving the sentence or the victim's representative designated pursuant to section 2930.02 of the Revised Code;

(4) The victim of any behavior that resulted in parole being revoked;

(5) With respect to a full board hearing held pursuant to division (A)(1)(a) or (c) of this section, all of the following:

(a) The spouse of the victim of the original offense;

(b) The parent or parents of the victim of the original

offense;

(c) The sibling of the victim of the original offense;

(d) The child or children of the victim of the original offense.

(6) A state public defender when designated by the director of the department of rehabilitation and correction pursuant to division (A)(5) of section 120.06 of the Revised Code, private counsel, or some other person designated by the prisoner as a representative, as permitted by the board.

(C) Except as otherwise provided in this division, a full board hearing of the parole board is not subject to section 121.22 of the Revised Code. The persons who may attend a full board hearing are the persons described in divisions (B)(1) to (6) of this section, and representatives of the press, radio and television stations, and broadcasting networks who are members of a generally recognized professional media organization.

At the request of a person described in division (B)(3) of this section, representatives of the news media described in this division shall be excluded from the hearing while that person is giving testimony at the hearing. The prisoner being considered for parole has no right to be present at the hearing, but may be represented as described in division (B)(6) of this section.

If there is an objection at a full board hearing to a recommendation for the parole of a prisoner, the board may approve or disapprove the recommendation or defer its decision until a subsequent full board hearing. The board may permit interested persons other than those listed in this division and division (B) of this section to attend full board hearings

pursuant to rules adopted by the adult parole authority.

(D) If the victim of the original offense died as a result of the offense and the offense was aggravated murder, murder, an offense of violence that is a felony of the first, second, or third degree, or an offense punished by a sentence of life imprisonment, the family of the victim may show at a full board hearing a video recording not exceeding five minutes in length memorializing the victim.

(E) The adult parole authority shall adopt rules ~~for the implementation of this section. The rules shall specify~~ specifying reasonable restrictions on the number of media representatives that may attend a hearing, based on considerations of space, and ~~other procedures designed to accomplish an effective, orderly process for full board hearings~~a protocol for permitting interested persons other than those listed in divisions (B) and (C) of this section to attend full board hearings.

Sec. 5149.31. (A) The department of rehabilitation and correction shall do all of the following:

(1) Establish and administer a program of subsidies for eligible counties and groups of counties for felony offenders and a program of subsidies for eligible municipal corporations, counties, and groups of counties for misdemeanor offenders for the development, implementation, and operation of community corrections programs. Department expenditures for administration of both programs of subsidies shall not exceed ten per cent of the moneys appropriated for each of the purposes of this division.

(2) Adopt and promulgate rules, under Chapter 119. of the

Revised Code, providing standards for community corrections programs~~. The standards adopted by the department shall specify~~ that do both of the following:

(a) Specify the class of offender whose degree of felony, whose community control sanction revocation history, or whose risk level as assessed by the single validated risk assessment tool described in section 5120.114 of the Revised Code, make the offender suitable for participation in community corrections programs~~. The rules shall make~~ ;

(b) Make the level of subsidy provided to every county or group of counties contingent upon the number of offenders participating in community corrections programs each fiscal year who satisfy the participation suitability standards established by the department and upon the outcomes of any performance-based standards established by the department. The standards shall be designed to improve the quality and efficiency of the programs, to support evidence-based policies and practices, as defined by the department, and to reduce the number of persons committed to state correctional institutions and to county, multicounty, municipal, municipal-county, or multicounty-municipal jails or workhouses for offenses for which community control sanctions are authorized under section 2929.13, 2929.15, or 2929.25 of the Revised Code. In developing the standards, the department shall consult with, and seek the advice of, local corrections agencies, law enforcement agencies, and other public and private agencies concerned with corrections. The department shall conduct, and permit participation by local corrections planning boards established under section 5149.34 of the Revised Code and joint county corrections planning boards established under section 5149.35 of the Revised Code in, an annual review of the standards to measure their effectiveness in promoting the

purposes specified in this division and shall amend or rescind any existing rule providing a standard or adopt and promulgate additional rules providing standards, under Chapter 119. of the Revised Code, if the review indicates that the standards fail to promote the purposes.

(3) Accept and use any funds, goods, or services from the federal government or any other public or private source for the support of the subsidy programs established under division (A) of this section. The department may comply with any conditions and enter into any agreements that it considers necessary to obtain these funds, goods, or services.

(4) ~~Adopt rules, in accordance with Chapter 119. of the Revised Code, and do all other things necessary to implement sections 5149.30 to 5149.37 of the Revised Code;~~

~~(5)~~ Evaluate or provide for the evaluation of community corrections programs funded by the subsidy programs established under division (A)(1) of this section and establish means of measuring their effectiveness;

~~(6)~~(5) Prepare an annual report evaluating the subsidy programs established under division (A)(1) of this section. The report shall include, but need not be limited to, analyses of the structure of the programs and their administration by the department, the effectiveness of the programs in the development and implementation of community corrections programs, the specific standards adopted and promulgated under division (A)(2) of this section and their effectiveness in promoting the purposes of the programs, and the findings of the evaluations conducted under division (A)(5) of this section. The director of rehabilitation and correction shall review and certify the accuracy of the report and provide copies of it, upon request,

to members of the general assembly.

~~(7)~~ (6) Provide training or assistance, upon the request of a local corrections planning board or a joint county corrections planning board, to any local unit of government, subject to available resources of the department.

(B)(1) In order to be eligible for the subsidies under this section, counties, groups of counties, and municipal corporations shall satisfy all applicable requirements under sections 2301.27 and 2301.30 of the Revised Code and, except for sentencing decisions made by a court when use of the risk assessment tool is discretionary, shall utilize the single validated risk assessment tool selected by the department under section 5120.114 of the Revised Code.

(2) The department shall give any county, group of counties, or municipal corporation found to be noncompliant with the requirements described in division (B)(1) of this section a reasonable period of time to come into compliance. If the noncompliant county, group of counties, or municipal corporation does not become compliant after a reasonable period of time, the department shall reduce or eliminate the subsidy granted to that county, group of counties, or municipal corporation.

Sec. 5153.111. (A)(1) The executive director of a public children services agency shall request the superintendent of the bureau of criminal identification and investigation to conduct a criminal records check with respect to any applicant who has applied to the agency for employment as a person responsible for the care, custody, or control of a child. If the applicant does not present proof that the applicant has been a resident of this state for the five-year period immediately prior to the date upon which the criminal records check is requested or does not

provide evidence that within that five-year period the superintendent has requested information about the applicant from the federal bureau of investigation in a criminal records check, the executive director shall request that the superintendent obtain information from the federal bureau of investigation as a part of the criminal records check for the applicant. If the applicant presents proof that the applicant has been a resident of this state for that five-year period, the executive director may request that the superintendent include information from the federal bureau of investigation in the criminal records check.

(2) Any person required by division (A)(1) of this section to request a criminal records check shall provide to each applicant a copy of the form prescribed pursuant to division (C)(1) of section 109.572 of the Revised Code, provide to each applicant a standard impression sheet to obtain fingerprint impressions prescribed pursuant to division (C)(2) of section 109.572 of the Revised Code, obtain the completed form and impression sheet from each applicant, and forward the completed form and impression sheet to the superintendent of the bureau of criminal identification and investigation at the time the person requests a criminal records check pursuant to division (A)(1) of this section.

(3) Any applicant who receives pursuant to division (A)(2) of this section a copy of the form prescribed pursuant to division (C)(1) of section 109.572 of the Revised Code and a copy of an impression sheet prescribed pursuant to division (C)(2) of that section and who is requested to complete the form and provide a set of fingerprint impressions shall complete the form or provide all the information necessary to complete the form and shall provide the impression sheet with the impressions

of the applicant's fingerprints. If an applicant, upon request, fails to provide the information necessary to complete the form or fails to provide impressions of the applicant's fingerprints, that agency shall not employ that applicant for any position for which a criminal records check is required by division (A)(1) of this section.

(B)(1) Except as provided in rules adopted by the director of children and youth in accordance with division (E) of this section, no public children services agency shall employ a person as a person responsible for the care, custody, or control of a child if the person previously has been convicted of or pleaded guilty to any of the following:

(a) A violation of section 2903.01, 2903.02, 2903.03, 2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 2905.01, 2905.02, 2905.05, 2907.02, 2907.03, 2907.04, 2907.05, 2907.06, 2907.07, 2907.08, 2907.09, 2907.21, 2907.22, 2907.23, 2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 2907.323, 2909.02, 2909.03, 2911.01, 2911.02, 2911.11, 2911.12, 2919.12, 2919.22, 2919.24, 2919.25, 2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 2925.04, 2925.05, 2925.06, or 3716.11 of the Revised Code, a violation of section 2905.04 of the Revised Code as it existed prior to July 1, 1996, a violation of section 2919.23 of the Revised Code that would have been a violation of section 2905.04 of the Revised Code as it existed prior to July 1, 1996, had the violation occurred prior to that date, a violation of section 2925.11 of the Revised Code that is not a minor drug possession offense, or felonious sexual penetration in violation of former section 2907.12 of the Revised Code;

(b) A violation of an existing or former law of this state, any other state, or the United States that is

substantially equivalent to any of the offenses or violations described in division (B)(1)(a) of this section.

(2) A public children services agency may employ an applicant conditionally until the criminal records check required by this section is completed and the agency receives the results of the criminal records check. If the results of the criminal records check indicate that, pursuant to division (B)(1) of this section, the applicant does not qualify for employment, the agency shall release the applicant from employment.

(C)(1) Each public children services agency shall pay to the bureau of criminal identification and investigation the fee prescribed pursuant to division (C)(3) of section 109.572 of the Revised Code for each criminal records check conducted in accordance with that section upon the request pursuant to division (A)(1) of this section of the executive director of the agency.

(2) A public children services agency may charge an applicant a fee for the costs it incurs in obtaining a criminal records check under this section. A fee charged under this division shall not exceed the amount of fees the agency pays under division (C)(1) of this section. If a fee is charged under this division, the agency shall notify the applicant at the time of the applicant's initial application for employment of the amount of the fee and that, unless the fee is paid, the agency will not consider the applicant for employment.

(D) The report of any criminal records check conducted by the bureau of criminal identification and investigation in accordance with section 109.572 of the Revised Code and pursuant to a request under division (A)(1) of this section is not a

public record for the purposes of section 149.43 of the Revised Code and shall not be made available to any person other than the applicant who is the subject of the criminal records check or the applicant's representative, the public children services agency requesting the criminal records check or its representative, and any court, hearing officer, or other necessary individual involved in a case dealing with the denial of employment to the applicant.

(E) The director of children and youth shall adopt rules pursuant to Chapter 119. of the Revised Code ~~to implement this section, including rules~~ specifying circumstances under which a public children services agency may hire a person who has been convicted of an offense listed in division (B)(1) of this section but who meets standards in regard to rehabilitation set by the department.

(F) Any person required by division (A)(1) of this section to request a criminal records check shall inform each person, at the time of the person's initial application for employment, that the person is required to provide a set of impressions of the person's fingerprints and that a criminal records check is required to be conducted and satisfactorily completed in accordance with section 109.572 of the Revised Code if the person comes under final consideration for appointment or employment as a precondition to employment for that position.

(G) As used in this section:

(1) "Applicant" means a person who is under final consideration for appointment or employment in a position with the agency as a person responsible for the care, custody, or control of a child.

(2) "Criminal records check" has the same meaning as in section 109.572 of the Revised Code.

(3) "Minor drug possession offense" has the same meaning as in section 2925.01 of the Revised Code.

Sec. 5153.113. (A)(1) As used in this section, "applicant" has the same meaning as in section 5153.111 of the Revised Code, and includes an intern applicant or a volunteer applicant.

(2) "Intern applicant" means a trainee seeking practical educational and career experience who is under consideration for a position with a public children services agency to work, with or without monetary gain or compensation, as a person responsible for the care, custody, or control of a child;

(3) "Volunteer applicant" means a person who is under consideration for a position with a public children services agency to perform services within the agency voluntarily, without monetary gain or compensation, as a person responsible for the care, custody, or control of a child.

(B) Notwithstanding division (I)(1) of section 2151.421, section 5153.17, and any other section of the Revised Code pertaining to confidentiality, before a public children services agency employs an applicant, the executive director of the agency, or the executive director's designee within the agency, shall review promptly any information the agency determines to be relevant for the purpose of evaluating the fitness of the applicant, including, but not limited to, the following:

(1) Abuse and neglect reports made pursuant to section 2151.421 of the Revised Code of which the applicant is the subject where it has been determined that abuse or neglect occurred;

(2) The final disposition of investigations of the abuse and neglect reports, or if the investigations have not been completed, the status of the investigations;

(3) Any underlying documentation concerning the reports.

(C) The information reviewed under division (B) of this section shall not include the name of the person or entity that made the report or participated in the making of the report of child abuse or neglect.

~~(D) The director of children and youth shall adopt rules pursuant to Chapter 119. of the Revised Code to implement this section.~~

Sec. 5153.124. ~~(A)(1) The director of children and youth shall adopt rules as necessary to implement the training requirements of sections 5153.122 and 5153.123 of the Revised Code.~~

~~(2)~~ (A) Not later than nine months after September 30, 2021, the director shall adopt rules in accordance with Chapter 119. of the Revised Code to establish the circumstances under which an executive director of a public children services agency may waive portions of in-service training for PCSA caseworkers, in addition to the waiver described in section 5153.122 of the Revised Code.

(B) Notwithstanding sections 5103.37 to 5103.42 and sections 5153.122 to 5153.127 of the Revised Code, the department of children and youth may require additional training for PCSA caseworkers and PCSA caseworker supervisors as necessary to comply with federal requirements.

Sec. 5153.16. (A) Except as provided in section 2151.422 of the Revised Code, in accordance with rules adopted under

section 5153.166 of the Revised Code, and on behalf of children in the county whom the public children services agency considers to be in need of public care or protective services, the public children services agency shall do all of the following:

(1) Make an investigation concerning any child alleged to be an abused, neglected, or dependent child;

(2) Enter into agreements with the parent, guardian, or other person having legal custody of any child, or with the department of children and youth, department of mental health and addiction services, department of developmental disabilities, other department, any certified organization within or outside the county, or any agency or institution outside the state, having legal custody of any child, with respect to the custody, care, or placement of any child, or with respect to any matter, in the interests of the child, provided the permanent custody of a child shall not be transferred by a parent to the public children services agency without the consent of the juvenile court;

(3) Enter into a contract with an agency providing prevention services in an effort to prevent neglect or abuse, to enhance a child's welfare, and to preserve the family unit intact when referring a family for prevention services under division (J) of section 2151.421 of the Revised Code.

(4) Accept custody of children committed to the public children services agency by a court exercising juvenile jurisdiction;

(5) Provide such care as the public children services agency considers to be in the best interests of any child adjudicated to be an abused, neglected, or dependent child the

agency finds to be in need of public care or service;

(6) Provide social services to any unmarried girl adjudicated to be an abused, neglected, or dependent child who is pregnant with or has been delivered of a child;

(7) Make available to the children with medical handicaps program of the department of health at its request any information concerning a child with a disability found to be in need of treatment under sections 3701.021 to 3701.028 of the Revised Code who is receiving services from the public children services agency;

(8) Provide temporary emergency care for any child considered by the public children services agency to be in need of such care, without agreement or commitment;

(9) Find certified foster homes, within or outside the county, for the care of children, including children with disabilities from other counties attending special schools in the county;

(10) Subject to the approval of the board of county commissioners and the department of children and youth, establish and operate a training school or enter into an agreement with any municipal corporation or other political subdivision of the county respecting the operation, acquisition, or maintenance of any children's home, training school, or other institution for the care of children maintained by such municipal corporation or political subdivision;

(11) Acquire and operate a county children's home, establish, maintain, and operate a receiving home for the temporary care of children, or procure certified foster homes for this purpose;

(12) Enter into an agreement with the trustees of any district children's home, respecting the operation of the district children's home in cooperation with the other county boards in the district;

(13) Cooperate with, make its services available to, and act as the agent of persons, courts, the department of children and youth, the department of health, and other organizations within and outside the state, in matters relating to the welfare of children, except that the public children services agency shall not be required to provide supervision of or other services related to the exercise of parenting time rights granted pursuant to section 3109.051 or 3109.12 of the Revised Code or companionship or visitation rights granted pursuant to section 3109.051, 3109.11, or 3109.12 of the Revised Code unless a juvenile court, pursuant to Chapter 2151. of the Revised Code, or a common pleas court, pursuant to division (E)(6) of section 3113.31 of the Revised Code, requires the provision of supervision or other services related to the exercise of the parenting time rights or companionship or visitation rights;

(14) Make investigations at the request of any superintendent of schools in the county or the principal of any school concerning the application of any child adjudicated to be an abused, neglected, or dependent child for release from school, where such service is not provided through a school attendance department;

(15) Administer funds provided under Title IV-E of the "Social Security Act," 94 Stat. 501 (1980), 42 U.S.C.A. 671, as amended~~, in accordance with rules adopted under section 5180.42 of the Revised Code~~;

(16) In addition to administering Title IV-E adoption

assistance funds, enter into agreements to make adoption assistance payments under section 5153.163 of the Revised Code;

(17) Implement a system of safety and risk assessment, in accordance with rules adopted by the director of children and youth, to assist the public children services agency in determining the risk of abuse or neglect to a child;

(18) Enter into a plan of cooperation with the board of county commissioners under section 307.983 of the Revised Code and comply with each fiscal agreement the board enters into under section 307.98 of the Revised Code that include family services duties of public children services agencies and contracts the board enters into under sections 307.981 and 307.982 of the Revised Code that affect the public children services agency;

(19) Make reasonable efforts to prevent the removal of an alleged or adjudicated abused, neglected, or dependent child from the child's home, eliminate the continued removal of the child from the child's home, or make it possible for the child to return home safely, except that reasonable efforts of that nature are not required when a court has made a determination under division (A)(2) of section 2151.419 of the Revised Code;

(20) Make reasonable efforts to place the child in a timely manner in accordance with the permanency plan approved under division (E) of section 2151.417 of the Revised Code and to complete whatever steps are necessary to finalize the permanent placement of the child;

(21) Administer a Title IV-A program identified under division (A)(4)(c) or (h) of section 5101.80 of the Revised Code that the department of children and youth provides for the

public children services agency to administer under the department's supervision pursuant to section 5101.801 of the Revised Code;

(22) Administer the kinship permanency incentive program created under section 5180.52 of the Revised Code under the supervision of the director of children and youth;

(23) Provide independent living services pursuant to sections 2151.81 to 2151.84 of the Revised Code;

(24) File a missing child report with a local law enforcement agency upon becoming aware that a child in the custody of the public children services agency is or may be missing.

(B) The public children services agency shall use the system implemented pursuant to division (A)(17) of this section in connection with an investigation undertaken pursuant to division (G)(1) of section 2151.421 of the Revised Code to assess both of the following:

(1) The ongoing safety of the child;

(2) The appropriateness of the intensity and duration of the services provided to meet child and family needs throughout the duration of a case.

(C) Except as provided in section 2151.422 of the Revised Code, in accordance with rules of the director of children and youth, and on behalf of children in the county whom the public children services agency considers to be in need of public care or protective services, the public children services agency may do the following:

(1) Provide or find, with other child serving systems,

specialized foster care for the care of children in a specialized foster home, as defined in section 5103.02 of the Revised Code, certified under section 5103.03 of the Revised Code;

(2)(a) Except as limited by divisions (C)(2)(b) and (c) of this section, contract with the following for the purpose of assisting the agency with its duties:

(i) County departments of job and family services;

(ii) Boards of alcohol, drug addiction, and mental health services;

(iii) County boards of developmental disabilities;

(iv) Regional councils of political subdivisions established under Chapter 167. of the Revised Code;

(v) Private and government providers of services;

(vi) Managed care organizations and prepaid health plans.

(b) A public children services agency contract under division (C)(2)(a) of this section regarding the agency's duties under section 2151.421 of the Revised Code may not provide for the entity under contract with the agency to perform any service not authorized by the department's rules.

(c) Only a county children services board appointed under section 5153.03 of the Revised Code that is a public children services agency may contract under division (C)(2)(a) of this section. If an entity specified in division (B) or (C) of section 5153.02 of the Revised Code is the public children services agency for a county, the board of county commissioners may enter into contracts pursuant to section 307.982 of the Revised Code regarding the agency's duties.

Sec. 5153.163. (A) As used in this section:

(1) "Adoptive parent" means, as the context requires, a prospective adoptive parent or an adoptive parent.

(2) "Relative" has the same meaning as in section 5180.42 of the Revised Code.

(B)(1) Before a child's adoption is finalized, a public children services agency may enter into an agreement with the child's adoptive parent under which the agency, to the extent state funds are available, may make state adoption maintenance subsidy payments as needed on behalf of the child when all of the following apply:

(a) The child is a child with special needs.

(b) The child was placed in the adoptive home by a public children services agency or a private child placing agency and may legally be adopted.

(c) The adoptive parent has the capability of providing the permanent family relationships needed by the child.

(d) The needs of the child are beyond the economic resources of the adoptive parent.

(e) Acceptance of the child as a member of the adoptive parent's family would not be in the child's best interest without payments on the child's behalf under this section.

(f) The gross income of the adoptive parent's family does not exceed one hundred twenty per cent of the median income of a family of the same size, including the child, as most recently determined for this state by the secretary of health and human services under Title XX of the "Social Security Act," 88 Stat. 2337, 42 U.S.C.A. 1397, as amended.

(g) The child is not eligible for adoption assistance payments under Title IV-E of the "Social Security Act," 94 Stat. 501 (1980), 42 U.S.C.A. 671, as amended.

(2) State adoption maintenance subsidy payment agreements must be made by either the public children services agency that has permanent custody of the child or the public children services agency of the county in which the private child placing agency that has permanent custody of the child is located.

(3) State adoption maintenance subsidy payments shall be made in accordance with the agreement between the public children services agency and the adoptive parent and are subject to an annual redetermination of need.

(4) Payments under this division may begin either before or after issuance of the final adoption decree, except that payments made before issuance of the final adoption decree may be made only while the child is living in the adoptive parent's home. Preadoption payments may be made for not more than twelve months, unless the final adoption decree is not issued within that time because of a delay in court proceedings. Payments that begin before issuance of the final adoption decree may continue after its issuance.

(C)(1) A public children services agency may enter into an agreement with a child's relative under which the agency, to the extent state funds are available, may provide state kinship guardianship assistance as needed on behalf of the child when all of the following apply:

(a) The relative has cared for the eligible child as a foster caregiver as defined by section 5103.02 of the Revised Code for at least six consecutive months.

(b) Both of the following apply:

(i) A juvenile court issued an order granting legal custody of the child to the relative, or a probate court issued an order granting guardianship of the child to the relative, and the order is not a temporary court order.

(ii) The relative has committed to care for the child on a permanent basis.

(c) The relative signed a state kinship guardianship assistance agreement prior to assuming legal guardianship or legal custody of the child.

(d) The child had been removed from home pursuant to a voluntary placement agreement or as a result of a judicial determination to the effect that continuation in the home would be contrary to the welfare of the child.

(e) Returning the child home or adoption are not appropriate permanency options for the child.

(f) The child demonstrates a strong attachment to the relative and the relative has a strong commitment to caring permanently for the child.

(g) With respect to a child who has attained fourteen years of age, the child has been consulted regarding the state kinship guardianship assistance arrangement.

(h) The child is not eligible for kinship guardianship assistance payments under Title IV-E of the "Social Security Act," 42 U.S.C. 673(d), as amended.

(2) The public children services agency that had custody of a child immediately prior to a court granting legal custody or guardianship of the child to a relative of the child

described in division (C)(1) of this section is authorized to enter into a state kinship guardianship assistance agreement with that relative.

(3) State kinship guardianship assistance for a child shall be provided in accordance with a state kinship guardianship assistance agreement entered into between the public children services agency and relative of the child described in division (C)(1) of this section and is subject to an annual redetermination of need.

(D) No payment shall be made under division (B) or (C) of this section on behalf of any person eighteen years of age or older beyond the end of the school year during which the person attains the age of eighteen or on behalf of a person with a mental or physical disability twenty-one years of age or older.

(E) The director of children and youth shall adopt rules in accordance with Chapter 119. of the Revised Code ~~that are needed to implement this section. The rules shall~~ that establish all of the following:

(1) The application process for all forms of assistance provided under this section;

(2) The method to determine the amount of assistance payable under division (B) of this section;

(3) The definition of "child with special needs" for this section;

(4) The process whereby a child's continuing need for services provided under division (B) or (C) of this section is annually redetermined~~;~~

~~(5) Any other rule, requirement, or procedure the~~

~~department considers appropriate for the implementation of this section~~.

(F) The state adoption special services subsidy program ceases to exist on July 1, 2004, except that, subject to the findings of the annual redetermination process established under division (E) of this section and the child's individual need for services, a public children services agency may continue to provide state adoption special services subsidy payments on behalf of a child for whom payments were being made prior to July 1, 2004.

(G) Benefits and services provided under this section are inalienable whether by way of assignment, charge, or otherwise and exempt from execution, attachment, garnishment, and other like processes.

Sec. 5160.052. The department of medicaid shall collaborate with the superintendent of the bureau of criminal identification and investigation to develop procedures and formats necessary to produce the notices described in division (D) of section 109.5721 of the Revised Code in a format that is acceptable for use by the department. The medicaid director may adopt rules ~~under section 5160.02 of the Revised Code necessary~~ for such collaboration. Any such rules shall be adopted in accordance with section 111.15 of the Revised Code as if they were internal management rules.

The medicaid director may adopt rules ~~under section 5160.02 of the Revised Code necessary~~ for utilizing the information received pursuant to section 109.5721 of the Revised Code. The rules shall be adopted in accordance with Chapter 119. of the Revised Code.

Sec. 5160.10. The medicaid director may expend funds appropriated or available to the department of medicaid from persons and government entities. For purposes of this section, the director may enter into contracts or agreements with persons and government entities and make grants to persons and government entities. To the extent permitted by federal law, the director may advance funds to a grantee when necessary for the grantee to perform duties under the grant as specified by the director.

~~The director may adopt rules under section 5160.02 of the Revised Code as necessary to define terms and adopt procedures and other provisions necessary to implement this section.~~

Sec. 5160.12. (A) As used in this section, "entity" includes an agency, board, commission, or department of the state or a political subdivision of the state; a private, nonprofit entity; a school district; a private school; or a public or private institution of higher education.

(B) This section does not apply to contracts entered into under section 5162.32 or 5162.35 of the Revised Code.

(C) At the request of any public entity having authority to implement a program administered by the department of medicaid or any private entity under contract with a public entity to implement a program administered by the department, the department may seek to obtain federal financial participation for costs incurred by the entity. Federal financial participation may be sought from programs operated pursuant to Title XIX of the "Social Security Act," 42 U.S.C. 1396, et seq., and any other statute or regulation under which federal financial participation may be available, except that federal financial participation may be sought only for

expenditures made with funds for which federal financial participation is available under federal law.

(D) All funds collected by the department pursuant to division (C) of this section shall be distributed to the entities that incurred the costs.

(E) In distributing federal financial participation pursuant to this section, the department may either enter into an agreement with the entity that is to receive the funds or distribute the funds in accordance with rules authorized by division (H) of this section. If the department decides to enter into an agreement to distribute the funds, the agreement may include terms that do any of the following:

(1) Provide for the whole or partial reimbursement of any cost incurred by the entity in implementing the program;

(2) In the event that federal financial participation is disallowed or otherwise unavailable for any expenditure, require the department or the entity, whichever party caused the disallowance or unavailability of federal financial participation, to assume responsibility for the expenditures;

(3) Require the entity to certify to the department the availability of sufficient unencumbered funds to match the federal financial participation the entity receives under this section;

(4) Establish the length of the agreement, which may be for a fixed or a continuing period of time;

(5) Establish any other requirements determined by the department to be necessary for the efficient administration of the agreement.

(F) An entity that receives federal financial participation pursuant to this section for a program aiding children and their families shall establish a process for collaborative planning with the department for the use of the funds to improve and expand the program.

(G) Federal financial participation received pursuant to this section shall not be included in any calculation made under section 5101.16 or 5101.161 of the Revised Code.

(H) The medicaid director may adopt rules ~~under section 5160.02 of the Revised Code as necessary to implement this section, including rules~~ for the distribution of federal financial participation pursuant to this section. The rules shall be adopted in accordance with Chapter 119. of the Revised Code.

Sec. 5160.20. (A) The department of medicaid may conduct any audits or investigations that are necessary in the performance of the department's duties, and to that end, the department has the same power as a judge of a county court to administer oaths and to enforce the attendance and testimony of witnesses and the production of books or papers.

The department shall keep a record of the department's audits and investigations stating the time, place, charges, or subject; witnesses summoned and examined; and the department's conclusions.

Witnesses shall be paid the fees and mileage provided for under section 119.094 of the Revised Code.

(B) Any judge of any division of the court of common pleas, on application of the department, may compel the attendance of witnesses, the production of books or papers, and

the giving of testimony before the department, by a judgment for contempt or otherwise, in the same manner as in cases before those courts.

(C) Until an audit report is formally released by the department, the audit report or any working paper or other document or record prepared by the department and related to the audit that is the subject of the audit report is not a public record under section 149.43 of the Revised Code.

(D) The medicaid director may adopt rules ~~under section 5160.02 of the Revised Code as necessary to implement this section~~regarding audits and investigations the department conducts. The rules shall be adopted in accordance with section 111.15 of the Revised Code as if they were internal management rules.

Sec. 5160.34. (A) As used in this section:

(1) "Chronic condition" means a medical condition that has persisted after reasonable efforts have been made to relieve or cure its cause and has continued, either continuously or episodically, for longer than six continuous months.

(2) "Clinical peer" means a health care provider in the same, or in a similar, specialty that typically manages the medical condition, procedure, or treatment under review.

(3) "Emergency services" has the same meaning as in section 1753.28 of the Revised Code.

(4) "Prior authorization requirement" means any practice implemented by a medical assistance program in which coverage of a health care service, device, or drug is dependent upon a medical assistance recipient or a health care provider, receiving approval from the department of medicaid or its

designee, including a medicaid managed care organization, prior to the service, device, or drug being performed, received, or prescribed, as applicable. "Prior authorization" includes prospective or utilization review procedures conducted prior to providing a health care service, device, or drug.

(5) "Urgent care services" means a medical care or other service for a condition where application of the timeframe for making routine or non-life threatening care determinations is either of the following:

(a) Could seriously jeopardize the life, health, or safety of the recipient or others due to the recipient's psychological state;

(b) In the opinion of a practitioner with knowledge of the recipient's medical or behavioral condition, would subject the recipient to adverse health consequences without the care or treatment that is the subject of the request.

(6) "Utilization review" and "utilization review organization" have the same meanings as in section 1751.77 of the Revised Code.

(B) If a medical assistance program has a prior authorization requirement, the department of medicaid or its designee, including a medicaid managed care organization, shall do all of the following:

(1) On or before January 1, 2018, permit a health care provider to access the prior authorization form through the applicable electronic software system.

(2)(a) On or before January 1, 2018, permit the department or its designee to accept and respond to prior prescription benefit authorization requests through a secure electronic

transmission.

(b) On or before January 1, 2018, the department or its designee shall accept and respond to prior prescription benefit authorization requests through a secure electronic transmission using NCPDP SCRIPT standard ePA transactions, and for prior medical benefit authorization requests through a secure electronic transmission using standards established by the council for affordable quality health care on operating rules for information exchange or its successor.

(c) For purposes of division (B)(2) of this section, neither of the following shall be considered a secure electronic transmission:

(i) A facsimile;

(ii) A proprietary payer portal for prescription drug requests that does not use NCPDP SCRIPT standard.

(3) On or before January 1, 2018, a health care provider and the department of medicaid or its designee may enter into a contractual arrangement under which the department or its designee agrees to process prior authorization requests that are not submitted electronically because of the financial hardship that electronic submission of prior authorization requests would create for the provider or if internet connectivity is limited or unavailable where the provider is located.

(4)(a) On or before January 1, 2018, if the health care provider submits the request for prior authorization electronically as described in divisions (B)(1) and (2) of this section, respond to all prior authorization requests within forty-eight hours for urgent care services, or ten calendar days for any prior authorization request that is not for an urgent

care service, of the time the request is received by the department or its designee. Division (B)(4) of this section does not apply to emergency services.

(b) The response required under division (B)(4)(a) of this section shall indicate whether the request is approved or denied. If the prior authorization is denied, the department or its designee shall provide the specific reason for the denial.

(c) If the prior authorization request is incomplete, the department or its designee shall indicate the specific additional information that is required to process the request.

(5)(a) On or before January 1, 2018, if a health care provider submits a prior authorization request as described in divisions (B)(1) and (2) of this section, the department or its designee shall provide an electronic receipt to the health care provider acknowledging that the prior authorization request was received.

(b) On or before January 1, 2018, if the department or its designee requests additional information that is required to process a prior authorization request as described in division (B)(4)(c) of this section, the health care provider shall provide an electronic receipt to the department or its designee acknowledging that the request for additional information was received.

(6)(a) On or before January 1, 2017, honor a prior authorization approval for an approved drug for the lesser of the following from the date of approval:

(i) Twelve months;

(ii) The last day of the medical assistance recipient's eligibility for the medical assistance program.

(b) The duration of all other prior authorization approvals shall be dictated by the medical assistance program.

(c) The department or its designee, in relation to prior approval under division (B)(6)(a) of this section, may require a health care provider to submit information to the department or its designee indicating that the patient's chronic condition has not changed.

(i) The request for information by the department or its designee and the response by the health care provider shall be in an electronic format, which may be by electronic mail or other electronic communication.

(ii) The frequency of the submission of requested information shall be consistent with medical or scientific evidence as defined in section 3922.01 of the Revised Code, but shall not be required more frequently than quarterly.

(iii) If the health care provider does not respond within five calendar days from the date the request was received, the insurer or plan may terminate the twelve-month approval.

(d) A twelve-month approval provided under division (B)(6)(a) of this section is no longer valid and automatically terminates if there are changes to federal or state laws or federal regulatory guidance or compliance information prescribing that the drug in question is no longer approved or safe for the intended purpose.

(e) A twelve-month approval provided under division (B)(6)(a) of this section does not apply to and is not required for any of the following:

(i) Medications that are prescribed for a non-maintenance condition;

(ii) Medications that have a typical treatment of less than one year;

(iii) Medications that require an initial trial period to determine effectiveness and tolerability, beyond which a one-year, or greater, prior authorization period will be given;

(iv) Medications where there is medical or scientific evidence as defined in section 3922.01 of the Revised Code that do not support a twelve-month prior approval;

(v) Medications that are a schedule I or II controlled substance or any opioid analgesic or benzodiazepine, as defined in section 3719.01 of the Revised Code;

(vi) Medications that are not prescribed by an in-network provider as part of a care management program.

(7) On or before January 1, 2017, the department or its designee may, but is not required to, provide the twelve-month approval prescribed in division (B)(6)(a) of this section for a prescription drug that meets either of the following:

(a) The drug is prescribed or administered to treat a rare medical condition and pursuant to medical or scientific evidence as defined in section 3922.01 of the Revised Code.

(b) Medications that are controlled substances not included in division (B)(6)(e)(v) of this section.

For purposes of division (B)(7) of this section, "rare medical condition" means any disease or condition that affects fewer than two-hundred thousand individuals in the United States.

(8) Nothing in division (B)(6) or (7) of this section prohibits the substitution, in accordance with section 4729.38

of the Revised Code, of any drug that has received a twelve-month approval under division (B)(6)(a) of this section when there is a release of either of the following:

(a) A United States food and drug administration approved comparable brand product or a generic counterpart of a brand product that is listed as therapeutically equivalent in the United States food and drug administration's publication titled approved drug products with therapeutic equivalence evaluations;

(b) An interchangeable biological product, as defined in section 3715.01 of the Revised Code.

(9)(a) On or after January 1, 2017, upon written request, the department or its designee shall permit a retrospective review for a claim that is submitted for a service where prior authorization was required, but not obtained if the service in question meets all of the following:

(i) The service is directly related to another service for which prior approval has already been obtained and that has already been performed.

(ii) The new service was not known to be needed at the time the original prior authorized service was performed.

(iii) The need for the new service was revealed at the time the original authorized service was performed.

(b) Once the written request and all necessary information is received, the department or its designee shall review the claim for coverage and medical necessity. The department or its designee shall not deny a claim for such a new service based solely on the fact that a prior authorization approval was not received for the new service in question.

(10)(a) On or before January 1, 2017, disclose to all participating health care providers any new prior authorization requirement at least thirty days prior to the effective date of the new requirement.

(b) The notice may be sent via electronic mail or standard mail and shall be conspicuously entitled "Notice of Changes to Prior Authorization Requirements." The notice is not required to contain a complete listing of all changes made to the prior authorization requirements, but shall include specific information on where the health care provider may locate the information on the department's or its designee's web site or, if applicable, the department's or its designee's portal.

(c) All participating health care providers shall promptly notify the department or its designee of any changes to the health care provider's electronic mail or standard mail address.

(11)(a) On or before January 1, 2017, make available to all participating health care providers on its web site or provider portal a listing of its prior authorization requirements, including specific information or documentation that a provider must submit in order for the prior authorization request to be considered complete.

(b) Make available on its web site information about the medical assistance programs offered in this state that clearly identifies specific services, drugs, or devices to which a prior authorization requirement exists.

(12) On or before January 1, 2018, establish a streamlined appeal process relating to adverse prior authorization determinations that shall include all of the following:

(a) For urgent care services, the appeal shall be

considered within forty-eight hours after the department or its designee receives the appeal.

(b) For all other matters, the appeal shall be considered within ten calendar days after the department or its designee receives the appeal.

(c) The appeal shall be between the health care provider requesting the service in question and a clinical peer appointed by or contracted by the department or the department's designee.

(d) If the appeal does not resolve the disagreement, the appeal procedures shall permit the recipient to further appeal in accordance with section 5160.31 of the Revised Code.

(C) Beginning January 1, 2017, except in cases of fraudulent or materially incorrect information, the department or its designee shall not retroactively deny a prior authorization for a health care service, drug, or device when all of the following are met:

(1) The health care provider submits a prior authorization request to the department or its designee for a health care service, drug, or device.

(2) The department or its designee approves the prior authorization request after determining that all of the following are true:

(a) The recipient is eligible for the health care service, drug, or device under the medical assistance program.

(b) The health care service, drug, or device is covered by the medical assistance program.

(c) The health care service, drug, or device meets the department's standards for medical necessity and prior

authorization.

(3) The health care provider renders the health care service, drug, or device pursuant to the approved prior authorization request and all of the terms and conditions of the health care provider's contract with the department or the department's designee.

(4) On the date the health care provider renders the prior approved health care service, drug, or device, all of the following are true:

(a) The recipient is eligible for the medical assistance program.

(b) The recipient's condition or circumstances related to the recipient's care has not changed.

(c) The health care provider submits an accurate claim that matches the information submitted by the health care provider in the approved prior authorization request.

(5) If the health care provider submits a claim that includes an unintentional error and the error results in a claim that does not match the information originally submitted by the health care provider in the approved prior authorization request, upon receiving a denial of services from the department or its designee, the health care provider may resubmit the claim pursuant to division (C) of this section with the information that matches the information included in the approved prior authorization.

(D) Any provision of a contractual arrangement entered into between the department or its designee and a health care provider or recipient that is contrary to divisions (A) to (C) of this section is unenforceable.

(E) The medicaid director ~~of medicaid~~ may adopt rules in accordance with Chapter 119. of the Revised Code ~~as necessary to implement the provisions of this section~~regarding prior authorization under the medical assistance program.

Sec. 5160.37. (A) A medical assistance recipient's enrollment in a medical assistance program gives an automatic right of recovery to the department of medicaid and a county department of job and family services against the liability of a third party for the cost of medical assistance paid on behalf of the recipient. When an action or claim is brought against a third party by a medical assistance recipient, any payment, settlement or compromise of the action or claim, or any court award or judgment, is subject to the recovery right of the department of medicaid or county department. Except in the case of a medical assistance recipient who receives medical assistance through a medicaid managed care organization, the department's or county department's claim shall not exceed the amount of medical assistance paid by the department or county department on behalf of the recipient. A payment, settlement, compromise, judgment, or award that excludes the cost of medical assistance paid for by the department or county department shall not preclude a department from enforcing its rights under this section.

(B)(1) In the case of a medical assistance recipient who receives medical assistance through a medicaid managed care organization that has a capitation agreement with a provider, the amount of the department's or county department's claim shall be the amount the medicaid managed care organization would have paid in the absence of a capitation agreement.

(2) In the case of a medical assistance recipient who

receives medical assistance through a medicaid managed care organization that does not have a capitation agreement with a provider, the amount of the department's or county department's claim shall be the amount the medicaid managed care organization pays for medical assistance rendered to the recipient, even if that amount is more than the amount the department or county department pays to the medicaid managed care organization for the recipient's medical assistance.

(C) A medical assistance recipient, and the recipient's attorney, if any, shall cooperate with the departments. In furtherance of this requirement, the medical assistance recipient, or the recipient's attorney, if any, shall, not later than thirty days after initiating informal recovery activity or filing a legal recovery action against a third party, provide written notice of the activity or action to the department of medicaid or county department if it has paid for medical assistance under a medical assistance program.

(D) The written notice that must be given under division (C) of this section shall disclose the identity and address of any third party against whom the medical assistance recipient has or may have a right of recovery.

(E) No settlement, compromise, judgment, or award or any recovery in any action or claim by a medical assistance recipient where the department or county department has a right of recovery shall be made final without first giving the department or county department written notice as described in division (C) of this section and a reasonable opportunity to perfect its rights of recovery. If the department or county department is not given the appropriate written notice, the medical assistance recipient and, if there is one, the

recipient's attorney, are liable to reimburse the department or county department for the recovery received to the extent of medical assistance payments made by the department or county department.

(F) The department or county department shall be permitted to enforce its recovery rights against the third party even though it accepted prior payments in discharge of its rights under this section if, at the time the department or county department received such payments, it was not aware that additional medical expenses had been incurred but had not yet been paid by the department or county department. The third party becomes liable to the department or county department as soon as the third party is notified in writing of the valid claims for recovery under this section.

(G)(1) Subject to division (G)(2) of this section, the right of recovery of the department or county department does not apply to that portion of any judgment, award, settlement, or compromise of a claim, to the extent of attorneys' fees, costs, or other expenses incurred by a medical assistance recipient in securing the judgment, award, settlement, or compromise, or to the extent of medical, surgical, and hospital expenses paid by such recipient from the recipient's own resources.

(2) Reasonable attorneys' fees, not to exceed one-third of the total judgment, award, settlement, or compromise, plus costs and other expenses incurred by the medical assistance recipient in securing the judgment, award, settlement, or compromise, shall first be deducted from the total judgment, award, settlement, or compromise. After fees, costs, and other expenses are deducted from the total judgment, award, settlement, or compromise, there shall be a rebuttable presumption that the

department of medicaid or county department shall receive no less than one-half of the remaining amount, or the actual amount of medical assistance paid, whichever is less. A party may rebut the presumption in accordance with division (L)(1), (2), or (3) of this section, as applicable.

(H) A right of recovery created by this section may be enforced separately or jointly by the department of medicaid or county department. To enforce its recovery rights, the department or county department may do any of the following:

(1) Intervene or join in any action or proceeding brought by the medical assistance recipient or on the recipient's behalf against any third party who may be liable for the cost of medical assistance paid;

(2) Institute and pursue legal proceedings against any third party who may be liable for the cost of medical assistance paid;

(3) Initiate legal proceedings in conjunction with any injured, diseased, or disabled medical assistance recipient or the recipient's attorney or representative.

(I) A medical assistance recipient shall not assess attorney fees, costs, or other expenses against the department of medicaid or a county department when the department or county department enforces its right of recovery created by this section.

(J) The right of recovery given to the department under this section includes payments made by a third party under contract with a person having a duty to support.

(K) The department of medicaid may assign to a medical assistance provider the right of recovery given to the

department under this section with respect to any claim for which the department has notified the provider that the department intends to recoup the department's prior payment for the claim.

(L)(1) Prior to any payment to the department or a county department pursuant to the department's or county department's right of recovery under this section, a party that desires to rebut the presumption in division (G) of this section shall submit to the department or county department a request for a hearing in accordance with the procedure the department establishes in rules required by division (O) of this section. The amount sought by the department or county department shall be held in escrow or in an interest on lawyers' trust account until the hearing examiner renders a decision or the case is otherwise concluded. A party successfully rebuts the presumption by a showing of clear and convincing evidence that a different allocation is warranted.

(2) A medical assistance recipient who has repaid money, on or after September 29, 2007, to the department or a county department pursuant to the department's or county department's right of recovery under this section, section 5160.38 of the Revised Code, or former section 5101.58 or 5101.59 of the Revised Code may request a hearing to rebut the presumption in division (G) of this section. The request shall be made in accordance with the procedure the department establishes for this purpose in rules required by division (O) of this section. It must be made not later than one hundred eighty days after September 29, 2015, or ninety days after the payment is made, whichever is later. A party successfully rebuts the presumption by a showing of clear and convincing evidence that a different allocation is warranted.

(3) A medical assistance recipient who has repaid money, between April 6, 2007 and September 28, 2007, to the department or a county department pursuant to the department's or county department's right of recovery under this section, section 5160.38 of the Revised Code, or former section 5101.58 or 5101.59 of the Revised Code may request a hearing to rebut the presumption in division (G) of this section. The request shall be made not later than one hundred eighty days after ~~the effective date of this amendment~~ September 30, 2025, in accordance with the procedure the department establishes for this purpose in rules required by division (O) of this section. The presumption is successfully rebutted if the requestor demonstrates by clear and convincing evidence that a different allocation is warranted.

(4) With respect to a hearing requested under division (L)(1), (2), or (3) of this section, all of the following are the case:

(a) The hearing examiner may consider, but is not bound by the allocation of, medical expenses specified in a settlement agreement between the medical assistance recipient and the relevant third party;

(b) The department or county department may raise affirmative defenses during the hearing, including the existence of a prior settlement with the medical assistance recipient, the doctrine of accord and satisfaction, or the common law principle of res judicata;

(c) If the parties agree, live testimony shall not be presented at the hearing;

(d) ~~The hearing may be governed by rules adopted under~~

~~section 5160.02 of the Revised Code. If such rules are adopted, Chapter 119. of the Revised Code applies to the hearing only to the extent specified in those rules;~~

~~(e)~~ The hearing examiner's decision is binding on the department or county department and the medical assistance recipient unless the decision is reversed or modified on appeal to the medicaid director as described in division (M) of this section;

~~(f)~~ (e) A request for a hearing may be submitted by any of the following:

(i) The medical assistance recipient;

(ii) The medical assistance recipient's authorized representative;

(iii) The executor or administrator of a medical assistance recipient's estate authorized to make or pursue a request;

(iv) A court-appointed guardian;

(v) An attorney who has been directly retained by the medical assistance recipient, or the recipient's parent, legal guardian, or court-appointed guardian.

(M)(1) A medical assistance recipient who disagrees with a hearing examiner's decision under division (L) of this section may file an administrative appeal with the medicaid director in accordance with the procedure the department establishes for this purpose in rules required by division (O) of this section. A hearing is not required during the administrative appeal, but the director or the director's designee shall review the hearing examiner's decision and any prior relevant administrative

action. After the review, the director or the director's designee shall affirm, modify, remand, or reverse the hearing decision. A decision made under this division is final and binding on the department or county department and the medical assistance recipient unless it is reversed or modified on appeal to a court of common pleas as described in division (N) of this section.

(2) ~~An administrative appeal may be governed by rules adopted under section 5160.02 of the Revised Code.~~ The medicaid director may adopt rules governing administrative appeals. If such rules are adopted, Chapter 119. of the Revised Code applies to an administrative appeal only to the extent specified in those rules.

(N) A party to an administrative appeal described in division (M) of this section may file an appeal with a court of common pleas in accordance with section 119.12 of the Revised Code.

(O) The medicaid director shall adopt rules ~~under section 5160.02 of the Revised Code as necessary to implement this section, including rules~~ establishing procedures a party may use to request a hearing under division (L)(1), (2), or (3) of this section or an administrative appeal under division ~~(M)(1)~~(M) of this section. The rules shall be adopted in accordance with Chapter 119. of the Revised Code.

(P) Divisions (L) to (N) of this section are remedial in nature and shall be liberally construed by the courts of this state in accordance with section 1.11 of the Revised Code. Those divisions specify the sole remedy available to a party who claims the department or a county department has received or is to receive more money than entitled to receive under this

section, section 5160.38 of the Revised Code, or former section 5101.58 or 5101.59 of the Revised Code.

Sec. 5160.43. (A) The medicaid director may adopt rules ~~under section 5160.02 of the Revised Code to implement sections 5160.35 to 5160.43 of the Revised Code, including rules~~ that specify what constitutes cooperating with efforts to obtain support or payments, or medical assistance payments, and when cooperation may be waived.

(B) The department shall adopt rules ~~under section 5160.02 of the Revised Code to~~ that do all of the following:

(1) For purposes of the definition of "information" in division (A) of section 5160.35 of the Revised Code, any data other than the data specified in that division that should be included in the definition.

(2) For purposes of division (C)(1)(a) of section 5160.39 of the Revised Code, the medium, format, and manner in which a third party must provide information to the department.

(3) For purposes of division (C)(2) of section 5160.39 of the Revised Code, the method by which a third party must provide the department with access to information.

(C) Rules authorized by division (A) of this section may be adopted in accordance with section 111.15 of the Revised Code. Rules authorized by division (B) of this section shall be adopted in accordance with Chapter 119. of the Revised Code.

Sec. 5160.48. ~~(A)~~ (A)(1) The medicaid director shall adopt rules ~~under section 5160.02 of the Revised Code implementing sections 5160.45 to 5160.481 of the Revised Code and~~ governing the custody, use, disclosure, and preservation of the information generated or received by the department of medicaid,

county departments of job and family services, other state and county entities, contractors, grantees, private entities, or officials participating in the administration of medical assistance programs. ~~The rules shall be adopted in accordance with Chapter 119. of the Revised Code. The rules may define who is an "authorized representative" for purposes of sections 5160.45 and 5160.46 of the Revised Code.~~ The rules shall specify conditions and procedures for the release of information, which may include both of the following:

~~(1)~~ (a) Permitting a provider of a service under a medical assistance program limited access to information that is essential for the provider to render the service or to bill for the service rendered;

~~(2)~~ (b) Permitting a contractor, grantee, or other state or county entity limited access to information that is essential for the contractor, grantee, or entity to perform administrative or other duties on behalf of the department or a county department.

(2) The rules may define who is an "authorized representative" for purposes of sections 5160.45 and 5160.46 of the Revised Code.

(3) The rules shall be adopted in accordance with Chapter 119. of the Revised Code.

(B) The department of aging, when investigating a complaint under section 173.20 of the Revised Code, shall be granted any limited access permitted in the rules authorized by division ~~(A)(1)~~ (A)(1)(a) of this section.

A contractor, grantee, or entity given access to information pursuant to the rules authorized by division ~~(A)(2)~~

(A)(1)(b) of this section is bound by the director's rules. Disclosure of the information by the contractor, grantee, or entity in a manner not authorized by the rules is a violation of section 5160.45 of the Revised Code.

Sec. 5161.02. The medicaid director may adopt rules in accordance with Chapter 119. of the Revised Code ~~as necessary for the efficient administration of the children's health insurance program, including rules~~ that establish all of the following:

(A) The conditions under which the children's health insurance program will pay for health benefits coverage;

(B) The method of the payment;

(C) The amount of payment, or the method by which the amount is to be determined, for each service included in the health benefits coverage.

Sec. 5161.30. The medicaid director may contract with a government entity or person to perform the director's administrative duties regarding CHIP part I, part II, part III, two of the parts, or all three parts, other than the duty to submit a state child health plan to the United States secretary of health and human services under section 5161.10 of the Revised Code~~,~~ and the duty to submit a waiver request under section 5161.15 of the Revised Code~~, and the duty to adopt rules under section 5161.02 of the Revised Code~~.

Sec. 5162.01. (A) As used in the Revised Code:

(1) "Medicaid" and "medicaid program" mean the program of medical assistance established by Title XIX of the "Social Security Act," 42 U.S.C. 1396 et seq., including any medical assistance provided under the medicaid state plan or a federal

medicaid waiver granted by the United States secretary of health and human services.

(2) "Medicare" and "medicare program" mean the federal health insurance program established by Title XVIII of the "Social Security Act," 42 U.S.C. 1395 et seq.

(B) As used in this chapter:

(1) "Exchange" has the same meaning as in 45 C.F.R. 155.20.

(2) "Expansion eligibility group" has the same meaning as in section 5163.01 of the Revised Code.

(3) "Federal financial participation" has the same meaning as in section 5160.01 of the Revised Code.

(4) "Federal poverty line" means the official poverty line defined by the United States office of management and budget based on the most recent data available from the United States bureau of the census and revised by the United States secretary of health and human services pursuant to the "Omnibus Budget Reconciliation Act of 1981," section 673(2), 42 U.S.C. 9902(2).

(5) "Healthcheck" has the same meaning as in section 5164.01 of the Revised Code.

(6) "Healthy start component" means the component of the medicaid program that covers pregnant women and children and is identified ~~in rules adopted under section 5162.02 of the Revised Code~~ as the healthy start component.

(7) "Home and community-based services" means services provided under a home and community-based services medicaid waiver component.

(8) "Home and community-based services medicaid waiver component" has the same meaning as in section 5166.01 of the Revised Code.

(9) "ICF/IID" has the same meaning as in section 5124.01 of the Revised Code.

(10) "Individualized education program" has the same meaning as in section 3323.011 of the Revised Code.

(11) "Medicaid managed care organization" has the same meaning as in section 5167.01 of the Revised Code.

(12) "Medicaid MCO plan" has the same meaning as in section 5167.01 of the Revised Code.

(13) "Medicaid provider" has the same meaning as in section 5164.01 of the Revised Code.

(14) "Medicaid services" has the same meaning as in section 5164.01 of the Revised Code.

(15) "Medicaid waiver component" has the same meaning as in section 5166.01 of the Revised Code;

(16) "Nursing facility" and "nursing facility services" have the same meanings as in section 5165.01 of the Revised Code.

(17) "Ordering or referring only provider" means a medicaid provider who orders, prescribes, refers, or certifies a service or item reported on a claim for medicaid payment but does not bill for medicaid services.

(18) "Political subdivision" means a municipal corporation, township, county, school district, or other body corporate and politic responsible for governmental activities

only in a geographical area smaller than that of the state.

(19) "Prescribed drug" has the same meaning as in section 5164.01 of the Revised Code.

(20) "Provider agreement" has the same meaning as in section 5164.01 of the Revised Code.

(21) "Qualified medicaid school provider" means the board of education of a city, local, or exempted village school district, the governing board of an educational service center, the governing authority of a community school established under Chapter 3314. of the Revised Code, and Ohio deaf and blind education services to which both of the following apply:

(a) It holds a valid provider agreement.

(b) It meets all other conditions for participation in the medicaid school component of the medicaid program established in rules authorized by section 5162.364 of the Revised Code.

(22) "State agency" means every organized body, office, or agency, other than the department of medicaid, established by the laws of the state for the exercise of any function of state government.

(23) "Vendor offset" means a reduction of a medicaid payment to a medicaid provider to correct a previous, incorrect medicaid payment to that provider.

Sec. 5162.021. The medicaid director shall adopt rules ~~under sections 5160.02, 5162.02, 5163.02, 5164.02, 5165.02, 5166.02, and 5167.02 of the Revised Code as necessary~~ to authorize the directors of other state agencies to adopt rules regarding medicaid components, or aspects of medicaid components, the other state agencies administer pursuant to

contracts entered into under section 5162.35 of the Revised Code.

Sec. 5162.031. ~~(A)~~ The medicaid director may do ~~all~~ both of the following ~~as necessary for the department of medicaid to fulfill the duties it has,~~ as the single state agency for the medicaid program, under the "Medicare Prescription Drug, Improvement, and Modernization Act of 2003" Pub. L. No. 108-173:

~~(1) Adopt rules in accordance with division (B) of this section;~~

~~(2)~~ (A) Assign duties to county departments of job and family services;

~~(3)~~ (B) Make payments to the United States department of health and human services from appropriations made to the department of medicaid for this purpose.

~~(B) Rules authorized by division (A)(1) of this section shall be adopted as follows:~~

~~(1) If the rules concern the department's duties regarding medicaid providers, under sections 5164.02 and 5165.02 of the Revised Code, as appropriate;~~

~~(2) If the rules concern the department's duties concerning individuals' eligibility for medicaid services, under section 5163.02 of the Revised Code;~~

~~(3) If the rules concern the department's duties concerning financial and operational matters between the department and county departments of job and family services, under section 5162.02 of the Revised Code.~~

Sec. 5162.10. The medicaid director may conduct reviews of the medicaid program. The reviews may include physical

inspections of records and sites where medicaid services are provided and interviews of medicaid providers and medicaid recipients. If the director determines pursuant to a review that a person or government entity has violated a rule governing the medicaid program, the director may establish a corrective action plan for the violator and impose fiscal, administrative, or both types of sanctions on the violator in accordance with ~~rules adopted under section 5162.02 of the Revised Code~~that rule.

Sec. 5162.21. (A) As used in this section and section 5162.211 of the Revised Code:

(1) "Estate" includes both of the following:

(a) All real and personal property and other assets to be administered under Title XXI of the Revised Code and property that would be administered under that title if not for section 2113.03 or 2113.031 of the Revised Code;

(b) Any other real and personal property and other assets in which an individual had any legal title or interest at the time of death (to the extent of the interest), including assets conveyed to a survivor, heir, or assign of the individual through joint tenancy, tenancy in common, survivorship, life estate, living trust, or other arrangement.

(2) "Institution" means a nursing facility, ICF/IID, or a medical institution.

(3) "Permanently institutionalized individual" means an individual to whom all of the following apply:

(a) Is an inpatient in an institution;

(b) Is required, as a condition of the medicaid program paying for the individual's services in the institution, to

spend for costs of medical or nursing care all of the individual's income except for an amount for personal needs specified by the department of medicaid;

(c) Cannot reasonably be expected to be discharged from the institution and return home as determined by the department of medicaid.

(4) "Qualified state long-term care insurance partnership program" means the program established under section 5164.86 of the Revised Code.

(5) "Time of death" shall not be construed to mean a time after which a legal title or interest in real or personal property or other asset may pass by survivorship or other operation of law due to the death of the decedent or terminate by reason of the decedent's death.

(B) To the extent permitted by federal law, the department of medicaid shall institute a medicaid estate recovery program under which the department shall, except as provided in divisions (C) and (E) of this section, and subject to division (D) of this section, do all of the following:

(1) For the costs of medicaid services the medicaid program correctly paid or will pay on behalf of a permanently institutionalized individual of any age, seek adjustment or recovery from the individual's estate or on the sale of property of the individual or spouse that is subject to a lien imposed under section 5162.211 of the Revised Code;

(2) For the costs of medicaid services the medicaid program correctly paid or will pay on behalf of an individual fifty-five years of age or older who is not a permanently institutionalized individual, seek adjustment or recovery from

the individual's estate;

(3) Seek adjustment or recovery from the estate of other individuals as permitted by federal law.

(C)(1) No adjustment or recovery may be made under division (B)(1) of this section from a permanently institutionalized individual's estate or on the sale of property of a permanently institutionalized individual that is subject to a lien imposed under section 5162.211 of the Revised Code or under division (B)(2) or (3) of this section from an individual's estate while either of the following are alive:

(a) The spouse of the permanently institutionalized individual or individual;

(b) The son or daughter of a permanently institutionalized individual or individual if the son or daughter is under age twenty-one or, under the "Social Security Act," section 1614, 42 U.S.C. 1382c, is considered blind or disabled.

(2) No adjustment or recovery may be made under division (B)(1) of this section from a permanently institutionalized individual's home that is subject to a lien imposed under section 5162.211 of the Revised Code while either of the following lawfully reside in the home:

(a) The permanently institutionalized individual's sibling who resided in the home for at least one year immediately before the date of the permanently institutionalized individual's admission to the institution and on a continuous basis since that time;

(b) The permanently institutionalized individual's son or daughter who provided care to the permanently institutionalized individual that delayed the permanently institutionalized

individual's institutionalization and resided in the home for at least two years immediately before the date of the permanently institutionalized individual's admission to the institution and on a continuous basis since that time.

(D) In the case of a participant of the qualified state long-term care insurance partnership program, adjustment or recovery required by this section may be reduced in accordance with rules authorized by division (G) of this section.

(E) The department shall, in accordance with procedures and criteria established in rules authorized by division (G) of this section, waive seeking an adjustment or recovery otherwise required by this section if the medicaid director determines that adjustment or recovery would work an undue hardship. The department may limit the duration of the waiver to the period during which the undue hardship exists.

(F) For the purpose of determining whether an individual meets the definition of "permanently institutionalized individual" established for this section, a rebuttable presumption exists that the individual cannot reasonably be expected to be discharged from an institution and return home if either of the following is the case:

(1) The individual declares that he or she does not intend to return home.

(2) The individual has been an inpatient in an institution for at least six months.

(G) ~~Rules adopted under section 5162.02 of the Revised Code shall~~ The medicaid director shall adopt rules that do both of the following regarding the medicaid estate recovery program:

(1) For the purpose of division (D) of this section and

consistent with the "Social Security Act," section 1917(b)(1)(C), 42 U.S.C. 1396p(b)(1)(C), provide for reducing an adjustment or recovery in the case of a participant of the qualified state long-term care insurance partnership program;

(2) For the purpose of division (E) of this section and consistent with the standards specified by the United States secretary of health and human services under the "Social Security Act," section 1917(b)(3), 42 U.S.C. 1396p(b)(3), establish procedures and criteria for waiving adjustment or recovery due to an undue hardship.

Sec. 5162.23. (A) The medicaid director shall adopt rules ~~under section 5162.02 of the Revised Code~~ permitting county departments of job and family services to take action to recover benefits incorrectly paid on behalf of medicaid recipients. The rules shall provide for recovery by the following methods:

(1) Soliciting voluntary payments from recipients or from persons holding property in which a recipient has a legal or equitable interest;

(2) Obtaining a lien on property pursuant to division (B) of this section.

(B) A county department of job and family services may bring a civil action in a court of common pleas against a medicaid recipient for the recovery of any medicaid payments determined by the court to have been paid incorrectly on behalf of the recipient. All persons holding property in which the recipient has a legal or equitable interest may be joined as parties. The court may issue pre-judgment orders, including injunctive relief or attachment under Chapter 2715. of the Revised Code, for the preservation of real or personal property

in which the recipient may have a legal or equitable interest. If the court determines that medicaid payments were made incorrectly and issues a judgment to that effect, the county department may obtain a lien upon property of the recipient in accordance with Chapter 2329. of the Revised Code.

(C) The county department of job and family services shall retain fifty per cent of the balance remaining after deduction from the recovery of the amount required to be returned to the federal government and shall pay the other fifty per cent of the balance to the department of medicaid.

(D) Recovery of medicaid payments incorrectly made on behalf of a medicaid recipient may not be accomplished by reducing the amount of benefits the recipient is entitled to receive under another government assistance program.

(E) The remedies provided pursuant to this section do not affect any other remedies county departments of job and family services may have to recover benefits incorrectly paid on behalf of medicaid recipients.

Sec. 5162.364. The medicaid director shall adopt rules ~~under section 5162.02 of the Revised Code as necessary to implement~~ regarding the medicaid school component of the medicaid program~~, including rules~~ that establish or specify all of the following:

(A) Conditions a board of education of a city, local, or exempted school district, a governing board of an educational service center, governing authority of a community school established under Chapter 3314. of the Revised Code, ~~,~~ and Ohio deaf and blind education services must meet to participate in the component;

(B) Services the component covers;

(C) Payment rates for the services the component covers.

The rules shall be adopted in accordance with Chapter 119. of the Revised Code.

Sec. 5162.41. The department of medicaid may retain or collect a percentage of the federal financial participation included in a supplemental medicaid payment to one or more medicaid providers owned or operated by a state agency or political subdivision that brings the payment to such provider or providers to the upper payment limit established by 42 C.F.R. 447.272. If the department retains or collects a percentage of that federal financial participation, the medicaid director shall adopt a rule ~~under section 5162.02 of the Revised Code~~ specifying the percentage the department is to retain or collect. All amounts the department retains or collects under this section shall be deposited into the health care/medicaid support and recoveries fund created under section 5162.52 of the Revised Code.

Sec. 5162.66. (A) There is hereby created in the state treasury the residents protection fund. All of the following shall be deposited into the fund:

(1) The proceeds of all fines, including interest, collected under sections 5165.60 to 5165.89 of the Revised Code;

(2) The proceeds of all fines, including interest, collected under section 173.42 of the Revised Code;

(3) The portions of civil money penalties and corresponding interest that are disbursed on or after July 1, 2017, to the department of medicaid pursuant to 42 C.F.R. 488.845.

(B)(1) Money deposited into the fund pursuant to divisions (A)(1) and (2) of this section shall be used for all of the following:

(a) Protection of the health or property of residents of nursing facilities in which the department of health finds deficiencies, including payment for the costs of relocation of residents to other facilities;

(b) Maintenance of operation of a facility pending correction of deficiencies or closure;

(c) Reimbursement of residents for the loss of money managed by the facility under section 3721.15 of the Revised Code;

(d) Provision of funds for costs incurred by a temporary resident safety assurance manager appointed under section 5165.78 of the Revised Code.

(2) Subject to 42 C.F.R. 488.845(g)(2), money deposited into the fund pursuant to division (A)(3) of this section shall be used to improve the quality of medicaid services provided by medicare-certified home health agencies.

(C) The fund shall be maintained and administered by the department of medicaid under rules developed in consultation with the departments of health and aging ~~and adopted under section 5162.02 of the Revised Code~~. The rules shall be adopted in accordance with Chapter 119. of the Revised Code.

Sec. 5163.01. As used in this chapter:

"Caretaker relative" has the same meaning as in 42 C.F.R. 435.4 as that regulation is amended effective January 1, 2014.

"Expansion eligibility group" means the medicaid

eligibility group described in section 1902(a)(10)(A)(i)(VIII) of the "Social Security Act," 42 U.S.C. 1396a(a)(10)(A)(i)(VIII).

"Federal financial participation" has the same meaning as in section 5160.01 of the Revised Code.

"Federal poverty line" has the same meaning as in section 5162.01 of the Revised Code.

"Healthy start component" has the same meaning as in section 5162.01 of the Revised Code.

"Home and community-based services medicaid waiver component" has the same meaning as in section 5166.01 of the Revised Code.

"Intermediate care facility for individuals with intellectual disabilities" and "ICF/IID" have the same meanings as in section 5124.01 of the Revised Code.

"Mandatory eligibility groups" means the groups of individuals that must be covered by the medicaid state plan as a condition of the state receiving federal financial participation for the medicaid program.

"Medicaid buy-in for workers with disabilities program" means the component of the medicaid program established under sections 5163.09 to 5163.098 of the Revised Code.

"Medicaid services" has the same meaning as in section 5164.01 of the Revised Code.

"Medicaid waiver component" has the same meaning as in section 5166.01 of the Revised Code.

"Nursing facility" and "nursing facility services" have

the same meanings as in section 5165.01 of the Revised Code.

"Optional eligibility groups" means the groups of individuals who may be covered by the medicaid state plan or a federal medicaid waiver and for whom the medicaid program receives federal financial participation.

"Other medicaid-funded long-term care services" has the meaning specified in rules adopted ~~under section 5163.02 of the Revised Code~~by the medicaid director.

"Supplemental security income program" means the program established by Title XVI of the "Social Security Act," 42 U.S.C. 1381 et seq.

Sec. 5163.02. The medicaid director shall adopt rules ~~as necessary to implement this chapter. The rules shall~~ that establish eligibility requirements for the medicaid program. The rules may establish requirements for applying for medicaid and determining and verifying eligibility for medicaid. The rules shall be adopted in accordance with section 111.15 of the Revised Code.

~~(~~Notwithstanding any provision of state law, including statutes, administrative rules, common law, and court rules, regarding real or personal property or domestic relations, the standards established under rules adopted under this section shall be used to determine eligibility for medicaid.

Sec. 5163.063. The medicaid director shall adopt rules ~~under section 5163.02 of the Revised Code as necessary~~ to provide medicaid coverage for the optional eligibility group described in section 1902(a)(10)(A)(ii)(XIII) of the "Social Security Act," 42 U.S.C. 1396a(a)(10)(A)(ii)(XIII).

By requiring the medicaid program to provide coverage to

the optional eligibility group consisting of employed individuals with disabilities under division (C) of section 5163.06 of the Revised Code, it is the intent of the general assembly to establish medicaid coverage for employed individuals with disabilities who are sixty-five years of age or older in a manner that is consistent with the coverage provided to individuals participating in the medicaid buy-in for workers with disabilities program described in sections 5163.09 to 5163.098 of the Revised Code.

Sec. 5163.098. (A) The medicaid director shall adopt rules ~~under section 5163.02 of the Revised Code as necessary to implement the medicaid buy-in for workers with disabilities program. The rules shall~~ that do all of the following regarding the medicaid buy-in for workers with disabilities program:

(1) Specify assets, asset values, and amounts to be disregarded in determining asset and income eligibility limits for the program;

(2) Establish meanings for the terms "earned income," "health insurance," "resources," "spouse," and "unearned income";

(3) Establish additional eligibility requirements for the program that must be established for the United States secretary of health and human services to approve the program~~;~~.

(B) The director may adopt rules ~~under section 5163.02 of the Revised Code~~ to specify amounts to be disregarded from an individual's earned income, unearned income, or both under division (C) of section 5163.093 of the Revised Code for the purpose of determining whether the individual is within the income eligibility limit for the medicaid buy-in for workers

with disabilities program.

Sec. 5163.20. If a medicaid recipient is the beneficiary of a trust created pursuant to section 5815.28 of the Revised Code, then, notwithstanding any contrary provision of this chapter or of a rule adopted under ~~section 5163.02 of the Revised Code~~it, divisions (C) and (D) of that section shall apply in determining the assets or resources of the recipient, the recipient's estate, the settlor, or the settlor's estate and to claims arising under this chapter against the recipient, the recipient's estate, the settlor, or the settlor's estate.

Sec. 5163.21. (A)(1) This section applies only to either of the following:

(a) Initial eligibility determinations for the medicaid program;

(b) An appeal from an initial eligibility determination pursuant to section 5160.31 of the Revised Code.

(2)(a) Except as provided in division (A)(2)(b) of this section, this section shall not be used by a court to determine the effect of a trust on an individual's initial eligibility for the medicaid program.

(b) The prohibition in division (A)(2)(a) of this section does not apply to an appeal described in division (A)(1)(b) of this section.

(B) As used in this section:

(1) "Trust" means any arrangement in which a grantor transfers real or personal property to a trust with the intention that it be held, managed, or administered by at least one trustee for the benefit of the grantor or beneficiaries.

"Trust" includes any legal instrument or device similar to a trust.

(2) "Legal instrument or device similar to a trust" includes, but is not limited to, escrow accounts, investment accounts, partnerships, contracts, and other similar arrangements that are not called trusts under state law but are similar to a trust and to which all of the following apply:

(a) The property in the trust is held, managed, retained, or administered by a trustee.

(b) The trustee has an equitable, legal, or fiduciary duty to hold, manage, retain, or administer the property for the benefit of the beneficiary.

(c) The trustee holds identifiable property for the beneficiary.

(3) "Grantor" is a person who creates a trust, including all of the following:

(a) An individual;

(b) An individual's spouse;

(c) A person, including a court or administrative body, with legal authority to act in place of or on behalf of an individual or an individual's spouse;

(d) A person, including a court or administrative body, that acts at the direction or on request of an individual or the individual's spouse.

(4) "Beneficiary" is a person or persons, including a grantor, who benefits in some way from a trust.

(5) "Trustee" is a person who manages a trust's principal

and income for the benefit of the beneficiaries.

(6) "Person" has the same meaning as in section 1.59 of the Revised Code and includes an individual, corporation, business trust, estate, trust, partnership, and association.

(7) "Applicant" is an individual who applies for medicaid or the individual's spouse.

(8) "Recipient" is an individual who receives medicaid or the individual's spouse.

(9) "Revocable trust" is a trust that can be revoked by the grantor or the beneficiary, including all of the following, even if the terms of the trust state that it is irrevocable:

(a) A trust that provides that the trust can be terminated only by a court;

(b) A trust that terminates on the happening of an event, but only if the event occurs at the direction or control of the grantor, beneficiary, or trustee.

(10) "Irrevocable trust" is a trust that cannot be revoked by the grantor or terminated by a court and that terminates only on the occurrence of an event outside of the control or direction of the beneficiary or grantor.

(11) "Payment" is any disbursal from the principal or income of the trust, including actual cash, noncash or property disbursements, or the right to use and occupy real property.

(12) "Payments to or for the benefit of the applicant or recipient" is a payment to any person resulting in a direct or indirect benefit to the applicant or recipient.

(13) "Testamentary trust" is a trust that is established

by a will and does not take effect until after the death of the person who created the trust.

(C)(1) If an applicant or recipient is a beneficiary of a trust, the applicant or recipient shall submit a complete copy of the trust instrument to the county department of job and family services and the department of medicaid. A copy shall be considered complete if it contains all pages of the trust instrument and all schedules, attachments, and accounting statements referenced in or associated with the trust. The copy is confidential and is not subject to disclosure under section 149.43 of the Revised Code.

(2) On receipt of a copy of a trust instrument or otherwise determining that an applicant or recipient is a beneficiary of a trust, the county department of job and family services shall determine what type of trust it is and shall treat the trust in accordance with the appropriate provisions of this section and rules adopted ~~under section 5163.02 of the Revised Code~~ by the medicaid director governing trusts. The county department of job and family services may determine that any of the following is the case regarding the trust or portion of the trust:

(a) It is a resource available to the applicant or recipient;

(b) It contains income available to the applicant or recipient;

(c) Divisions (C)(2)(a) and (b) of this section are both applicable;

(d) Neither division (C)(2)(a) nor (b) of this section is applicable.

(3) Except as provided in division (F) of this section, a trust or portion of a trust that is a resource available to the applicant or recipient or contains income available to the applicant or recipient shall be counted for purposes of determining medicaid eligibility.

(D)(1) A trust or legal instrument or device similar to a trust shall be considered a medicaid qualifying trust if all of the following apply:

(a) The trust was established on or prior to August 10, 1993.

(b) The trust was not established by a will.

(c) The trust was established by an applicant or recipient.

(d) The applicant or recipient is or may become the beneficiary of all or part of the trust.

(e) Payment from the trust is determined by one or more trustees who are permitted to exercise any discretion with respect to the distribution to the applicant or recipient.

(2) If a trust meets the requirement of division (D)(1) of this section, the amount of the trust that is considered by the county department of job and family services to be a resource available to the applicant or recipient shall be the maximum amount of payments permitted under the terms of the trust to be distributed to the applicant or recipient, assuming the full exercise of discretion by the trustee or trustees. The maximum amount shall include only amounts that are permitted to be distributed but are not distributed from either the income or principal of the trust.

(3) Amounts that are actually distributed from a medicaid qualifying trust to a beneficiary for any purpose shall be treated in accordance with rules adopted ~~under section 5163.02 of the Revised Code~~ by the medicaid director governing income.

(4) Availability of a medicaid qualifying trust shall be considered without regard to any of the following:

(a) Whether or not the trust is irrevocable or was established for purposes other than to enable a grantor to qualify for medicaid;

(b) Whether or not the trustee actually exercises discretion.

(5) If any real or personal property is transferred to a medicaid qualifying trust that is not distributable to the applicant or recipient, the transfer shall be considered an improper disposition of assets and shall be subject to section 5163.30 of the Revised Code~~ and rules to implement that section adopted under section 5163.02 of the Revised Code~~.

(6) The baseline date for the look-back period for disposition of assets involving a medicaid qualifying trust shall be the date on which the applicant or recipient is both institutionalized and first applies for medicaid.

(E)(1) A trust or legal instrument or device similar to a trust shall be considered a self-settled trust if all of the following apply:

(a) The trust was established on or after August 11, 1993.

(b) The trust was not established by a will.

(c) The trust was established by an applicant or recipient, spouse of an applicant or recipient, or a person,

including a court or administrative body, with legal authority to act in place of or on behalf of an applicant, recipient, or spouse, or acting at the direction or on request of an applicant, recipient, or spouse.

(2) A trust that meets the requirements of division (E)(1) of this section and is a revocable trust shall be treated by the county department of job and family services as follows:

(a) The corpus of the trust shall be considered a resource available to the applicant or recipient.

(b) Payments from the trust to or for the benefit of the applicant or recipient shall be considered unearned income of the applicant or recipient.

(c) Any other payments from the trust shall be considered an improper disposition of assets and shall be subject to section 5163.30 of the Revised Code ~~and rules to implement that section adopted under section 5163.02 of the Revised Code~~.

(3) A trust that meets the requirements of division (E)(1) of this section and is an irrevocable trust shall be treated by the county department of job and family services as follows:

(a) If there are any circumstances under which payment from the trust could be made to or for the benefit of the applicant or recipient, including a payment that can be made only in the future, the portion from which payments could be made shall be considered a resource available to the applicant or recipient. The county department of job and family services shall not take into account when payments can be made.

(b) Any payment that is actually made to or for the benefit of the applicant or recipient from either the corpus or income shall be considered unearned income.

(c) If a payment is made to someone other than to the applicant or recipient and the payment is not for the benefit of the applicant or recipient, the payment shall be considered an improper disposition of assets and shall be subject to section 5163.30 of the Revised Code and rules to implement that section adopted under section 5163.02 of the Revised Code.

(d) The date of the disposition shall be the later of the date of establishment of the trust or the date of the occurrence of the event.

(e) When determining the value of the disposed asset under this provision, the value of the trust shall be its value on the date payment to the applicant or recipient was foreclosed.

(f) Any income earned or other resources added subsequent to the foreclosure date shall be added to the total value of the trust.

(g) Any payments to or for the benefit of the applicant or recipient after the foreclosure date but prior to the application date shall be subtracted from the total value. Any other payments shall not be subtracted from the value.

(h) Any addition of assets after the foreclosure date shall be considered a separate disposition.

(4) If a trust is funded with assets of another person or persons in addition to assets of the applicant or recipient, the applicable provisions of this section and rules adopted ~~under section 5163.02 of the Revised Code~~ by the medicaid director governing trusts shall apply only to the portion of the trust attributable to the applicant or recipient.

(5) The availability of a self-settled trust shall be considered without regard to any of the following:

(a) The purpose for which the trust is established;

(b) Whether the trustees have exercised or may exercise discretion under the trust;

(c) Any restrictions on when or whether distributions may be made from the trust;

(d) Any restrictions on the use of distributions from the trust.

(6) The baseline date for the look-back period for dispositions of assets involving a self-settled trust shall be the date on which the applicant or recipient is both institutionalized and first applies for medicaid.

(F) The principal or income from any of the following shall not be a resource available to the applicant or recipient:

(1)(a) A special needs trust that meets all of the following requirements:

(i) The trust contains assets of an applicant or recipient under sixty-five years of age and may contain the assets of other individuals.

(ii) The applicant or recipient is disabled as defined in rules adopted ~~under section 5163.02 of the Revised Code~~by the medicaid director.

(iii) The trust is established for the benefit of the applicant or recipient by any of the following: the applicant or recipient, if established on or after December 13, 2016; a parent, grandparent, or legal guardian of the applicant or recipient; or a court.

(iv) The trust requires that on the death of the applicant

or recipient the state will receive all amounts remaining in the trust up to an amount equal to the total amount of medicaid payments made on behalf of the applicant or recipient.

(b) If a special needs trust meets the requirements of division (F)(1)(a) of this section and has been established for a disabled applicant or recipient under sixty-five years of age, the exemption for the trust granted pursuant to division (F) of this section shall continue after the disabled applicant or recipient becomes sixty-five years of age if the applicant or recipient continues to be disabled as defined in rules adopted ~~under section 5163.02 of the Revised Code~~by the medicaid director. Except for income earned by the trust, the grantor shall not add to or otherwise augment the trust after the applicant or recipient attains sixty-five years of age. An addition or augmentation of the trust by the applicant or recipient with the applicant's own assets after the applicant or recipient attains sixty-five years of age shall be treated as an improper disposition of assets.

(c) Cash distributions to the applicant or recipient shall be counted as unearned income. All other distributions from the trust shall be treated as provided in rules adopted under section 5163.02 of the Revised Code governing in-kind income.

(d) Transfers of assets to a special needs trust shall not be treated as an improper transfer of resources. An asset held prior to the transfer to the trust shall be considered as a resource available to the applicant or recipient, income available to the applicant or recipient, or both a resource and income available to the individual.

(2)(a) A qualifying income trust that meets all of the following requirements:

(i) The trust is composed only of pension, social security, and other income to the applicant or recipient, including accumulated interest in the trust.

(ii) The income is received by the individual and the right to receive the income is not assigned or transferred to the trust.

(iii) The trust requires that on the death of the applicant or recipient the state will receive all amounts remaining in the trust up to an amount equal to the total amount of medicaid payments made on behalf of the applicant or recipient.

(b) No resources shall be used to establish or augment the trust.

(c) If an applicant or recipient has irrevocably transferred or assigned the applicant's or recipient's right to receive income to the trust, the trust shall not be considered a qualifying income trust by the county department of job and family services.

(d) Income placed in a qualifying income trust shall not be counted in determining an applicant's or recipient's eligibility for medicaid. The recipient of the funds may place any income directly into a qualifying income trust without those funds adversely affecting the applicant's or recipient's eligibility for medicaid. Income generated by the trust that remains in the trust shall not be considered as income to the applicant or recipient.

(e) All income placed in a qualifying income trust shall be combined with any income available to the individual that is not placed in the trust to arrive at a base income figure to be

used for spend down calculations.

(f) The base income figure shall be used for post-eligibility deductions, including personal needs allowance, monthly income allowance, family allowance, and medical expenses not subject to third party payment. Any income remaining shall be used toward payment of patient liability. Payments made from a qualifying income trust shall not be combined with the base income figure for post-eligibility calculations.

(g) The base income figure shall be used when determining the spend down budget for the applicant or recipient. Any income remaining after allowable deductions are permitted as provided under rules adopted under section 5163.02 of the Revised Code shall be considered the applicant's or recipient's spend down liability.

(3)(a) A pooled trust that meets all of the following requirements:

(i) The trust contains the assets of the applicant or recipient of any age who is disabled as defined in rules adopted ~~under section 5163.02 of the Revised Code~~by the medicaid director.

(ii) The trust is established and managed by a nonprofit organization.

(iii) A separate account is maintained for each beneficiary of the trust but, for purposes of investment and management of funds, the trust pools the funds in these accounts.

(iv) Accounts in the trust are established by the applicant or recipient, the applicant's or recipient's parent, grandparent, or legal guardian, or a court solely for the

benefit of individuals who are disabled.

(v) The trust requires that, to the extent that any amounts remaining in the beneficiary's account on the death of the beneficiary are not retained by the trust, the trust pay to the state the amounts remaining in the trust up to an amount equal to the total amount of medicaid payments made on behalf of the beneficiary.

(b) Cash distributions to the applicant or recipient shall be counted as unearned income. All other distributions from the trust shall be treated as provided in rules adopted ~~under section 5163.02 of the Revised Code~~ by the medicaid director governing in-kind income.

(c) Transfers of assets to a pooled trust shall not be treated as an improper disposition of assets. An asset held prior to the transfer to the trust shall be considered as a resource available to the applicant or recipient, income available to the applicant or recipient, or both a resource and income available to the applicant or recipient.

(4) A supplemental services trust that meets the requirements of section 5815.28 of the Revised Code and to which all of the following apply:

(a) A person may establish a supplemental services trust pursuant to section 5815.28 of the Revised Code only for another person who is eligible to receive services through one of the following agencies:

(i) The department of developmental disabilities;

(ii) A county board of developmental disabilities;

(iii) The department of mental health and addiction

services;

(iv) A board of alcohol, drug addiction, and mental health services.

(b) A county department of job and family services shall not determine eligibility for another agency's program. An applicant or recipient shall do one of the following:

(i) Provide documentation from one of the agencies listed in division (F)(4)(a) of this section that establishes that the applicant or recipient was determined to be eligible for services from the agency at the time of the creation of the trust;

(ii) Provide an order from a court of competent jurisdiction that states that the applicant or recipient was eligible for services from one of the agencies listed in division (F)(4)(a) of this section at the time of the creation of the trust.

(c) At the time the trust is created, the trust principal does not exceed the maximum amount permitted. The maximum amount permitted in calendar year 2006 is two hundred twenty-two thousand dollars. Each year thereafter, the maximum amount permitted is the prior year's amount plus two thousand dollars.

(d) A county department of job and family services shall review the trust to determine whether it complies with the provisions of section 5815.28 of the Revised Code.

(e) Payments from supplemental services trusts shall be exempt as long as the payments are for supplemental services as defined in rules adopted under section 5163.02 of the Revised Code. All supplemental services shall be purchased by the trustee and shall not be purchased through direct cash payments

to the beneficiary.

(f) If a trust is represented as a supplemental services trust and a county department of job and family services determines that the trust does not meet the requirements provided in division (F)(4) of this section and section 5815.28 of the Revised Code, the county department of job and family services shall not consider it an exempt trust.

(G)(1) A trust or legal instrument or device similar to a trust shall be considered a trust established by an individual for the benefit of the applicant or recipient if all of the following apply:

(a) The trust is created by a person other than the applicant or recipient.

(b) The trust names the applicant or recipient as a beneficiary.

(c) The trust is funded with assets or property in which the applicant or recipient has never held an ownership interest prior to the establishment of the trust.

(2) Any portion of a trust that meets the requirements of division (G)(1) of this section shall be a resource available to the applicant or recipient only if the trust permits the trustee to expend principal, corpus, or assets of the trust for the applicant's or recipient's medical care, care, comfort, maintenance, health, welfare, general well being, or any combination of these purposes.

(3) A trust that meets the requirements of division (G)(1) of this section shall be considered a resource available to the applicant or recipient even if the trust contains any of the following types of provisions:

(a) A provision that prohibits the trustee from making payments that would supplant or replace medicaid or other public assistance;

(b) A provision that prohibits the trustee from making payments that would impact or have an effect on the applicant's or recipient's right, ability, or opportunity to receive medicaid or other public assistance;

(c) A provision that attempts to prevent the trust or its corpus or principal from being a resource available to the applicant or recipient.

(4) A trust that meets the requirements of division (G)(1) of this section shall not be counted as a resource available to the applicant or recipient if at least one of the following circumstances applies:

(a) If a trust contains a clear statement requiring the trustee to preserve a portion of the trust for another beneficiary or remainderman, that portion of the trust shall not be counted as a resource available to the applicant or recipient. Terms of a trust that grant discretion to preserve a portion of the trust shall not qualify as a clear statement requiring the trustee to preserve a portion of the trust.

(b) If a trust contains a clear statement requiring the trustee to use a portion of the trust for a purpose other than medical care, care, comfort, maintenance, welfare, or general well being of the applicant or recipient, that portion of the trust shall not be counted as a resource available to the applicant or recipient. Terms of a trust that grant discretion to limit the use of a portion of the trust shall not qualify as a clear statement requiring the trustee to use a portion of the

trust for a particular purpose.

(c) If a trust contains a clear statement limiting the trustee to making fixed periodic payments, the trust shall not be counted as a resource available to the applicant or recipient and payments shall be treated in accordance with rules adopted under section 5163.02 of the Revised Code governing income. Terms of a trust that grant discretion to limit payments shall not qualify as a clear statement requiring the trustee to make fixed periodic payments.

(d) If a trust contains a clear statement that requires the trustee to terminate the trust if it is counted as a resource available to the applicant or recipient, the trust shall not be counted as such. Terms of a trust that grant discretion to terminate the trust do not qualify as a clear statement requiring the trustee to terminate the trust.

(e) If a person obtains a judgment from a court of competent jurisdiction that expressly prevents the trustee from using part or all of the trust for the medical care, care, comfort, maintenance, welfare, or general well being of the applicant or recipient, the trust or that portion of the trust subject to the court order shall not be counted as a resource available to the applicant or recipient.

(f) If a trust is specifically exempt from being counted as a resource available to the applicant or recipient by a provision of the Revised Code, rules, or federal law, the trust shall not be counted as such.

(g) If an applicant or recipient presents a final judgment from a court demonstrating that the applicant or recipient was unsuccessful in a civil action against the trustee to compel

payments from the trust, the trust shall not be counted as a resource available to the applicant or recipient.

(h) If an applicant or recipient presents a final judgment from a court demonstrating that in a civil action against the trustee the applicant or recipient was only able to compel limited or periodic payments, the trust shall not be counted as a resource available to the applicant or recipient and payments shall be treated in accordance with rules adopted ~~under section 5163.02 of the Revised Code~~ by the medicaid director governing income.

(i) If an applicant or recipient provides written documentation showing that the cost of a civil action brought to compel payments from the trust would be cost prohibitive, the trust shall not be counted as a resource available to the applicant or recipient.

(5) Any actual payments to the applicant or recipient from a trust that meet the requirements of division (G)(1) of this section, including trusts that are not counted as a resource available to the applicant or recipient, shall be treated as provided in rules adopted ~~under section 5163.02 of the Revised Code~~ by the medicaid director governing income. Payments to any person other than the applicant or recipient shall not be considered income to the applicant or recipient. Payments from the trust to a person other than the applicant or recipient shall not be considered an improper disposition of assets.

Sec. 5163.30. (A) As used in this section:

(1) "Assets" include all of an individual's income and resources and those of the individual's spouse, including any income or resources the individual or spouse is entitled to but

does not receive because of action by any of the following:

(a) The individual or spouse;

(b) A person or government entity, including a court or administrative agency, with legal authority to act in place of or on behalf of the individual or spouse;

(c) A person or government entity, including a court or administrative agency, acting at the direction or on the request of the individual or spouse.

(2) "Home and community-based services" means home and community-based services furnished under a medicaid waiver granted by the United States secretary of health and human services under the "Social Security Act," section 1915(c) or (d), 42 U.S.C. 1396n(c) or (d).

(3) "Institutionalized individual" means a resident of a nursing facility, an inpatient in a medical institution for whom a payment is made based on a level of care provided in a nursing facility, or an individual described in the "Social Security Act," section 1902(a)(10)(A)(ii)(VI), 42 U.S.C. 1396a(a)(10)(A)(ii)(VI).

(4) "Look-back date" means the date that is a number of months specified in rules adopted ~~under section 5163.02 of the Revised Code~~ by the medicaid director immediately before either of the following:

(a) The date an individual becomes an institutionalized individual if the individual is eligible for medicaid on that date;

(b) The date an individual applies for medicaid while an institutionalized individual.

(5) "Nursing facility equivalent services" means services that are covered by the medicaid program, equivalent to nursing facility services, provided by an institution that provides the same level of care as a nursing facility, and provided to an inpatient of the institution who is a medicaid recipient eligible for medicaid-covered nursing facility equivalent services.

(6) "Undue hardship" means being deprived of either of the following:

(a) Medical care such that an individual's health or life is endangered;

(b) Food, clothing, shelter, or other necessities of life.

(B) Except as provided in division (C) of this section and rules adopted ~~under section 5163.02 of the Revised Code~~by the medicaid director, an institutionalized individual is ineligible for nursing facility services, nursing facility equivalent services, and home and community-based services if the individual or individual's spouse disposes of assets for less than fair market value on or after the look-back date. The institutionalized individual's ineligibility shall begin on a date determined in accordance with rules adopted ~~under section 5163.02 of the Revised Code~~ by the medicaid director and shall continue for a number of months determined in accordance with such rules.

(C)(1) An institutionalized individual may be granted a waiver of all or a portion of the period of ineligibility to which the individual would otherwise be subjected under division (B) of this section if the ineligibility would cause an undue hardship for the individual.

(2) An institutionalized individual may be granted a waiver of all or a portion of the period of ineligibility if the administrator of the nursing facility in which the individual resides has notified the individual of a proposed transfer or discharge under section 3721.16 of the Revised Code due to failure to pay for the care the nursing facility has provided to the individual, the individual or the individual's sponsor requests a hearing on the proposed transfer or discharge in accordance with section 3721.161 of the Revised Code, and the transfer or discharge is upheld by a final determination that is not subject to further appeal.

(3) An institutionalized individual may be granted a waiver of all of the period of ineligibility if all of the assets that were disposed of for less than fair market value are returned to the individual or individual's spouse or if the individual or individual's spouse receives cash or other personal or real property that equals the difference between what the individual or individual's spouse received for the assets and the fair market value of the assets. Except as provided in division (C)(1) or (2) of this section, no waiver of any part of the period of ineligibility shall be granted if the amount the individual or individual's spouse receives is less than the difference between what the individual or individual's spouse received for the assets and the fair market value of the assets.

(4) Waivers shall be granted in accordance with rules adopted ~~under section 5163.02 of the Revised Code~~by the medicaid director.

(D) To secure compliance with this section, the medicaid director may require an individual, as a condition of initial or

continued eligibility for medicaid, to provide documentation of the individual's assets up to five years before the date the individual becomes an institutionalized individual if the individual is eligible for medicaid on that date or the date the individual applies for medicaid while an institutionalized individual. Documentation may include tax returns, records from financial institutions, and real property records.

Sec. 5163.31. (A) Except as provided by division (A) of this section and for the purpose of determining whether an aged, blind, or disabled individual is eligible for nursing facility services, ICF/IID services, or other medicaid-funded long-term care services, the medicaid director may consider an aged, blind, or disabled individual's real property to not be the individual's homestead or principal place of residence once the individual has resided in a nursing facility, ICF/IID, or other medical institution for at least thirteen months.

(B) Division (A) of this section does not apply to an individual if any of the following reside in the individual's real property that, because of this division, continues to be considered the individual's homestead or principal place of residence:

(1) The individual's spouse;

(2) The individual's child if any of the following apply:

(a) The child is under twenty-one years of age.

(b) The child is considered blind or disabled under the "Social Security Act," section 1614, 42 U.S.C. 1382c.

(c) The child is financially dependent on the individual for housing as determined in accordance with rules adopted ~~under section 5163.02 of the Revised Code~~by the medicaid director.

(3) The individual's sibling if the sibling has a verified equity interest in the real property and resided in the real property for at least one year immediately before the date the individual was admitted to the nursing facility, ICF/IID, or other medical institution.

Sec. 5164.02. (A) The medicaid director shall adopt rules ~~as necessary to implement this chapter. The rules shall be adopted~~ in accordance with Chapter 119. of the Revised Code~~.~~

~~(B) The rules shall~~ that establish all of the following:

(1) The amount, duration, and scope of the medicaid services covered by the medicaid program;

(2) The medicaid payment rate for each medicaid service or, in lieu of the rate, the method by which the rate is to be determined for each medicaid service;

(3) Procedures for enforcing the rules adopted under this section that provide due process protections, including procedures for corrective action plans for, and imposing financial and administrative sanctions on, persons and government entities that violate the rules.

~~(C)~~ (B) The rules may be different for different medicaid services.

~~(D)~~ (C) The medicaid director is not required to adopt a rule establishing the medicaid payment rate for a medicaid service if the director adopts a rule establishing the method by which the rate is to be determined for the medicaid service and makes the rate available on the internet web site maintained by the department of medicaid.

Sec. 5164.061. (A) As used in this section:

(1) "Prescriber" has the same meaning as in section 4729.01 of the Revised Code, but does not include a dentist, optometrist, or veterinarian.

(2) "Prior authorization requirement" means any practice in which coverage of a health care service, device, or drug is dependent upon a recipient or health care practitioner obtaining approval from the medicaid program prior to the service, device, or drug being performed, received, or prescribed, as applicable.

(B)(1) The medicaid program shall cover evaluation and management services provided by a chiropractor if the chiropractor is licensed to practice chiropractic under Chapter 4734. of the Revised Code.

(2) ~~The medicaid director may adopt rules under section 5164.02 of the Revised Code to cover other services provided by a chiropractor under the medicaid program.~~

~~(3)~~ With respect to the coverage described in this section, all of the following apply:

(a) A chiropractor may provide covered services in any location, including a hospital or nursing facility.

(b) The medicaid program shall not impose a prior authorization requirement on covered services.

(c) The medicaid program shall not make coverage contingent upon the medicaid recipient first receiving a referral, prescription, or treatment from a prescriber.

(C) If a service described in this section could be provided by either a chiropractor licensed under Chapter 4734. of the Revised Code or a licensed health professional other than a chiropractor, the medicaid program shall pay the chiropractor

the same amount for the service that it pays the licensed health professional.

Sec. 5164.071. (A) As used in this section, "doula" has the same meaning as in section 4723.89 of the Revised Code.

(B) The medicaid program shall cover doula services that are provided by a doula if the doula has a valid provider agreement and is certified under section 4723.89 of the Revised Code. Medicaid payments for doula services shall be determined on the basis of each pregnancy, regardless of whether multiple births occur as a result of that pregnancy.

(C) Any provider outcome measurements or incentives the department of medicaid implements for the medicaid coverage of doula services shall be consistent with this state's medicare-medicaid plan quality withhold provider or managed care plan methodology and benchmarks.

(D) The medicaid director shall adopt rules ~~under section 5164.02 of the Revised Code to implement this section~~regarding the medicaid program's coverage of doula services.

Sec. 5164.072. (A) As used in this section, "licensed health professional" means the following:

(1) A physician authorized under Chapter 4731. of the Revised Code to practice medicine and surgery or osteopathic medicine and surgery;

(2) An advanced practice registered nurse who holds a current, valid license issued under Chapter 4723. of the Revised Code that authorizes the practice of nursing as an advanced practice registered nurse and is designated as a clinical specialist, certified nurse-midwife, or certified nurse practitioner;

(3) A physician assistant licensed under Chapter 4730. of the Revised Code.

(B) The medicaid program shall cover pasteurized human donor milk and human milk fortifiers, in both hospital and home settings, for an infant whose gestationally corrected age is less than twelve months when all of the following apply:

(1) A licensed health professional signs an order stating that human donor milk or human milk fortifiers are medically necessary because the infant meets any of the following criteria:

(a) The infant has a birth weight less than eighteen hundred grams or body weight below healthy levels.

(b) The infant has a gestational age at birth of thirty-four weeks or less.

(c) The infant has any congenital or acquired condition for which the health professional determines that the use of pasteurized human donor milk or human milk fortifiers will support the treatment of the condition and recovery of the infant.

(2) The infant is medically or physically unable to receive maternal breast milk or participate in breast-feeding, or the infant's mother is medically or physically unable to produce breast milk in sufficient quantities or of adequate caloric density, despite lactation support.

(C) The medicaid director may adopt rules in accordance with Chapter 119. of the Revised Code ~~to implement this section~~regarding the medicaid program's coverage of pasteurized human donor milk and human milk fortifiers for certain infants whose gestationally corrected age is less than twelve months.

Sec. 5164.092. (A) Except as provided in division (B) of this section, the medicaid program shall cover remote ultrasound procedures and remote fetal nonstress tests, utilizing established current procedural terminology codes (CPT codes) for those procedures for when the patient is in a residence or other off-site location from the patient's medicaid provider.

(B) The coverage under division (A) of this section applies only under the following circumstances:

(1) The medicaid provider responsible for the procedure uses digital technology that meets both of the following criteria:

(a) The technology is used only to collect medical and other data from a patient and electronically transmit that data securely to a health care provider in a different location for that provider's examination of the data;

(b) The technology has been approved by the United States food and drug administration for remote data acquisition, if required under federal law.

(2) For remote fetal nonstress tests, the CPT code includes a place of service modifier for at home monitoring using remote monitoring solutions that are cleared by the United States food and drug administration for monitoring fetal heart rate, maternal heart rate, and uterine activity.

(C) The ~~department~~ medicaid director shall adopt rules ~~as necessary to implement this section~~regarding the medicaid program's coverage of remote ultrasound procedures and remote fetal nonstress tests.

Sec. 5164.16. The medicaid program may cover one or more state plan home and community-based services that the department

of medicaid selects for coverage. A medicaid recipient of any age may receive a state plan home and community-based service if the recipient has countable income not exceeding two hundred twenty-five per cent of the federal poverty line~~,~~ and has a medical need for the service~~, and meets all other eligibility requirements for the service specified in rules adopted under section 5164.02 of the Revised Code. The rules may not require a medicaid recipient to undergo a level of care determination to be eligible for a state plan home and community-based service~~.

Sec. 5164.291. The department of medicaid shall establish a credentialing program that includes a credentialing committee to review the competence, professional conduct, and quality of care provided by medicaid providers.

Any activities performed by the credentialing committee shall be considered activities of a peer review committee of a health care entity and shall be subject to sections 2305.25 to 2305.253 of the Revised Code.

The medicaid director may adopt rules ~~under section 5164.02 of the Revised Code as necessary~~ to ~~implement this section~~establish a credentialing program. Any rules adopted shall be consistent with the requirements that apply to medicare advantage organizations under 42 C.F.R. 422.204.

Sec. 5164.31. (A) For the purpose of raising funds necessary to pay the expenses of implementing the provider screening requirements of subpart E of 42 C.F.R. Part 455 and except as provided in division (B) of this section, the department of medicaid shall collect an application fee from a medicaid provider before doing any of the following:

(1) Entering into a provider agreement with a medicaid

provider that seeks initial enrollment as a provider;

(2) Entering into a provider agreement with a former medicaid provider that seeks re-enrollment as a provider;

(3) Revalidating a medicaid provider's continued enrollment as a provider.

(B) The department is not to collect an application fee from a medicaid provider that is exempt from paying the fee under 42 C.F.R. 455.460(a).

(C) The application fees shall be deposited into the health care/medicaid support and recoveries fund created under section 5162.52 of the Revised Code. Application fees are nonrefundable when collected in accordance with 42 C.F.R. 455.460(a).

(D) The medicaid director shall adopt rules ~~under section 5164.02 of the Revised Code as necessary to implement this section, including a rule~~ establishing the amount of the application fee to be collected under this section. The amount of the application fee shall not be set at an amount that is more than necessary to pay for the expenses of implementing the provider screening requirements.

Sec. 5164.32. (A) Each medicaid provider agreement shall expire not later than five years from its effective date. If a provider agreement entered into before ~~the effective date of this amendment~~September 29, 2013, does not have a time limit, the department of medicaid shall convert the agreement to a provider agreement with a time limit.

(B) The medicaid director shall adopt rules ~~under section 5164.02 of the Revised Code as necessary to implement this section. The rules shall be~~ that are consistent with subpart E

of 42 C.F.R. Part 455 ~~and include~~ to establish a process for revalidating medicaid providers' continued enrollments as providers. All of the following apply to the revalidation process:

(1) The department shall refuse to revalidate a provider's provider agreement when the provider fails to file a complete application for revalidation within the time and in the manner required under the revalidation process.

(2) If a provider files a complete application for revalidation within the time and in the manner required under the revalidation process, but the provider agreement expires before the department acts on the application or before the effective date of the department's decision on the application, the provider, subject to division (B)(3) of this section, may continue operating under the terms of the expired provider agreement until the effective date of the department's decision.

(3) If a provider continues operating under the terms of an expired provider agreement pursuant to division (B)(2) of this section and the department denies the provider's application for revalidation, medicaid payments shall not be made for services or items the provider provides during the period beginning on the date the provider agreement expired and ending on the effective date of a subsequent provider agreement, if any, the department enters into with the provider.

Sec. 5164.33. (A) The medicaid director may do the following for any reason permitted or required by federal law and when the director determines that the action is in the best interests of medicaid recipients or the state:

(1) Deny, refuse to revalidate, suspend, or terminate a

provider agreement;

(2) Exclude an individual, provider of services or goods, or other entity from participation in the medicaid program.

(B) No individual, provider, or entity excluded from participation in the medicaid program under this section shall do any of the following:

(1) Own, or provide services to, any other medicaid provider or risk contractor;

(2) Arrange for, render, or order services for medicaid recipients during the period of exclusion;

(3) During the period of exclusion, receive direct payments under the medicaid program or indirect payments of medicaid funds in the form of salary, shared fees, contracts, kickbacks, or rebates from or through any other medicaid provider or risk contractor.

(C) An individual, provider, or entity excluded from participation in the medicaid program under this section may request a reconsideration of the exclusion. The director shall adopt rules ~~under section 5164.02 of the Revised Code~~ governing the process for requesting a reconsideration.

(D) Nothing in this section limits the applicability of section 5164.38 of the Revised Code to a medicaid provider.

Sec. 5164.34. (A) As used in this section:

(1) "Criminal records check" has the same meaning as in section 109.572 of the Revised Code.

(2) "Disqualifying offense" means any of the offenses listed or described in divisions (A)(3)(a) to (e) of section

109.572 of the Revised Code.

(3) "Owner" means a person who has an ownership interest in a medicaid provider in an amount designated in rules authorized by this section.

(4) "Person subject to the criminal records check requirement" means the following:

(a) A medicaid provider who is notified under division (E)(1) of this section that the provider is subject to a criminal records check;

(b) An owner or prospective owner, officer or prospective officer, or board member or prospective board member of a medicaid provider if, pursuant to division (E)(1)(a) of this section, the owner or prospective owner, officer or prospective officer, or board member or prospective board member is specified in information given to the provider under division (E)(1) of this section;

(c) An employee or prospective employee of a medicaid provider if both of the following apply:

(i) The employee or prospective employee is specified, pursuant to division (E)(1)(b) of this section, in information given to the provider under division (E)(1) of this section.

(ii) The provider is not prohibited by division (D)(3)(b) of this section from employing the employee or prospective employee.

(5) "Responsible entity" means the following:

(a) With respect to a criminal records check required under this section for a medicaid provider, the department of medicaid or the department's designee;

(b) With respect to a criminal records check required under this section for an owner or prospective owner, officer or prospective officer, board member or prospective board member, or employee or prospective employee of a medicaid provider, the provider.

(B) This section does not apply to any of the following:

(1) An individual who is subject to a criminal records check under section 3712.09, 3721.121, 5123.081, or 5123.169 of the Revised Code;

(2) An individual who is subject to a database review or criminal records check under section 173.38, 173.381, 3740.11, or 5164.342 of the Revised Code;

(3) An individual who is an applicant or independent provider, both as defined in section 5164.341 of the Revised Code.

(C) The department of medicaid may do any of the following:

(1) Require that any medicaid provider submit to a criminal records check as a condition of obtaining or maintaining a provider agreement;

(2) Require that any medicaid provider require an owner or prospective owner, officer or prospective officer, or board member or prospective board member of the provider submit to a criminal records check as a condition of being an owner, officer, or board member of the provider;

(3) Require that any medicaid provider do the following:

(a) If so required by rules authorized by this section, determine pursuant to a database review conducted under division

(F)(1)(a) of this section whether any employee or prospective employee of the provider is included in a database;

(b) Unless the provider is prohibited by division (D)(3)(b) of this section from employing the employee or prospective employee, require the employee or prospective employee to submit to a criminal records check as a condition of being an employee of the provider.

(D)(1) The department or the department's designee shall deny or terminate a medicaid provider's provider agreement if the provider is a person subject to the criminal records check requirement and either of the following applies:

(a) The provider fails to obtain the criminal records check after being given the information specified in division (G)(1) of this section.

(b) Except as provided in rules authorized by this section, the provider is found by the criminal records check to have been convicted of or have pleaded guilty to a disqualifying offense, regardless of the date of the conviction or the date of entry of the guilty plea.

(2) No medicaid provider shall permit a person to be an owner, officer, or board member of the provider if the person is a person subject to the criminal records check requirement and either of the following applies:

(a) The person fails to obtain the criminal records check after being given the information specified in division (G)(1) of this section.

(b) Except as provided in rules authorized by this section, the person is found by the criminal records check to have been convicted of or have pleaded guilty to a disqualifying

offense, regardless of the date of the conviction or the date of entry of the guilty plea.

(3) Except as provided in division (I) of this section, no medicaid provider shall employ a person if any of the following apply:

(a) The person has been excluded from being a medicaid provider, a medicare provider, or provider for any other federal health care program.

(b) If the person is subject to a database review conducted under division (F)(1)(a) of this section, the person is found by the database review to be included in a database and the rules authorized by this section regarding the database review prohibit the provider from employing a person included in the database.

(c) If the person is a person subject to the criminal records check requirement, either of the following applies:

(i) The person fails to obtain the criminal records check after being given the information specified in division (G)(1) of this section.

(ii) Except as provided in rules authorized by this section, the person is found by the criminal records check to have been convicted of or have pleaded guilty to a disqualifying offense, regardless of the date of the conviction or the date of entry of the guilty plea.

(E)(1) The department or the department's designee shall inform each medicaid provider whether the provider is subject to a criminal records check. For providers with valid provider agreements, the information shall be given at times designated in rules authorized by this section. For providers applying to

be medicaid providers, the information shall be given at the time of initial application. When the information is given, the department or the department's designee shall specify the following:

(a) Which of the provider's owners or prospective owners, officers or prospective officers, or board members or prospective board members are subject to a criminal records check;

(b) Which of the provider's employees or prospective employees are subject to division (C)(3) of this section.

(2) At times designated in rules authorized by this section, a medicaid provider that is a person subject to the criminal records check requirement shall do the following:

(a) Inform each person specified under division (E)(1)(a) of this section that the person is required to submit to a criminal records check as a condition of being an owner, officer, or board member of the provider;

(b) Inform each person specified under division (E)(1)(b) of this section that the person is subject to division (C)(3) of this section.

(F)(1) If a medicaid provider is a person subject to the criminal records check requirement, the department or the department's designee shall require the conduct of a criminal records check by the superintendent of the bureau of criminal identification and investigation. A medicaid provider shall require the conduct of a criminal records check by the superintendent with respect to each of the persons specified under division (E)(1)(a) of this section. With respect to each employee and prospective employee specified under division (E)

(1)(b) of this section, a medicaid provider shall do the following:

(a) If rules authorized by this section require the provider to conduct a database review to determine whether the employee or prospective employee is included in a database, conduct the database review in accordance with the rules;

(b) Unless the provider is prohibited by division (D)(3)(b) of this section from employing the employee or prospective employee, require the conduct of a criminal records check of the employee or prospective employee by the superintendent.

(2) If a person subject to the criminal records check requirement does not present proof of having been a resident of this state for the five-year period immediately prior to the date the criminal records check is requested or provide evidence that within that five-year period the superintendent has requested information about the person from the federal bureau of investigation in a criminal records check, the responsible entity shall require the person to request that the superintendent obtain information from the federal bureau of investigation as part of the criminal records check of the person. Even if the person presents proof of having been a resident of this state for the five-year period, the responsible entity may require that the person request that the superintendent obtain information from the federal bureau of investigation and include it in the criminal records check of the person.

(G) Criminal records checks required by this section shall be obtained as follows:

(1) The responsible entity shall provide each person

subject to the criminal records check requirement information about accessing and completing the form prescribed pursuant to division (C)(1) of section 109.572 of the Revised Code and the standard impression sheet prescribed pursuant to division (C)(2) of that section.

(2) The person subject to the criminal records check requirement shall submit the required form and one complete set of the person's fingerprint impressions directly to the superintendent for purposes of conducting the criminal records check using the applicable methods prescribed by division (C) of section 109.572 of the Revised Code. The person shall pay all fees associated with obtaining the criminal records check.

(3) The superintendent shall conduct the criminal records check in accordance with section 109.572 of the Revised Code. The person subject to the criminal records check requirement shall instruct the superintendent to submit the report of the criminal records check directly to the responsible entity. If the department or the department's designee is not the responsible entity, the department or designee may require the responsible entity to submit the report to the department or designee.

(H)(1) A medicaid provider may employ conditionally a person for whom a criminal records check is required by this section prior to obtaining the results of the criminal records check if both of the following apply:

(a) The provider is not prohibited by division (D)(3)(b) of this section from employing the person.

(b) The person submits a request for the criminal records check not later than five business days after the person begins

conditional employment.

(2) Except as provided in division (I) of this section, a medicaid provider that employs a person conditionally under division (H)(1) of this section shall terminate the person's employment if either of the following apply:

(a) The results of the criminal records check request are not obtained within the period ending sixty days after the date the request is made.

(b) Regardless of when the results of the criminal records check are obtained, the results indicate that the person has been convicted of or has pleaded guilty to a disqualifying offense, unless circumstances specified in rules authorized by this section exist that permit the provider to employ the person and the provider chooses to employ the person.

(I) As used in this division, "behavioral health services" means alcohol and drug addiction services, mental health services, or both.

A medicaid provider of behavioral health services may choose to employ a person who the provider would be prohibited by division (D)(3) of this section from employing or would be required by division (H)(2) of this section to terminate the person's employment if both of the following apply:

(1) The person holds a valid health professional license issued under the Revised Code granting the person authority to provide behavioral health services, holds a valid peer recovery supporter certificate issued pursuant to rules adopted by the department of mental health and addiction services, or is in the process of obtaining such a license or certificate.

(2) The provider does not submit any medicaid claims for

any services the person provides.

(J) The report of a criminal records check conducted pursuant to this section is not a public record for the purposes of section 149.43 of the Revised Code and shall not be made available to any person other than the following:

(1) The person who is the subject of the criminal records check or the person's representative;

(2) The medicaid director and the staff of the department who are involved in the administration of the medicaid program;

(3) The department's designee;

(4) The medicaid provider who required the person who is the subject of the criminal records check to submit to the criminal records check;

(5) An individual receiving or deciding whether to receive, from the subject of the criminal records check, home and community-based services available under the medicaid state plan;

(6) A court, hearing officer, or other necessary individual involved in a case or administrative hearing dealing with any of the following:

(a) The denial, suspension, or termination of a provider agreement;

(b) A person's denial of employment, termination of employment, or employment or unemployment benefits;

(c) A civil or criminal action regarding the medicaid program.

With respect to an administrative hearing dealing with the

denial, suspension, or termination of a provider agreement, the report of a criminal records check may be introduced as evidence at the hearing and if admitted, becomes part of the hearing record. Any such report shall be admitted only under seal and shall maintain its status as not a public record.

(K) The medicaid director may adopt rules ~~under section 5164.02 of the Revised Code to implement this section. If the director adopts such rules, the rules shall~~ to designate the times at which a criminal records check must be conducted under this section. ~~The~~ Additionally, the rules may do any of the following:

(1) Designate the categories of persons who are subject to a criminal records check under this section;

(2) Specify circumstances under which the department or the department's designee may continue a provider agreement or issue a provider agreement when the medicaid provider is found by a criminal records check to have been convicted of or pleaded guilty to a disqualifying offense;

(3) Specify circumstances under which a medicaid provider may permit a person to be an employee, owner, officer, or board member of the provider when the person is found by a criminal records check conducted pursuant to this section to have been convicted of or have pleaded guilty to a disqualifying offense;

(4) Specify all of the following:

(a) The circumstances under which a database review must be conducted under division (F)(1)(a) of this section to determine whether an employee or prospective employee of a medicaid provider is included in a database;

(b) The procedures for conducting the database review;

(c) The databases that are to be checked;

(d) The circumstances under which, except as provided in division (I) of this section, a medicaid provider is prohibited from employing a person who is found by the database review to be included in a database.

Sec. 5164.341. (A) As used in this section:

"Anniversary date" means the effective date of the provider agreement relating to the independent provider.

"Applicant" means a person who has applied for a provider agreement to provide home and community-based services as an independent provider under a home and community-based medicaid waiver component administered by the department of medicaid.

"Criminal records check" has the same meaning as in section 109.572 of the Revised Code.

"Disqualifying offense" means any of the offenses listed or described in divisions (A)(3)(a) to (e) of section 109.572 of the Revised Code.

"Independent provider" means a person who has a provider agreement to provide home and community-based services as an independent provider in a home and community-based services medicaid waiver component administered by the department of medicaid. "Independent provider" does not include a person who is employed by an individual enrolled in a participant-directed waiver administered by the department of medicaid.

(B) The department of medicaid or the department's designee shall deny an applicant's application for a provider agreement and shall terminate an independent provider's provider agreement if either of the following applies:

(1) After the applicant or independent provider is given the information and notification required by divisions (D)(2)(a) and (b) of this section, the applicant or independent provider fails to do either of the following:

(a) Access, complete, or forward to the superintendent of the bureau of criminal identification and investigation the form prescribed pursuant to division (C)(1) of section 109.572 of the Revised Code or the standard impression sheet prescribed pursuant to division (C)(2) of that section;

(b) Instruct the superintendent to submit the completed report of the criminal records check required by this section directly to the department or the department's designee.

(2) Except as provided in rules authorized by this section, the applicant or independent provider is found by either of the following to have been convicted of or have pleaded guilty to a disqualifying offense, regardless of the date of the conviction or the date of entry of the guilty plea:

(a) A criminal records check required by this section;

(b) In the case of an independent provider, a notice provided by the bureau of criminal identification and investigation under division (D) of section 109.5721 of the Revised Code.

(C)(1) The department or the department's designee shall inform each applicant, at the time of initial application for a provider agreement, that the applicant is required to provide a set of the applicant's fingerprint impressions and that a criminal records check is required to be conducted as a condition of the department's approving the application.

(2) Unless the department elects to receive notices about

independent providers from the bureau of criminal identification and investigation pursuant to division (D) of section 109.5721 of the Revised Code, the department or the department's designee shall inform each independent provider on or before the time of the anniversary date of the provider agreement that the independent provider is required to provide a set of the independent provider's fingerprint impressions and that a criminal records check is required to be conducted.

(D)(1) The department or the department's designee shall require an applicant to complete a criminal records check prior to entering into a provider agreement with the applicant. The department or the department's designee shall require an independent provider to complete a criminal records check at least annually unless the department elects to receive notices about independent providers from the bureau of criminal identification and investigation pursuant to division (D) of section 109.5721 of the Revised Code. If an applicant or independent provider for whom a criminal records check is required by this section does not present proof of having been a resident of this state for the five-year period immediately prior to the date the criminal records check is requested or provide evidence that within that five-year period the superintendent of the bureau of criminal identification and investigation has requested information about the applicant or independent provider from the federal bureau of investigation in a criminal records check, the department or the department's designee shall request that the applicant or independent provider obtain through the superintendent a criminal records request from the federal bureau of investigation as part of the criminal records check of the applicant or independent provider. Even if an applicant or independent provider for whom a criminal

records check request is required by this section presents proof of having been a resident of this state for the five-year period, the department or the department's designee may request that the applicant or independent provider obtain information through the superintendent from the federal bureau of investigation in the criminal records check.

(2) The department or the department's designee shall provide the following to each applicant and independent provider for whom a criminal records check is required by this section:

(a) Information about accessing, completing, and forwarding to the superintendent of the bureau of criminal identification and investigation the form prescribed pursuant to division (C)(1) of section 109.572 of the Revised Code and the standard impression sheet prescribed pursuant to division (C)(2) of that section;

(b) Written notification that the applicant or independent provider is to instruct the superintendent to submit the completed report of the criminal records check directly to the department or the department's designee.

(3) Each applicant and independent provider for whom a criminal records check is required by this section shall pay to the bureau of criminal identification and investigation the fee prescribed pursuant to division (C)(3) of section 109.572 of the Revised Code for the criminal records check conducted of the applicant or independent provider.

(E) Neither the report of any criminal records check conducted by the bureau of criminal identification and investigation in accordance with section 109.572 of the Revised Code and pursuant to a request made under this section nor a

notice provided by the bureau under division (D) of section 109.5721 of the Revised Code is a public record for the purposes of section 149.43 of the Revised Code. Such a report or notice shall not be made available to any person other than the following:

(1) The person who is the subject of the criminal records check or the person's representative;

(2) The medicaid director and the staff of the department who are involved in the administration of the medicaid program;

(3) The department's designee;

(4) An individual receiving or deciding whether to receive home and community-based services from the person who is the subject of the criminal records check or notice from the bureau;

(5) A court, hearing officer, or other necessary individual involved in a case or administrative hearing dealing with either of the following:

(a) A denial, suspension, or termination of a provider agreement, including when related to the criminal records check or notice from the bureau;

(b) A civil or criminal action regarding the medicaid program.

With respect to an administrative hearing dealing with the denial, suspension, or termination of a provider agreement, the report of a criminal records check may be introduced as evidence at the hearing and if admitted, becomes part of the hearing record. Any such report shall be admitted only under seal and shall maintain its status as not a public record.

(F) The medicaid director shall adopt rules ~~under section~~

~~5164.02 of the Revised Code to implement this section. The rules shall~~ that specify circumstances under which the department or the department's designee may either approve an applicant's application or allow an independent provider to maintain an existing provider agreement even though the applicant or independent provider is found by either of the following to have been convicted of or have pleaded guilty to a disqualifying offense:

(1) A criminal records check required by this section;

(2) In the case of an independent provider, a notice provided by the bureau of criminal identification and investigation under division (D) of section 109.5721 of the Revised Code.

Sec. 5164.342. (A) As used in this section:

"Applicant" means a person who is under final consideration for employment with a waiver agency in a full-time, part-time, or temporary position that involves providing home and community-based services.

"Community-based long-term care provider" means a provider as defined in section 173.39 of the Revised Code.

"Community-based long-term care subcontractor" means a subcontractor as defined in section 173.38 of the Revised Code.

"Criminal records check" has the same meaning as in section 109.572 of the Revised Code.

"Disqualifying offense" means any of the offenses listed or described in divisions (A)(3)(a) to (e) of section 109.572 of the Revised Code.

"Employee" means a person employed by a waiver agency in a

full-time, part-time, or temporary position that involves providing home and community-based services.

"Waiver agency" means a person or government entity that provides home and community-based services under a home and community-based services medicaid waiver component administered by the department of medicaid, other than such a person or government entity that is certified under the medicare program. "Waiver agency" does not mean an independent provider as defined in section 5164.341 of the Revised Code.

(B) This section does not apply to any individual who is subject to a database review or criminal records check under section 3740.11 of the Revised Code. If a waiver agency also is a community-based long-term care provider or community-based long-term care subcontractor, the waiver agency may provide for any of its applicants and employees who are not subject to database reviews and criminal records checks under section 173.38 of the Revised Code to undergo database reviews and criminal records checks in accordance with that section rather than this section.

(C) No waiver agency shall employ an applicant or continue to employ an employee in a position that involves providing home and community-based services if any of the following apply:

(1) A review of the databases listed in division (E) of this section reveals any of the following:

(a) That the applicant or employee is included in one or more of the databases listed in divisions (E)(1) to (5) of this section;

(b) That there is in the state nurse aide registry established under section 3721.32 of the Revised Code a

statement detailing findings by the director of health that the applicant or employee abused, neglected, or exploited a long-term care facility or residential care facility resident or misappropriated property of such a resident;

(c) That the applicant or employee is included in one or more of the databases, if any, specified in rules authorized by this section and the rules prohibit the waiver agency from employing an applicant or continuing to employ an employee included in such a database in a position that involves providing home and community-based services.

(2) After the applicant or employee is given the information and notification required by divisions (F)(2)(a) and (b) of this section, the applicant or employee fails to do either of the following:

(a) Access, complete, or forward to the superintendent of the bureau of criminal identification and investigation the form prescribed to division (C)(1) of section 109.572 of the Revised Code or the standard impression sheet prescribed pursuant to division (C)(2) of that section;

(b) Instruct the superintendent to submit the completed report of the criminal records check required by this section directly to the chief administrator of the waiver agency.

(3) Except as provided in rules authorized by this section, the applicant or employee is found by a criminal records check required by this section to have been convicted of or have pleaded guilty to a disqualifying offense, regardless of the date of the conviction or date of entry of the guilty plea.

(D) At the time of each applicant's initial application for employment in a position that involves providing home and

community-based services, the chief administrator of a waiver agency shall inform the applicant of both of the following:

(1) That a review of the databases listed in division (E) of this section will be conducted to determine whether the waiver agency is prohibited by division (C)(1) of this section from employing the applicant in the position;

(2) That, unless the database review reveals that the applicant may not be employed in the position, a criminal records check of the applicant will be conducted and the applicant is required to provide a set of the applicant's fingerprint impressions as part of the criminal records check.

(E) As a condition of employing any applicant in a position that involves providing home and community-based services, the chief administrator of a waiver agency shall conduct a database review of the applicant in accordance with rules authorized by this section. If rules authorized by this section so require, the chief administrator of a waiver agency shall conduct a database review of an employee in accordance with the rules as a condition of continuing to employ the employee in a position that involves providing home and community-based services. A database review shall determine whether the applicant or employee is included in any of the following:

(1) The excluded parties list system that is maintained by the United States general services administration pursuant to subpart 9.4 of the federal acquisition regulation and available at the federal web site known as the system for award management;

(2) The list of excluded individuals and entities

maintained by the office of inspector general in the United States department of health and human services pursuant to the "Social Security Act," sections 1128 and 1156, 42 U.S.C. 1320a-7 and 1320c-5;

(3) The registry of developmental disabilities employees established under section 5123.52 of the Revised Code;

(4) The internet-based sex offender and child-victim offender database established under division ~~(A)(11)~~ (A)(10) of section 2950.13 of the Revised Code;

(5) The internet-based database of inmates established under section 5120.66 of the Revised Code;

(6) The state nurse aide registry established under section 3721.32 of the Revised Code;

(7) Any other database, if any, specified in rules authorized by this section.

(F)(1) As a condition of employing any applicant in a position that involves providing home and community-based services, the chief administrator of a waiver agency shall require the applicant to request that the superintendent of the bureau of criminal identification and investigation conduct a criminal records check of the applicant. If rules authorized by this section so require, the chief administrator of a waiver agency shall require an employee to request that the superintendent conduct a criminal records check of the employee at times specified in the rules as a condition of continuing to employ the employee in a position that involves providing home and community-based services. However, a criminal records check is not required for an applicant or employee if the waiver agency is prohibited by division (C)(1) of this section from

employing the applicant or continuing to employ the employee in a position that involves providing home and community-based services. If an applicant or employee for whom a criminal records check request is required by this section does not present proof of having been a resident of this state for the five-year period immediately prior to the date the criminal records check is requested or provide evidence that within that five-year period the superintendent has requested information about the applicant or employee from the federal bureau of investigation in a criminal records check, the chief administrator shall require the applicant or employee to request that the superintendent obtain information from the federal bureau of investigation as part of the criminal records check. Even if an applicant or employee for whom a criminal records check request is required by this section presents proof of having been a resident of this state for the five-year period, the chief administrator may require the applicant or employee to request that the superintendent include information from the federal bureau of investigation in the criminal records check.

(2) The chief administrator shall provide the following to each applicant and employee for whom a criminal records check is required by this section:

(a) Information about accessing, completing, and forwarding to the superintendent of the bureau of criminal identification and investigation the form prescribed pursuant to division (C)(1) of section 109.572 of the Revised Code and the standard impression sheet prescribed pursuant to division (C)(2) of that section;

(b) Written notification that the applicant or employee is to instruct the superintendent to submit the completed report of

the criminal records check directly to the chief administrator.

(3) A waiver agency shall pay to the bureau of criminal identification and investigation the fee prescribed pursuant to division (C)(3) of section 109.572 of the Revised Code for any criminal records check required by this section. However, a waiver agency may require an applicant to pay to the bureau the fee for a criminal records check of the applicant. If the waiver agency pays the fee for an applicant, it may charge the applicant a fee not exceeding the amount the waiver agency pays to the bureau under this section if the waiver agency notifies the applicant at the time of initial application for employment of the amount of the fee and that, unless the fee is paid, the applicant will not be considered for employment.

(G)(1) A waiver agency may employ conditionally an applicant for whom a criminal records check is required by this section prior to obtaining the results of the criminal records check if both of the following apply:

(a) The waiver agency is not prohibited by division (C)(1) of this section from employing the applicant in a position that involves providing home and community-based services.

(b) The chief administrator of the waiver agency requires the applicant to request a criminal records check regarding the applicant in accordance with division (F)(1) of this section not later than five business days after the applicant begins conditional employment.

(2) A waiver agency that employs an applicant conditionally under division (G)(1) of this section shall terminate the applicant's employment if the results of the criminal records check, other than the results of any request

for information from the federal bureau of investigation, are not obtained within the period ending sixty days after the date the request for the criminal records check is made. Regardless of when the results of the criminal records check are obtained, if the results indicate that the applicant has been convicted of or has pleaded guilty to a disqualifying offense, the waiver agency shall terminate the applicant's employment unless circumstances specified in rules authorized by this section exist that permit the waiver agency to employ the applicant and the waiver agency chooses to employ the applicant.

(H) The report of any criminal records check conducted pursuant to a request made under this section is not a public record for the purposes of section 149.43 of the Revised Code and shall not be made available to any person other than the following:

(1) The applicant or employee who is the subject of the criminal records check or the representative of the applicant or employee;

(2) The chief administrator of the waiver agency that requires the applicant or employee to request the criminal records check or the administrator's representative;

(3) The medicaid director and the staff of the department who are involved in the administration of the medicaid program;

(4) The director of aging or the director's designee if the waiver agency also is a community-based long-term care provider or community-based long-term care subcontractor;

(5) An individual receiving or deciding whether to receive home and community-based services from the subject of the criminal records check;

(6) A court, hearing officer, or other necessary individual involved in a case or administrative hearing dealing with any of the following:

(a) A denial of employment of the applicant or employee;

(b) Employment or unemployment benefits of the applicant or employee;

(c) A civil or criminal action regarding the medicaid program;

(d) A denial, suspension, or termination of a provider agreement.

With respect to an administrative hearing dealing with a denial, suspension, or termination of a provider agreement, the report of a criminal records check may be introduced as evidence at the hearing and if admitted, becomes part of the hearing record. Any such report shall be admitted only under seal and shall maintain its status as not a public record.

~~(I)~~ (I)(1) The medicaid director ~~shall adopt rules under section 5164.02 of the Revised Code to implement this section.~~

~~(1) The rules~~ may adopt rules that do the following:

(a) Require employees to undergo database reviews and criminal records checks under this section;

(b) If the rules require employees to undergo database reviews and criminal records checks under this section, exempt one or more classes of employees from the requirements;

(c) For the purpose of division (E)(7) of this section, specify other databases that are to be checked as part of a database review conducted under this section.

(2) The ~~rules~~ director shall adopt rules that specify all of the following:

(a) The procedures for conducting a database review under this section;

(b) If the rules require employees to undergo database reviews and criminal records checks under this section, the times at which the database reviews and criminal records checks are to be conducted;

(c) If the rules specify other databases to be checked as part of a database review, the circumstances under which a waiver agency is prohibited from employing an applicant or continuing to employ an employee who is found by the database review to be included in one or more of those databases;

(d) The circumstances under which a waiver agency may employ an applicant or employee who is found by a criminal records check required by this section to have been convicted of or have pleaded guilty to a disqualifying offense.

(J) The amendments made by H.B. 487 of the 129th general assembly to this section do not preclude the department of medicaid from taking action against a person for failure to comply with former division (H) of this section as that division existed on the day preceding January 1, 2013.

Sec. 5164.36. (A) As used in this section:

(1) "Credible allegation of fraud" has the same meaning as in 42 C.F.R. 455.2, except that for purposes of this section any reference in that regulation to the "state" or the "state medicaid agency" means the department of medicaid.

(2) "Disqualifying indictment" means an indictment of a

medicaid provider or its officer, authorized agent, associate, manager, employee, or, if the provider is a noninstitutional provider, its owner, if either of the following applies:

(a) The indictment charges the person with committing an act to which both of the following apply:

(i) The act would be a felony or misdemeanor under the laws of this state or the jurisdiction within which the act occurred.

(ii) The act relates to or results from furnishing or billing for medicaid services under the medicaid program or relates to or results from performing management or administrative services relating to furnishing medicaid services under the medicaid program.

(b) The indictment charges the person with committing an act that would constitute a disqualifying offense.

(3) "Disqualifying offense" means any of the offenses listed or described in divisions (A)(3)(a) to (e) of section 109.572 of the Revised Code.

(4) "Noninstitutional medicaid provider" means any person or entity with a provider agreement other than a hospital, nursing facility, or ICF/IID.

(5) "Owner" means any person having at least five per cent ownership in a noninstitutional medicaid provider.

(B)(1) Except as provided in division (C) of this section and in rules authorized by this section, the department of medicaid shall suspend the provider agreement held by a medicaid provider on determining either of the following:

(a) There is a credible allegation of fraud against any of

the following for which an investigation is pending under the medicaid program:

(i) The medicaid provider;

(ii) The medicaid provider's owner, officer, authorized agent, associate, manager, or employee.

(b) A disqualifying indictment has been issued against any of the following:

(i) The medicaid provider;

(ii) The medicaid provider's officer, authorized agent, associate, manager, or employee;

(iii) If the medicaid provider is a noninstitutional provider, its owner.

(2) Subject to division (C) of this section, the department shall also suspend all medicaid payments to a medicaid provider for services rendered, regardless of the date that the services are rendered, when the department suspends the provider's provider agreement under this section.

(3) The suspension of a provider agreement shall continue in effect until the latest of the following occurs:

(a) If the suspension is the result of a credible allegation of fraud, the department or a prosecuting authority determines that there is insufficient evidence of fraud by the medicaid provider;

(b) Regardless of whether the suspension is the result of a credible allegation of fraud or a disqualifying indictment, the proceedings in any related criminal case are completed through dismissal of the indictment or through sentencing after

conviction or entry of a guilty plea or through finding of not guilty or, if the department commences a process to terminate the suspended provider agreement, the termination process is concluded;

(c) The medicaid provider pays in full all fines and debts due and owing to the department or makes arrangements satisfactory to the department to fulfill those obligations;

(d) A civil action related to a credible allegation of fraud or disqualifying indictment is not pending against the medicaid provider.

(4)(a) When a provider agreement is suspended under this section, none of the following shall take, during the period of the suspension, any of the actions specified in division (B)(4)(b) of this section:

(i) The medicaid provider;

(ii) If the suspension is the result of an action taken by an officer, authorized agent, associate, manager, or employee of the medicaid provider, that person;

(iii) If the medicaid provider is a noninstitutional provider and the suspension is the result of an action taken by the owner of the provider, the owner.

(b) The following are the actions that persons specified in division (B)(4)(a) of this section cannot take during the suspension of a provider agreement:

(i) Own any other medicaid provider or risk contractor;

(ii) Arrange, render, or order services on behalf of any other medicaid provider or risk contractor;

(iii) Arrange or order services for medicaid recipients or render services to medicaid recipients;

(iv) Receive direct payments under the medicaid program or indirect payments of medicaid funds in the form of salary, shared fees, contracts, kickbacks, or rebates from or through any other medicaid provider or risk contractor.

(C) The department shall not suspend a provider agreement or medicaid payments under division (B) of this section if either of the following is the case:

(1) The medicaid provider or, if the provider is a noninstitutional provider, the owner can demonstrate through the submission of written evidence that the provider or owner did not directly or indirectly sanction the action of its authorized agent, associate, manager, or employee that resulted in the credible allegation of fraud or disqualifying indictment.

(2) The medicaid provider or, if the provider is a noninstitutional provider, the owner can demonstrate that good cause exists not to suspend the provider agreement or payments.

With respect to the evidence described in division (C)(1) of this section, the department shall grant, prior to suspension, the provider or owner an opportunity to submit the written evidence to the department.

With respect to a demonstration of good cause described in division (C)(2) of this section, the department shall specify in rules ~~adopted under section 5164.02 of the Revised Code~~ what constitutes good cause and the information, documents, or other evidence that must be submitted to the department as part of the demonstration.

(D) After suspending a provider agreement under division

(B) of this section, the department shall send notice of the suspension to the affected medicaid provider or, if the provider is a noninstitutional provider, the owner in accordance with the following time frames:

(1) Not later than five days after the suspension, unless a law enforcement agency makes a written request to temporarily delay the notice;

(2) If a law enforcement agency makes a written request to temporarily delay the notice, not later than thirty days after the suspension occurs subject to the conditions specified in division (E) of this section.

(E) A written request for a temporary delay described in division (D)(2) of this section may be renewed in writing by a law enforcement agency not more than two times except that under no circumstances shall the notice be issued more than ninety days after the suspension occurs.

(F) The notice required by division (D) of this section shall do all of the following:

(1) State that payments are being suspended in accordance with this section and 42 C.F.R. 455.23;

(2) Set forth the general allegations related to the nature of the conduct leading to the suspension, except that it is not necessary to disclose any specific information concerning an ongoing investigation;

(3) State that the suspension continues to be in effect until the latest of the circumstances specified in division (B)(3) of this section occur;

(4) Specify, if applicable, the type or types of medicaid

claims or business units of the medicaid provider that are affected by the suspension;

(5) Inform the medicaid provider or owner of the opportunity to submit to the department, not later than thirty days after receiving the notice, a request for reconsideration of the suspension in accordance with division (G) of this section.

(G)(1) Pursuant to the procedure specified in division (G)(2) of this section, a medicaid provider subject to a suspension under this section or, if the provider is a noninstitutional provider, the owner may request a reconsideration of the suspension. The request shall be made not later than thirty days after receipt of a notice required by division (D) of this section. The reconsideration is not subject to an adjudication hearing pursuant to Chapter 119. of the Revised Code.

(2) In requesting a reconsideration, the medicaid provider or owner shall submit written information and documents to the department. The information and documents may pertain to either of the following issues:

(a) Whether the determination to suspend the provider agreement was based on a mistake of fact, other than the validity of an indictment in a related criminal case.

(b) If there has been an indictment in a related criminal case, whether the indictment is a disqualifying indictment.

(H) The department shall review the information and documents submitted in a request made under division (G) of this section for reconsideration of a suspension. After the review, the suspension may be affirmed, reversed, or modified, in whole or in part. The department shall notify the affected provider or

owner of the results of the review.

(I) ~~Rules adopted under section 5164.02 of the Revised Code~~ The department may adopt rules that specify circumstances under which the department would not suspend a provider agreement pursuant to this section.

Sec. 5164.46. (A) As used in this section, "electronic claims submission process" means any of the following:

(1) Electronic interchange of data;

(2) Direct entry of data through an internet-based mechanism implemented by the department of medicaid;

(3) Any other process for the electronic submission of claims that is specified in rules adopted ~~under section 5162.02 of the Revised Code~~by the medicaid director.

(B) Not later than January 1, 2013, and except as provided in division (C) of this section, each medicaid provider shall do both of the following:

(1) Use only an electronic claims submission process to submit to the department of medicaid claims for medicaid payment for medicaid services provided to medicaid recipients;

(2) Arrange to receive medicaid payment from the department by means of electronic funds transfer.

(C) Division (B) of this section does not apply to any of the following:

(1) A nursing facility;

(2) An ICF/IID;

(3) A medicaid managed care organization;

(4) Any other medicaid provider or type of medicaid provider designated in rules adopted under section 5162.02 of the Revised Code.

(D) The department shall not process a medicaid claim submitted on or after January 1, 2013, unless the claim is submitted through an electronic claims submission process in accordance with this section.

Sec. 5164.74. The medicaid director shall adopt rules ~~under section 5164.02 of the Revised Code~~ governing the calculation and payment of, and the allocation of payments for, graduate medical education costs associated with medicaid services rendered to medicaid recipients. Subject to section 5164.741 of the Revised Code, the rules shall provide for payment of graduate medical education costs associated with medicaid services rendered to medicaid recipients, including recipients enrolled in a medicaid managed care organization, that the department of medicaid determines are allowable and reasonable.

Sec. 5164.741. (A) Except as provided in division (B) of this section, the department of medicaid may deny medicaid payment to a hospital for direct graduate medical education costs associated with the delivery of medicaid services to any medicaid recipient if the hospital refuses without good cause to contract with a medicaid managed care organization that serves the area in which the hospital is located.

(B) A hospital is not subject to division (A) of this section if all of the following are the case:

(1) The hospital is located in a county in which participants in the care management system are required before

January 1, 2006, to be enrolled in a medicaid managed care organization that is a health insuring corporation.

(2) The hospital has entered into a contract before January 1, 2006, with at least one health insuring corporation serving the participants specified in division (B)(1) of this section.

(3) The hospital remains under contract with at least one health insuring corporation serving participants in the care management system who are required to be enrolled in a health insuring corporation.

(C) The medicaid director shall specify in ~~the~~ rules ~~adopted under section 5164.02 of the Revised Code~~ what constitutes good cause for a hospital to refuse to contract with a medicaid managed care organization.

Sec. 5164.755. The medicaid director~~, in rules adopted under section 5164.02 of the Revised Code,~~ may establish and implement a supplemental drug rebate program under which drug manufacturers may be required to provide the department of medicaid a supplemental rebate as a condition of having the drug manufacturers' drug products covered by the medicaid program without prior approval. The department may receive a supplemental rebate negotiated under the program for a drug dispensed to a medicaid recipient pursuant to a prescription or a drug purchased by a medicaid provider for administration to a medicaid recipient in the provider's primary place of business.

If the director establishes a supplemental drug rebate program, the director shall consult with drug manufacturers regarding the establishment and implementation of the program.

Sec. 5164.758. The medicaid director shall adopt rules

~~under section 5164.02 of the Revised Code~~ to implement a coordinated services program for medicaid recipients who are found to have obtained prescribed drugs under the medicaid program at a frequency or in an amount that is not medically necessary. The program shall be implemented in a manner that is consistent with the "Social Security Act," section 1915(a)(2), 42 U.S.C. 1396n(a)(2), and 42 C.F.R. 431.54(e).

Sec. 5164.76. (A) ~~In rules adopted under section 5164.02 of the Revised Code, the~~ The medicaid director shall adopt rules to modify the manner or establish a new manner in which the following are paid under medicaid:

(1) Community mental health service providers or facilities for providing community mental health services covered by the medicaid program pursuant to section 5164.15 of the Revised Code;

(2) Providers of alcohol and drug addiction services for providing alcohol and drug addiction services covered by the medicaid program.

(B) The director's authority to modify the manner, or to establish a new manner, for medicaid to pay for the services specified in division (A) of this section is not limited by any rules adopted under section former division (A) of section 5119.22 or former section 5164.02 of the Revised Code that are in effect on June 26, 2003, and govern the way medicaid pays for those services. This is the case regardless of what state agency adopted the rules.

Sec. 5164.89. The department of medicaid may require county departments of job and family services to provide case management of nonemergency transportation services provided

under the medicaid program. County departments shall provide the case management if required by the department ~~in accordance with rules adopted under section 5164.02 of the Revised Code~~.

The department shall determine, for the purposes of claiming federal financial participation, whether it will claim expenditures for nonemergency transportation services as administrative or program expenditures.

Sec. 5164.93. (A) The department of medicaid may establish a program under which it provides incentive payments, as authorized by the "Social Security Act," section 1903(a)(3)(F) and (t), 42 U.S.C. 1396b(a)(3)(F) and (t), to encourage the adoption and use of electronic health record technology by medicaid providers who are identified under that federal law as eligible professionals.

(B) After the department has made a determination regarding the amount of a medicaid provider's electronic health record incentive payment or the denial of an incentive payment, the department shall notify the provider. The provider may request that the department reconsider its determination.

A request for reconsideration shall be submitted in writing to the department not later than fifteen days after the provider receives notification of the determination. The request shall be accompanied by written materials setting forth the basis for, and supporting, the reconsideration request.

On receipt of a timely request, the department shall reconsider the determination. On the basis of the written materials accompanying the request, the department may uphold, reverse, or modify its original determination. The department shall mail to the provider by certified mail a written notice of

the reconsideration decision.

In accordance with Chapter 2505. of the Revised Code, the medicaid provider may appeal the reconsideration decision by filing a notice of appeal with the court of common pleas of Franklin county. The notice shall identify the decision being appealed and the specific grounds for the appeal. The notice of appeal shall be filed not later than fifteen days after the department mails its notice of the reconsideration decision. A copy of the notice of appeal shall be filed with the department not later than three days after the notice is filed with the court.

(C) The medicaid director may adopt rules ~~under section 5162.02 of the Revised Code as necessary to implement this section~~to establish a provider incentive program to encourage the adoption and use of electronic health record technology. The rules, if any, shall be adopted in accordance with Chapter 119. of the Revised Code.

Sec. 5164.95. (A) As used in this section, "telehealth service" means a health care service delivered to a patient through the use of interactive audio, video, or other telecommunications or electronic technology from a site other than the site where the patient is located.

(B) The department of medicaid shall establish standards for medicaid payments for health care services the department determines are appropriate to be covered by the medicaid program when provided as telehealth services. The standards shall be established in rules adopted ~~under section 5164.02 of the Revised Code~~by the medicaid director.

In accordance with section 5162.021 of the Revised Code,

the medicaid director shall adopt rules authorizing the directors of other state agencies to adopt rules regarding the medicaid coverage of telehealth services under programs administered by the other state agencies. Any such rules adopted by the medicaid director or the directors of other state agencies are not subject to the requirements of division (F) of section 121.95 of the Revised Code.

(C)(1) To the extent permitted under rules adopted ~~under section 5164.02 of the Revised Code~~ by the medicaid director and applicable federal law, the following practitioners are eligible to provide telehealth services covered pursuant to this section:

(a) A physician licensed under Chapter 4731. of the Revised Code to practice medicine and surgery, osteopathic medicine and surgery, or podiatric medicine and surgery;

(b) A psychologist, independent school psychologist, or school psychologist licensed under Chapter 4732. of the Revised Code;

(c) A physician assistant licensed under Chapter 4730. of the Revised Code;

(d) A clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner licensed under Chapter 4723. of the Revised Code;

(e) An independent social worker, independent marriage and family therapist, or professional clinical counselor licensed under Chapter 4757. of the Revised Code;

(f) An independent chemical dependency counselor licensed under Chapter 4758. of the Revised Code;

(g) A supervised practitioner or supervised trainee;

(h) An audiologist or speech-language pathologist licensed under Chapter 4753. of the Revised Code;

(i) An audiology aide or speech-language pathology aide, as defined in section 4753.072 of the Revised Code, or an individual holding a conditional license under section 4753.071 of the Revised Code;

(j) An occupational therapist or physical therapist licensed under Chapter 4755. of the Revised Code;

(k) An occupational therapy assistant or physical therapist assistant licensed under Chapter 4755. of the Revised Code.

(l) A dietitian licensed under Chapter 4759. of the Revised Code;

(m) A chiropractor licensed under Chapter 4734. of the Revised Code;

(n) A pharmacist licensed under Chapter 4729. of the Revised Code;

(o) A genetic counselor licensed under Chapter 4778. of the Revised Code;

(p) An optometrist licensed under Chapter 4725. of the Revised Code to practice optometry;

(q) A respiratory care professional licensed under Chapter 4761. of the Revised Code;

(r) A certified Ohio behavior analyst certified under Chapter 4783. of the Revised Code;

(s) A practitioner who provides services through a medicaid school program;

(t) Subject to section 5119.368 of the Revised Code, a practitioner authorized to provide services and supports certified under section 5119.36 of the Revised Code through a community mental health services provider or community addiction services provider;

(u) A certified mental health assistant licensed under Chapter 4772. of the Revised Code~~;~~

~~(v) Any other practitioner the medicaid director considers eligible to provide telehealth services~~.

(2) In accordance with division (B) of this section and to the extent permitted under rules adopted ~~under section 5164.02 of the Revised Code~~ by the medicaid director and applicable federal law, the following provider types are eligible to submit claims for medicaid payments for providing telehealth services:

(a) Any practitioner described in division (C)(1) of this section, except for those described in divisions (C)(1)(g), (i), and (k) of this section;

(b) A professional medical group;

(c) A federally qualified health center or federally qualified health center look-alike, as defined in section 3701.047 of the Revised Code;

(d) A rural health clinic;

(e) An ambulatory health care clinic;

(f) An outpatient hospital;

(g) A medicaid school program;

(h) Subject to section 5119.368 of the Revised Code, a community mental health services provider or community addiction

services provider that offers services and supports certified under section 5119.36 of the Revised Code~~;~~

~~(i) Any other provider type the medicaid director considers eligible to submit the claims for payment~~.

(D)(1) When providing telehealth services under this section, a practitioner shall comply with all requirements under state and federal law regarding the protection of patient information. A practitioner shall ensure that any username or password information and any electronic communications between the practitioner and a patient are securely transmitted and stored.

(2) When providing telehealth services under this section, every practitioner site shall have access to the medical records of the patient at the time telehealth services are provided.

Sec. 5164.96. (A) As used in this section, "ground emergency medical transportation service provider" means a public emergency medical service organization as defined in section 4765.01 of the Revised Code.

(B)(1) The medicaid director shall submit a medicaid state plan amendment to the United States centers for medicare and medicaid services seeking authorization to establish and administer a supplemental payment program to provide supplemental medicaid payments to eligible ground emergency medical transportation service providers. If approved, the medicaid director shall establish and administer the program.

(2) To be eligible to receive payments under the supplemental payment program, a ground emergency medical transportation service provider must hold a valid medicaid provider agreement and provide emergency medical transportation

services to medicaid recipients.

(C) The medicaid director shall adopt rules in accordance with Chapter 119. of the Revised Code to ~~implement this section~~establish and administer a supplemental payment program for eligible ground emergency medical transportation service providers.

Sec. 5165.01. As used in this chapter:

(A) "Affiliated operator" means an operator affiliated with either of the following:

(1) The exiting operator for whom the affiliated operator is to assume liability for the entire amount of the exiting operator's debt under the medicaid program or the portion of the debt that represents the franchise permit fee the exiting operator owes;

(2) The entering operator involved in the change of operator with the exiting operator specified in division (A)(1) of this section.

(B) "Allowable costs" are a nursing facility's costs that the department of medicaid determines are reasonable. Fines paid under sections 5165.60 to 5165.89 and section 5165.99 of the Revised Code are not allowable costs.

(C) "Ancillary and support costs" means all reasonable costs incurred by a nursing facility other than direct care costs, tax costs, or capital costs. "Ancillary and support costs" includes, but is not limited to, costs of activities, social services, pharmacy consultants, habilitation supervisors, qualified intellectual disability professionals, program directors, medical and habilitation records, program supplies, incontinence supplies, food, enterals, dietary supplies and

personnel, laundry, housekeeping, security, administration, medical equipment, utilities, liability insurance, bookkeeping, purchasing department, human resources, communications, travel, dues, license fees, subscriptions, home office costs not otherwise allocated, legal services, accounting services, minor equipment, maintenance and repairs, help-wanted advertising, informational advertising, start-up costs, organizational expenses, other interest, property insurance, employee training and staff development, employee benefits, payroll taxes, and workers' compensation premiums or costs for self-insurance claims and related costs as specified in rules adopted ~~under section 5165.02 of the Revised Code~~by the medicaid director, for personnel listed in this division. "Ancillary and support costs" also means the cost of equipment, including vehicles, acquired by operating lease executed before December 1, 1992, if the costs are reported as administrative and general costs on the nursing facility's cost report for the cost reporting period ending December 31, 1992.

(D) "Applicable calendar year" means the calendar year immediately preceding the first of the state fiscal years for which a rebasing is conducted.

(E) For purposes of calculating a critical access nursing facility's occupancy rate and utilization rate under this chapter, "as of the last day of the calendar year" refers to the occupancy and utilization rates during the calendar year identified in the cost report filed under section 5165.10 of the Revised Code.

(F)(1) "Capital costs" means the actual expense incurred by a nursing facility for all of the following:

(a) Depreciation and interest on any capital assets that

cost five hundred dollars or more per item, including the following:

(i) Buildings;

(ii) Building improvements;

(iii) Except as provided in division (D) of this section, equipment;

(iv) Transportation equipment.

(b) Amortization and interest on land improvements and leasehold improvements;

(c) Amortization of financing costs;

(d) Lease and rent of land, buildings, and equipment.

(2) The costs of capital assets of less than five hundred dollars per item may be considered capital costs in accordance with a provider's practice.

(G) "Capital lease" and "operating lease" shall be construed in accordance with generally accepted accounting principles.

(H) "Case-mix score" means a measure determined under section 5165.192 of the Revised Code of the relative direct-care resources needed to provide care and habilitation to a nursing facility resident.

(I) "Change of operator" includes circumstances in which an entering operator becomes the operator of a nursing facility in the place of the exiting operator.

(1) Actions that constitute a change of operator include the following:

(a) A change in an exiting operator's form of legal organization, including the formation of a partnership or corporation from a sole proprietorship;

(b) A change in operational control of the nursing facility, regardless of whether ownership of any or all of the real property or personal property associated with the nursing facility is also transferred;

(c) A lease of the nursing facility to the entering operator or termination of the exiting operator's lease;

(d) If the exiting operator is a partnership, dissolution of the partnership, a merger of the partnership into another person that is the survivor of the merger, or a consolidation of the partnership and at least one other person to form a new person;

(e) If the exiting operator is a limited liability company, dissolution of the limited liability company, a merger of the limited liability company into another person that is the survivor of the merger, or a consolidation of the limited liability company and at least one other person to form a new person.

(f) If the operator is a corporation, dissolution of the corporation, a merger of the corporation into another person that is the survivor of the merger, or a consolidation of the corporation and at least one other person to form a new person;

(g) A contract for a person to assume operational control of a nursing facility;

(h) A change of fifty per cent or more in the ownership of the licensed operator that results in a change of operational control;

(i) Any pledge, assignment, or hypothecation of or lien or other encumbrance on any of the legal or beneficial equity interests in the operator or a person with operational control.

(2) The following do not constitute a change of operator:

(a) Actions necessary to create an employee stock ownership plan under section 401(a) of the "Internal Revenue Code," 26 U.S.C. 401(a);

(b) A change of ownership of real property or personal property associated with a nursing facility;

(c) If the operator is a corporation that has securities publicly traded in a marketplace, a change of one or more members of the corporation's governing body or transfer of ownership of one or more shares of the corporation's stock, if the same corporation continues to be the operator;

(d) An initial public offering for which the securities and exchange commission has declared the registration statement effective, and the newly created public company remains the operator.

(J) "Cost center" means the following:

(1) Ancillary and support costs;

(2) Capital costs;

(3) Direct care costs;

(4) Tax costs.

(K) "Custom wheelchair" means a wheelchair to which both of the following apply:

(1) It has been measured, fitted, or adapted in consideration of either of the following:

(a) The body size or disability of the individual who is to use the wheelchair;

(b) The individual's period of need for, or intended use of, the wheelchair.

(2) It has customized features, modifications, or components, such as adaptive seating and positioning systems, that the supplier who assembled the wheelchair, or the manufacturer from which the wheelchair was ordered, added or made in accordance with the instructions of the physician of the individual who is to use the wheelchair.

(L)(1) "Date of licensure" means the following:

(a) In the case of a nursing facility that was required by law to be licensed as a nursing home under Chapter 3721. of the Revised Code when it originally began to be operated as a nursing home, the date the nursing facility was originally so licensed;

(b) In the case of a nursing facility that was not required by law to be licensed as a nursing home when it originally began to be operated as a nursing home, the date it first began to be operated as a nursing home, regardless of the date the nursing facility was first licensed as a nursing home.

(2) If, after a nursing facility's original date of licensure, more nursing home beds are added to the nursing facility, the nursing facility has a different date of licensure for the additional beds. This does not apply, however, to additional beds when both of the following apply:

(a) The additional beds are located in a part of the nursing facility that was constructed at the same time as the continuing beds already located in that part of the nursing

facility;

(b) The part of the nursing facility in which the additional beds are located was constructed as part of the nursing facility at a time when the nursing facility was not required by law to be licensed as a nursing home.

(3) The definition of "date of licensure" in this section applies in determinations of nursing facilities' medicaid payment rates but does not apply in determinations of nursing facilities' franchise permit fees.

(M) "Desk-reviewed" means that a nursing facility's costs as reported on a cost report submitted under section 5165.10 of the Revised Code have been subjected to a desk review under section 5165.108 of the Revised Code and preliminarily determined to be allowable costs.

(N) "Direct care costs" means all of the following costs incurred by a nursing facility:

(1) Costs for registered nurses, licensed practical nurses, and nurse aides employed by the nursing facility;

(2) Costs for direct care staff, administrative nursing staff, medical directors, respiratory therapists, and except as provided in division (N)(8) of this section, other persons holding degrees qualifying them to provide therapy;

(3) Costs of purchased nursing services;

(4) Costs of quality assurance;

(5) Costs of training and staff development, employee benefits, payroll taxes, and workers' compensation premiums or costs for self-insurance claims and related costs as specified in rules adopted ~~under section 5165.02 of the Revised Code~~by the

medicaid director, for personnel listed in divisions (N)(1), (2), (4), and (8) of this section;

(6) Costs of consulting and management fees related to direct care;

(7) Allocated direct care home office costs;

(8) Costs of habilitation staff (other than habilitation supervisors), medical supplies, emergency oxygen, over-the-counter pharmacy products, physical therapists, physical therapy assistants, occupational therapists, occupational therapy assistants, speech therapists, audiologists, habilitation supplies, and universal precautions supplies;

(9) Costs of wheelchairs other than the following:

(a) Custom wheelchairs;

(b) Repairs to and replacements of custom wheelchairs and parts that are made in accordance with the instructions of the physician of the individual who uses the custom wheelchair.

(10) Costs of other direct-care resources that are specified as direct care costs in rules adopted under section 5165.02 of the Revised Code.

(O) "Dual eligible individual" has the same meaning as in section 5160.01 of the Revised Code.

(P) "Effective date of a change of operator" means the day the entering operator becomes the operator of the nursing facility.

(Q) "Effective date of a facility closure" means the last day that the last of the residents of the nursing facility resides in the nursing facility.

(R) "Effective date of an involuntary termination" means the date the department of medicaid terminates the operator's provider agreement for the nursing facility.

(S) "Effective date of a voluntary withdrawal of participation" means the day the nursing facility ceases to accept new medicaid residents other than the individuals who reside in the nursing facility on the day before the effective date of the voluntary withdrawal of participation.

(T) "Entering operator" means the person or government entity that will become the operator of a nursing facility when a change of operator occurs or following an involuntary termination.

(U) "Exiting operator" means any of the following:

(1) An operator that will cease to be the operator of a nursing facility on the effective date of a change of operator;

(2) An operator that will cease to be the operator of a nursing facility on the effective date of a facility closure;

(3) An operator of a nursing facility that is undergoing or has undergone a voluntary withdrawal of participation;

(4) An operator of a nursing facility that is undergoing or has undergone an involuntary termination.

(V)(1) Subject to divisions (V)(2) and (3) of this section, "facility closure" means either of the following:

(a) Discontinuance of the use of the building, or part of the building, that houses the facility as a nursing facility that results in the relocation of all of the nursing facility's residents;

(b) Conversion of the building, or part of the building, that houses a nursing facility to a different use with any necessary license or other approval needed for that use being obtained and one or more of the nursing facility's residents remaining in the building, or part of the building, to receive services under the new use.

(2) A facility closure occurs regardless of any of the following:

(a) The operator completely or partially replacing the nursing facility by constructing a new nursing facility or transferring the nursing facility's license to another nursing facility;

(b) The nursing facility's residents relocating to another of the operator's nursing facilities;

(c) Any action the department of health takes regarding the nursing facility's medicaid certification that may result in the transfer of part of the nursing facility's survey findings to another of the operator's nursing facilities;

(d) Any action the department of health takes regarding the nursing facility's license under Chapter 3721. of the Revised Code.

(3) A facility closure does not occur if all of the nursing facility's residents are relocated due to an emergency evacuation and one or more of the residents return to a medicaid-certified bed in the nursing facility not later than thirty days after the evacuation occurs.

(W) "Franchise permit fee" means the fee imposed by sections 5168.40 to 5168.56 of the Revised Code.

(X) "Inpatient days" means both of the following:

(1) All days during which a resident, regardless of payment source, occupies a licensed bed in a nursing facility;

(2) Fifty per cent of the days for which payment is made under section 5165.34 of the Revised Code.

(Y) "Involuntary termination" means the department of medicaid's termination of the operator's provider agreement for the nursing facility when the termination is not taken at the operator's request.

(Z) "Low case-mix resident" means a medicaid recipient residing in a nursing facility who, for purposes of calculating the nursing facility's medicaid payment rate for direct care costs, is placed in either of the two lowest case-mix groups, excluding any case-mix group that is a default group used for residents with incomplete assessment data.

(AA) "Maintenance and repair expenses" means a nursing facility's expenditures that are necessary and proper to maintain an asset in a normally efficient working condition and that do not extend the useful life of the asset two years or more. "Maintenance and repair expenses" includes but is not limited to the costs of ordinary repairs such as painting and wallpapering.

(BB) "Medicaid-certified capacity" means the number of a nursing facility's beds that are certified for participation in medicaid as nursing facility beds.

(CC) "Medicaid days" means both of the following:

(1) All days during which a resident who is a medicaid recipient eligible for nursing facility services occupies a bed

in a nursing facility that is included in the nursing facility's medicaid-certified capacity;

(2) Fifty per cent of the days for which payment is made under section 5165.34 of the Revised Code.

(DD)(1) "New nursing facility" means a nursing facility for which the provider obtains an initial provider agreement following medicaid certification of the nursing facility by the director of health, including such a nursing facility that replaces one or more nursing facilities for which a provider previously held a provider agreement.

(2) "New nursing facility" does not mean a nursing facility for which the entering operator seeks a provider agreement pursuant to section 5165.511 or 5165.512 or (pursuant to section 5165.515) section 5165.07 of the Revised Code.

(EE) "Nursing facility" has the same meaning as in the "Social Security Act," section 1919(a), 42 U.S.C. 1396r(a).

(FF) "Nursing facility services" has the same meaning as in the "Social Security Act," section 1905(f), 42 U.S.C. 1396d(f).

(GG) "Nursing home" has the same meaning as in section 3721.01 of the Revised Code.

(HH) "Occupancy rate" means the percentage of licensed beds that, regardless of payer source, are either of the following:

(1) Reserved for use under section 5165.34 of the Revised Code;

(2) Actually being used.

(II) "Operational control" means having the ability to direct the overall operations and cash flow of a nursing facility. "Operational control" may be exercised by one person or multiple persons acting together or by a government entity, and may exist by means of any of the following:

(1) The person, persons, or government entity directly operating the nursing facility;

(2) The person, persons, or government entity directly or indirectly owning fifty per cent or more of the operator;

(3) An agreement or other arrangement granting the person, persons, or government entity operational control.

(JJ) "Operator" means a person or government entity responsible for the operational control of a nursing facility and that holds both of the following:

(1) The license to operate the nursing facility issued under section 3721.02 of the Revised Code, if a license is required by section 3721.05 of the Revised Code;

(2) The medicaid provider agreement issued under section 5165.07 of the Revised Code, if applicable.

(KK)(1) "Owner" means any person or government entity that has at least five per cent ownership or interest, either directly, indirectly, or in any combination, in any of the following regarding a nursing facility:

(a) The land on which the nursing facility is located;

(b) The structure in which the nursing facility is located;

(c) Any mortgage, contract for deed, or other obligation

secured in whole or in part by the land or structure on or in which the nursing facility is located;

(d) Any lease or sublease of the land or structure on or in which the nursing facility is located.

(2) "Owner" does not mean a holder of a debenture or bond related to the nursing facility and purchased at public issue or a regulated lender that has made a loan related to the nursing facility unless the holder or lender operates the nursing facility directly or through a subsidiary.

(LL) "Per diem" means a nursing facility's actual, allowable costs in a given cost center in a cost reporting period, divided by the nursing facility's inpatient days for that cost reporting period.

(MM) "Person" has the same meaning as in section 1.59 of the Revised Code.

(NN) "Private room" means a nursing facility bedroom that meets all of the following criteria:

(1) It has four permanent, floor-to-ceiling walls and a full door.

(2) It contains one licensed or certified bed that is occupied by one individual.

(3) It has access to a hallway without traversing another bedroom.

(4) It has access to a toilet and sink shared by not more than one other resident without traversing another bedroom.

(5) It meets all applicable licensure or other standards pertaining to furniture, fixtures, and temperature control.

(OO) "Provider" means an operator with a provider agreement.

(PP) "Provider agreement" means a provider agreement, as defined in section 5164.01 of the Revised Code, that is between the department of medicaid and the operator of a nursing facility for the provision of nursing facility services under the medicaid program.

(QQ) "Purchased nursing services" means services that are provided in a nursing facility by registered nurses, licensed practical nurses, or nurse aides who are not employees of the nursing facility.

(RR) "Reasonable" means that a cost is an actual cost that is appropriate and helpful to develop and maintain the operation of patient care facilities and activities, including normal standby costs, and that does not exceed what a prudent buyer pays for a given item or services. Reasonable costs may vary from provider to provider and from time to time for the same provider.

(SS) "Rebasing" means a redetermination of each of the following using information from cost reports for an applicable calendar year that is later than the applicable calendar year used for the previous rebasing:

(1) Each peer group's rate for ancillary and support costs as determined pursuant to division (C) of section 5165.16 of the Revised Code;

(2) Each peer group's rate for capital costs as determined pursuant to division (C) of section 5165.17 of the Revised Code;

(3) Each peer group's cost per case-mix unit as determined pursuant to division (C) of section 5165.19 of the Revised Code;

(4) Each nursing facility's rate for tax costs as determined pursuant to section 5165.21 of the Revised Code.

(TT) "Related party" means an individual or organization that, to a significant extent, has common ownership with, is associated or affiliated with, has control of, or is controlled by, the provider.

(1) An individual who is a relative of an owner is a related party.

(2) Common ownership exists when an individual or individuals possess significant ownership or equity in both the provider and the other organization. Significant ownership or equity exists when an individual or individuals possess five per cent ownership or equity in both the provider and a supplier. Significant ownership or equity is presumed to exist when an individual or individuals possess ten per cent ownership or equity in both the provider and another organization from which the provider purchases or leases real property.

(3) Control exists when an individual or organization has the power, directly or indirectly, to significantly influence or direct the actions or policies of an organization.

(4) An individual or organization that supplies goods or services to a provider shall not be considered a related party if all of the following conditions are met:

(a) The supplier is a separate bona fide organization.

(b) A substantial part of the supplier's business activity of the type carried on with the provider is transacted with others than the provider and there is an open, competitive market for the types of goods or services the supplier furnishes.

(c) The types of goods or services are commonly obtained by other nursing facilities from outside organizations and are not a basic element of patient care ordinarily furnished directly to patients by nursing facilities.

(d) The charge to the provider is in line with the charge for the goods or services in the open market and no more than the charge made under comparable circumstances to others by the supplier.

(UU) "Relative of owner" means an individual who is related to an owner of a nursing facility by one of the following relationships:

(1) Spouse;

(2) Natural parent, child, or sibling;

(3) Adopted parent, child, or sibling;

(4) Stepparent, stepchild, stepbrother, or stepsister;

(5) Father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, or sister-in-law;

(6) Grandparent or grandchild;

(7) Foster caregiver, foster child, foster brother, or foster sister.

(VV) "Residents' rights advocate" has the same meaning as in section 3721.10 of the Revised Code.

(WW) "Skilled nursing facility" has the same meaning as in the "Social Security Act," section 1819(a), 42 U.S.C. 1395i-3(a).

(XX) "State fiscal year" means the fiscal year of this state, as specified in section 9.34 of the Revised Code.

(YY) "Sponsor" has the same meaning as in section 3721.10 of the Revised Code.

(ZZ) "Surrender" has the same meaning as in section 5168.40 of the Revised Code.

(AAA) "Tax costs" means the costs of taxes imposed under Chapter 5751. of the Revised Code, real estate taxes, personal property taxes, and corporate franchise taxes.

(BBB) "Title XIX" means Title XIX of the "Social Security Act," 42 U.S.C. 1396 et seq.

(CCC) "Title XVIII" means Title XVIII of the "Social Security Act," 42 U.S.C. 1395 et seq.

(DDD) "Voluntary withdrawal of participation" means an operator's voluntary election to terminate the participation of a nursing facility in the medicaid program but to continue to provide service of the type provided by a nursing facility.

Sec. 5165.04. (A) As used in this section, "representative" means a person acting on behalf of an applicant for or recipient of medicaid. A representative may be a family member, attorney, hospital social worker, or any other person chosen to act on behalf of an applicant or recipient.

(B) The department of medicaid may require each applicant for or recipient of medicaid who applies or intends to apply for admission to a nursing facility or resides in a nursing facility to undergo an assessment to determine whether the applicant or recipient needs the level of care provided by a nursing facility. The assessment may be performed concurrently with a long-term care consultation provided under section 173.42 of the Revised Code.

To the maximum extent possible, the assessment shall be based on information from the resident assessment instrument specified in rules authorized by section 5165.191 of the Revised Code. The assessment shall also be based on criteria and procedures established in rules authorized by division (F) of this section and information provided by the person being assessed or the person's representative.

The department of medicaid, or if the assessment is performed by an agency under contract with the department pursuant to division (G) of this section, the agency, shall, not later than the time the level of care determination based on the assessment is required to be provided under division (C) of this section, give written notice of its conclusions and the basis for them to the person assessed and, if the department or agency under contract with the department has been informed that the person has a representative, to the representative.

(C) The department or agency under contract with the department, whichever performs the assessment, shall provide a level of care determination based on the assessment as follows:

(1) In the case of a person applying or intending to apply for admission to a nursing facility while hospitalized, not later than one of the following:

(a) One working day after the person or the person's representative submits the application or notifies the department of the person's intention to apply and submits all information required for providing the level of care determination, as specified in rules authorized by division (F) (2) of this section;

(b) A later date requested by the person or the person's

representative.

(2) In the case of a person applying or intending to apply for admission to a nursing facility who is not hospitalized, not later than one of the following:

(a) Five calendar days after the person or the person's representative submits the application or notifies the department of the person's intention to apply and submits all information required for providing the level of care determination, as specified in rules authorized by division (F)(2) of this section;

(b) A later date requested by the person or the person's representative.

(3) In the case of a person who resides in a nursing facility, not later than one of the following:

(a) Five calendar days after the person or the person's representative submits an application for medicaid and submits all information required for providing the level of care determination, as specified in rules authorized by division (F)(2) of this section;

(b) A later date requested by the person or the person's representative.

(4) In the case of an emergency, as specified in rules authorized by division (F)(4) of this section, within the number of days specified in the rules.

(D) A person assessed under this section or the person's representative may appeal the conclusions reached by the department or agency under contract with the department on the basis of the assessment. The appeal shall be made pursuant to

section 5160.31 of the Revised Code. The department or agency under contract with the department shall provide to the person or the person's representative and the nursing facility written notice of the person's right to request a state hearing. The notice shall include an explanation of the procedure for requesting a state hearing. If a state hearing is requested, the state shall be represented in the hearing by the department or the agency under contract with the department, whichever performed the assessment.

(E) A nursing facility that admits or retains a person determined pursuant to an assessment required under this section not to need the level of care provided by the nursing facility shall not be paid under the medicaid program for the person's care.

(F) The medicaid director shall adopt rules ~~under section 5165.02 of the Revised Code to implement and administer this section. The rules shall include~~ establishing all of the following:

(1) Criteria and procedures to be used in determining whether admission to a nursing facility or continued stay in a nursing facility is appropriate for the person being assessed;

(2) Information the person being assessed or the person's representative must provide to the department or agency under contract with the department for purposes of the assessment and providing a level of care determination based on the assessment;

(3) Circumstances under which a person is not required to be assessed;

(4) Circumstances that constitute an emergency for purposes of division (C)(4) of this section and the number of

days within which a level of care determination must be provided in the case of an emergency.

(G) Pursuant to section 5162.35 of the Revised Code, the department of medicaid may enter into contracts in the form of interagency agreements with one or more other state agencies to perform the assessments required under this section. The interagency agreements shall specify the responsibilities of each agency in the performance of the assessments.

Sec. 5165.082. (A) Except as provided in division (B) of this section, the operator of a nursing facility that elects to have the nursing facility participate in the medicaid program shall qualify all of the nursing facility's medicaid-certified beds in the medicare program. The medicaid director may adopt rules ~~under section 5165.02 of the Revised Code~~ to establish the time frame in which a nursing facility must comply with this requirement.

(B) The department of veterans services is not required to qualify all of the medicaid-certified beds in a nursing facility the department maintains and operates under section 5907.01 of the Revised Code in the medicare program.

Sec. 5165.10. (A) Except as provided in division (C) of this section, each nursing facility provider shall file with the department of medicaid an annual cost report for each of the provider's nursing facilities that participate in the medicaid program. The cost report for a year shall cover the calendar year or the portion of the calendar year during which the nursing facility participated in the medicaid program. Except as provided in division (D) of this section, the cost report is due not later than ninety days after the end of the calendar year, or portion of the calendar year, that the cost report covers.

(B) If a nursing facility undergoes a change of provider that the department determines~~, in accordance with rules adopted under section 5165.02 of the Revised Code,~~ is not an arm's length transaction, the new provider shall file the nursing facility's cost report in accordance with division (A) of this section and the cost report shall cover the portion of the calendar year during which the new provider operated the nursing facility and the portion of the calendar year during which the previous provider operated the nursing facility.

(C) The provider of a new nursing facility is not required to file a cost report in accordance with division (A) of this section for the first calendar year that the provider has a provider agreement for the nursing facility if the initial provider agreement goes into effect after the first day of October of that calendar year. The provider shall file a cost report for the nursing facility in accordance with division (A) of this section for the immediately following calendar year.

(D) The department may grant to a provider a fourteen-day extension to file a cost report under this section if the provider provides the department a written request for the extension and the department determines that there is good cause for the extension.

Sec. 5165.105. The department of medicaid shall develop an addendum to the cost report form that a nursing facility provider may use to set forth costs that the provider believes the department may dispute. The department may consider such costs in determining a nursing facility's medicaid payment rate. If the department does not consider such costs in determining a nursing facility's medicaid payment rate, the provider may seek reconsideration of the determination in accordance with section

5165.38 of the Revised Code. If the department subsequently includes such costs in a nursing facility's medicaid payment rate, the department shall pay the provider interest at a reasonable rate ~~established in rules adopted under section 5165.02 of the Revised Code~~ for the period that the rate excluded the costs.

Sec. 5165.109. (A) The department of medicaid may conduct an audit~~, as defined in rules adopted under section 5165.02 of the Revised Code,~~ of any cost report filed under section 5165.10 or 5165.522 of the Revised Code. The decision whether to conduct an audit and the scope of the audit, which may be a desk or field audit, may be determined based on prior performance of the provider, a risk analysis, or other evidence that gives the department reason to believe that the provider has reported costs improperly. A desk or field audit may be performed annually, but is required whenever a provider does not pass the risk analysis tolerance factors.

(B) Audits shall be conducted by auditors under contract with the department, auditors working for firms under contract with the department, or auditors employed by the department.

The department may establish a contract for the auditing of nursing facilities by outside firms. Each contract entered into by bidding shall be effective for one to two years.

(C) The department shall notify a provider of the findings of an audit of a cost report by issuing an audit report. The audit report shall include notice of any fine imposed under section 5165.1010 of the Revised Code. The department shall issue the audit report not later than three years after the earlier of the following:

(1) The date the cost report is filed;

(2) The date a desk or field audit of the cost report or a cost report for a subsequent cost reporting period is completed.

(D) The department shall prepare a written summary of any audit disallowance that is made after the effective date of the rate that is based on the cost. Where the provider is pursuing judicial or administrative remedies in good faith regarding the disallowance, the department shall not withhold from the provider's current payments any amounts the department claims to be due from the provider pursuant to section 5165.41 of the Revised Code.

(E)(1) If an audit is conducted by an auditor under contract with the department, the audit shall be conducted in accordance with procedures agreed upon between the department and the auditor.

(2) If an audit is conducted by the department, the department shall develop an audit plan or approach before the audit begins. The scope of the audit may change during the course of the audit based on observations and findings during the audit.

(3) All of the following apply to each field audit conducted by an auditor under contract with the department:

(a) During the period of the auditor's contract, firm's contract, or auditor's employment with the department, the auditor or firm does not have and is not committed to acquire any direct or indirect financial interest in the ownership, financing, or operation of nursing facilities in this state.

(b) The auditor does not audit any provider that has been a client of the auditor or the auditor's firm.

(c) The auditor is otherwise independent as determined by the standards of independence included in the government auditing standards produced by the United States government accountability office.

Sec. 5165.153. (A) The total per medicaid day payment rate determined under section 5165.15 of the Revised Code shall not be paid for nursing facility services provided by a nursing facility, or discrete unit of a nursing facility, designated by the department of medicaid as an outlier nursing facility or unit. Instead, the provider of a designated outlier nursing facility or unit shall be paid each state fiscal year a total per medicaid day payment rate that the department shall prospectively determine in accordance with a methodology established in rules authorized by this section.

(B) The department may designate a nursing facility, or discrete unit of a nursing facility, as an outlier nursing facility or unit if the nursing facility or unit serves residents who have either of the following:

(1) Diagnoses or special care needs that require direct care resources that are not measured adequately by the resident assessment instrument specified in rules authorized by section 5165.191 of the Revised Code;

(2) Diagnoses or special care needs specified in rules authorized by this section as otherwise qualifying for consideration under this section.

(C) Notwithstanding any other provision of this chapter (except section 5165.156 of the Revised Code), the costs incurred by a designated outlier nursing facility or unit shall not be considered in establishing medicaid payment rates for

other nursing facilities or units.

~~(D)~~ (D)(1)(a) The medicaid director shall adopt rules ~~under section 5165.02 of the Revised Code as necessary to implement this section.~~

~~(1)(a) The rules shall~~ that do both of the following:

(i) Specify the criteria and procedures the department will apply when designating a nursing facility, or discrete unit of a nursing facility, as an outlier nursing facility or unit;

(ii) Establish a methodology for prospectively determining the total per medicaid day payment rate that will be paid each state fiscal year for nursing facility services provided by a designated outlier nursing facility or unit.

(b) The rules authorized by division (D)(1)(a)(i) of this section regarding the criteria for designating outlier nursing facilities and units shall do both of the following:

(i) Provide for consideration of whether all of the allowable costs of a nursing facility, or discrete unit of a nursing facility, would be paid by a rate determined under section 5165.15 of the Revised Code;

(ii) Specify the minimum number of nursing facility beds that a nursing facility, or discrete unit of a nursing facility, must have to be designated an outlier nursing facility or unit, which may vary based on the diagnoses or special care needs of the residents served by the nursing facility or unit.

(c) The rules authorized by division (D)(1)(a)(i) of this section regarding the criteria for designating outlier nursing facilities and units shall not limit the designation to nursing facilities, or discrete units of nursing facilities, located in

large cities.

(d) The rules authorized by division (D)(1)(a)(ii) of this section regarding the methodology for prospectively determining the rates of designated outlier nursing facilities and units shall provide for the methodology to consider the historical costs of providing nursing facility services to the residents of designated outlier nursing facilities and units.

(2)(a) The rules may do both of the following:

(i) Include for designation as an outlier nursing facility or unit, a nursing facility, or discrete unit of a nursing facility, that serves medically fragile pediatric residents; residents who are dependent on ventilators; residents who have severe traumatic brain injury, end-stage Alzheimer's disease, or end-stage acquired immunodeficiency syndrome; or residents with other diagnoses or special care needs specified in the rules;

(ii) Require that a designated outlier nursing facility receive authorization from the department before admitting or retaining a resident.

(b) If the director adopts rules authorized by division (D)(2)(a)(ii) of this section regarding the authorization of a designated outlier nursing facility or unit to admit or retain a resident, the rules shall specify the criteria and procedures the department will apply when granting that authorization.

Sec. 5165.154. (A) To the extent, if any, provided for in rules authorized by this section, the total per medicaid day payment rate determined under section 5165.15 of the Revised Code shall not be paid for nursing facility services that a nursing facility not designated as an outlier nursing facility or unit provides to a resident who meets the criteria for

admission to a designated outlier nursing facility or unit, as specified in rules authorized by section 5165.153 of the Revised Code. Instead, the provider of a nursing facility providing nursing facility services to such a resident shall be paid each state fiscal year a total per medicaid day payment rate that the department of medicaid shall prospectively determine in accordance with a methodology established in rules authorized by this section.

(B) The medicaid director may adopt rules ~~under section 5165.02 of the Revised Code to implement this section. The rules may~~ that require that a nursing facility receive authorization from the department before admitting or retaining a resident who meets the criteria for admission to a designated outlier nursing facility or unit. If the director adopts such rules, the rules shall specify the criteria and procedures the department will apply when granting the authorization.

Sec. 5165.156. The medicaid director may establish a centers of excellence component of the medicaid program. The purpose of the centers of excellence component is to increase the efficiency and quality of nursing facility services provided to medicaid recipients with complex nursing facility service needs. The director may adopt rules ~~under section 5165.02 of the Revised Code~~ governing the component~~, including rules~~ that ~~establish~~ establishes a method of determining the medicaid payment rates for nursing facilities providing nursing facility services to medicaid recipients participating in the component. The rules may specify the extent to which, if any, of the provisions of sections 5165.153 and 5165.154 of the Revised Code are to apply to the centers of excellence component. If such rules are adopted, the nursing facilities that provide nursing facility services to medicaid recipients participating in the

centers of excellence component shall be paid for those services in accordance with the method established in the rules instead of the total per medicaid day payment rate determined under section 5165.15 of the Revised Code.

Sec. 5165.17. (A) The department of medicaid shall determine each nursing facility's per medicaid day payment rate for capital costs. A nursing facility's rate shall be the rate determined under division (C) of this section for the nursing facility's peer group.

(B) For the purpose of determining nursing facilities' rates for capital costs, the department shall establish six peer groups.

(1) Each nursing facility located in any of the following counties shall be placed in peer group one or two: Brown, Butler, Clermont, Clinton, Hamilton, and Warren. Each nursing facility located in any of those counties that has fewer than one hundred beds shall be placed in peer group one. Each nursing facility located in any of those counties that has one hundred or more beds shall be placed in peer group two.

(2) Each nursing facility located in any of the following counties shall be placed in peer group three or four: Allen, Ashtabula, Champaign, Clark, Cuyahoga, Darke, Delaware, Fairfield, Fayette, Franklin, Fulton, Geauga, Greene, Hancock, Knox, Lake, Licking, Lorain, Lucas, Madison, Mahoning, Marion, Medina, Miami, Montgomery, Morrow, Ottawa, Pickaway, Portage, Preble, Ross, Sandusky, Seneca, Stark, Summit, Trumbull, Union, and Wood. Each nursing facility located in any of those counties that has fewer than one hundred beds shall be placed in peer group three. Each nursing facility located in any of those counties that has one hundred or more beds shall be placed in

peer group four.

(3) Each nursing facility located in any of the following counties shall be placed in peer group five or six: Adams, Ashland, Athens, Auglaize, Belmont, Carroll, Columbiana, Coshocton, Crawford, Defiance, Erie, Gallia, Guernsey, Hardin, Harrison, Henry, Highland, Hocking, Holmes, Huron, Jackson, Jefferson, Lawrence, Logan, Meigs, Mercer, Monroe, Morgan, Muskingum, Noble, Paulding, Perry, Pike, Putnam, Richland, Scioto, Shelby, Tuscarawas, Van Wert, Vinton, Washington, Wayne, Williams, and Wyandot. Each nursing facility located in any of those counties that has fewer than one hundred beds shall be placed in peer group five. Each nursing facility located in any of those counties that has one hundred or more beds shall be placed in peer group six.

(C)(1) The department shall determine the rate for capital costs for each peer group established under division (B) of this section. The rate for capital costs determined under this division for a peer group shall be used for subsequent years until the department conducts a rebasing. A peer group's rate for capital costs shall be the rate for capital costs for the nursing facility in the peer group that is at the twenty-fifth percentile of the rate for capital costs for the applicable calendar year.

(2) To identify the nursing facility in a peer group that is at the twenty-fifth percentile of the rate for capital costs for the applicable calendar year, the department shall do both of the following:

(a) Use the greater of each nursing facility's actual inpatient days for the applicable calendar year or the inpatient days the nursing facility would have had for the applicable

calendar year if its occupancy rate had been one hundred per cent;

(b) Exclude both of the following:

(i) Nursing facilities that participated in the medicaid program under the same provider for less than twelve months in the applicable calendar year;

(ii) Nursing facilities whose capital costs are more than one standard deviation from the mean desk-reviewed, actual, allowable, per diem capital cost for all nursing facilities in the nursing facility's peer group for the applicable calendar year.

(3) The department shall not redetermine a peer group's rate for capital costs under this division based on additional information that it receives after the rate is determined. The department shall redetermine a peer group's rate for capital costs only if the department made an error in determining the rate based on information available to the department at the time of the original determination.

(D) Buildings shall be depreciated using the straight line method over forty years or over a different period approved by the department. Components and equipment shall be depreciated using the straight-line method over a period designated in rules adopted ~~under section 5165.02 of the Revised Code~~by the medicaid director, consistent with the guidelines of the American hospital association, or over a different period approved by the department. Any rules authorized by this division that specify useful lives of buildings, components, or equipment apply only to assets acquired on or after July 1, 1993. Depreciation for costs paid or reimbursed by any government agency shall not be

included in capital costs unless that part of the payment under this chapter is used to reimburse the government agency.

(E) The capital cost basis of nursing facility assets shall be determined in the following manner:

(1) Except as provided in division (E)(3) of this section, for purposes of calculating the rates to be paid for facilities with dates of licensure on or before June 30, 1993, the capital cost basis of each asset shall be equal to the desk-reviewed, actual, allowable, capital cost basis that is listed on the facility's cost report for the calendar year preceding the state fiscal year during which the rate will be paid.

(2) For facilities with dates of licensure after June 30, 1993, the capital cost basis shall be determined in accordance with the principles of the medicare program, except as otherwise provided in this chapter.

(3) Except as provided in division (E)(4) of this section, if a provider transfers an interest in a facility to another provider after June 30, 1993, there shall be no increase in the capital cost basis of the asset if the providers are related parties or the provider to which the interest is transferred authorizes the provider that transferred the interest to continue to operate the facility under a lease, management agreement, or other arrangement. If the previous sentence does not prohibit the adjustment of the capital cost basis under this division, the basis of the asset shall be adjusted by one-half of the change in the consumer price index for all items for all urban consumers, as published by the United States bureau of labor statistics, during the time that the transferor held the asset.

(4) If a provider transfers an interest in a facility to another provider who is a related party, the capital cost basis of the asset shall be adjusted as specified in division (E)(3) of this section if all of the following conditions are met:

(a) The related party is a relative of owner;

(b) Except as provided in division (E)(4)(c)(ii) of this section, the provider making the transfer retains no ownership interest in the facility;

(c) The department determines that the transfer is an arm's length transaction pursuant to rules adopted ~~under section 5165.02 of the Revised Code~~by the medicaid director. The rules shall provide that a transfer is an arm's length transaction if all of the following apply:

(i) Once the transfer goes into effect, the provider that made the transfer has no direct or indirect interest in the provider that acquires the facility or the facility itself, including interest as an owner, officer, director, employee, independent contractor, or consultant, but excluding interest as a creditor.

(ii) The provider that made the transfer does not reacquire an interest in the facility except through the exercise of a creditor's rights in the event of a default. If the provider reacquires an interest in the facility in this manner, the department shall treat the facility as if the transfer never occurred when the department calculates its reimbursement rates for capital costs.

(iii) The transfer satisfies any other criteria specified in the rules.

(d) Except in the case of hardship caused by a

catastrophic event, as determined by the department, or in the case of a provider making the transfer who is at least sixty-five years of age, not less than twenty years have elapsed since, for the same facility, the capital cost basis was adjusted most recently under division (E)(4) of this section or actual, allowable capital costs was determined most recently under division (F)(9) of this section.

(F) As used in this division:

"Imputed interest" means the lesser of the prime rate plus two per cent or ten per cent.

"Lease expense" means lease payments in the case of an operating lease and depreciation expense and interest expense in the case of a capital lease.

"New lease" means a lease, to a different lessee, of a nursing facility that previously was operated under a lease.

(1) Subject to division (A) of this section, for a lease of a facility that was effective on May 27, 1992, the entire lease expense is an actual, allowable capital cost during the term of the existing lease. The entire lease expense also is an actual, allowable capital cost if a lease in existence on May 27, 1992, is renewed under either of the following circumstances:

(a) The renewal is pursuant to a renewal option that was in existence on May 27, 1992;

(b) The renewal is for the same lease payment amount and between the same parties as the lease in existence on May 27, 1992.

(2) Subject to division (A) of this section, for a lease

of a facility that was in existence but not operated under a lease on May 27, 1992, actual, allowable capital costs shall include the lesser of the annual lease expense or the annual depreciation expense and imputed interest expense that would be calculated at the inception of the lease using the lessor's entire historical capital asset cost basis, adjusted by one-half of the change in the consumer price index for all items for all urban consumers, as published by the United States bureau of labor statistics, during the time the lessor held each asset until the beginning of the lease.

(3) Subject to division (A) of this section, for a lease of a facility with a date of licensure on or after May 27, 1992, that is initially operated under a lease, actual, allowable capital costs shall include the annual lease expense if there was a substantial commitment of money for construction of the facility after December 22, 1992, and before July 1, 1993. If there was not a substantial commitment of money after December 22, 1992, and before July 1, 1993, actual, allowable capital costs shall include the lesser of the annual lease expense or the sum of the following:

(a) The annual depreciation expense that would be calculated at the inception of the lease using the lessor's entire historical capital asset cost basis;

(b) The greater of the lessor's actual annual amortization of financing costs and interest expense at the inception of the lease or the imputed interest expense calculated at the inception of the lease using seventy per cent of the lessor's historical capital asset cost basis.

(4) Subject to division (A) of this section, for a lease of a facility with a date of licensure on or after May 27, 1992,

that was not initially operated under a lease and has been in existence for ten years, actual, allowable capital costs shall include the lesser of the annual lease expense or the annual depreciation expense and imputed interest expense that would be calculated at the inception of the lease using the entire historical capital asset cost basis of one-half of the change in the consumer price index for all items for all urban consumers, as published by the United States bureau of labor statistics, during the time the lessor held each asset until the beginning of the lease.

(5) Subject to division (A) of this section, for a new lease of a facility that was operated under a lease on May 27, 1992, actual, allowable capital costs shall include the lesser of the annual new lease expense or the annual old lease payment. If the old lease was in effect for ten years or longer, the old lease payment from the beginning of the old lease shall be adjusted by one-half of the change in the consumer price index for all items for all urban consumers, as published by the United States bureau of labor statistics, from the beginning of the old lease to the beginning of the new lease.

(6) Subject to division (A) of this section, for a new lease of a facility that was not in existence or that was in existence but not operated under a lease on May 27, 1992, actual, allowable capital costs shall include the lesser of annual new lease expense or the annual amount calculated for the old lease under division (F)(2), (3), (4), or (6) of this section, as applicable. If the old lease was in effect for ten years or longer, the lessor's historical capital asset cost basis shall be, for purposes of calculating the annual amount under division (F)(2), (3), (4), or (6) of this section, adjusted by one-half of the change in the consumer price index

for all items for all urban consumers, as published by the United States bureau of labor statistics, from the beginning of the old lease to the beginning of the new lease.

In the case of a lease under division (F)(3) of this section of a facility for which a substantial commitment of money was made after December 22, 1992, and before July 1, 1993, the old lease payment shall be adjusted for the purpose of determining the annual amount.

(7) For any revision of a lease described in division (F)(1), (2), (3), (4), (5), or (6) of this section, or for any subsequent lease of a facility operated under such a lease, other than execution of a new lease, the portion of actual, allowable capital costs attributable to the lease shall be the same as before the revision or subsequent lease.

(8) Except as provided in division (F)(9) of this section, if a provider leases an interest in a facility to another provider who is a related party or previously operated the facility, the related party's or previous operator's actual, allowable capital costs shall include the lesser of the annual lease expense or the reasonable cost to the lessor.

(9) If a provider leases an interest in a facility to another provider who is a related party, regardless of the date of the lease, the related party's actual, allowable capital costs shall include the annual lease expense, subject to the limitations specified in divisions (F)(1) to (7) of this section, if all of the following conditions are met:

(a) The related party is a relative of owner;

(b) If the lessor retains an ownership interest, it is, except as provided in division (F)(9)(c)(ii) of this section, in

only the real property and any improvements on the real property;

(c) The department determines that the lease is an arm's length transaction pursuant to rules adopted ~~under section 5165.02 of the Revised Code~~by the medicaid director. The rules shall provide that a lease is an arm's length transaction if all of the following apply:

(i) Once the lease goes into effect, the lessor has no direct or indirect interest in the lessee or, except as provided in division (F)(9)(b) of this section, the facility itself, including interest as an owner, officer, director, employee, independent contractor, or consultant, but excluding interest as a lessor.

(ii) The lessor does not reacquire an interest in the facility except through the exercise of a lessor's rights in the event of a default. If the lessor reacquires an interest in the facility in this manner, the department shall treat the facility as if the lease never occurred when the department calculates its reimbursement rates for capital costs.

(iii) The lease satisfies any other criteria specified in the rules.

(d) Except in the case of hardship caused by a catastrophic event, as determined by the department, or in the case of a lessor who is at least sixty-five years of age, not less than twenty years have elapsed since, for the same facility, the capital cost basis was adjusted most recently under division (E)(4) of this section or actual, allowable capital costs were determined most recently under division (F)(9) of this section.

(10) This division does not apply to leases of specific items of equipment.

Sec. 5165.191. Each calendar quarter, each nursing facility provider shall compile complete assessment data for each resident of each of the provider's nursing facilities, regardless of payment source, who is in the nursing facility, or on hospital or therapeutic leave from the nursing facility, on the last day of the quarter. A resident assessment instrument specified in rules authorized by this section shall be used to compile the resident assessment data. Each provider shall submit the resident assessment data to the department of health and, if required by the rules, the department of medicaid. The resident assessment data shall be submitted not later than fifteen days after the end of the calendar quarter for which the data is compiled. If the resident assessment data is to be submitted to the department of medicaid, it shall be submitted to the department through the medium or media specified in the rules.

~~Rules adopted under section 5165.02 of the Revised Code~~ The medicaid director shall adopt rules that do all of the following:

(A) In a manner consistent with the "Social Security Act," section 1919(e)(5), 42 U.S.C. 1396r(e)(5), specify a resident assessment instrument to be used by nursing facility providers under this section;

(B) Specify whether nursing facility providers must submit the resident assessment data to the department of medicaid;

(C) Specify any resident assessment data that is excluded from the case mix calculation made under section 5165.192 of the Revised Code;

(D) If the rules specify that nursing facility providers must submit the resident assessment data to the department, specify the medium or media through which the data is to be submitted.

Sec. 5165.192. (A)(1) Except as provided in division (B) of this section and in accordance with the process specified in rules authorized by this section, the department of medicaid shall do all of the following:

(a) Every quarter, determine the following two case-mix scores for each nursing facility:

(i) A quarterly case-mix score that includes each resident who is a medicaid recipient and is not a low case-mix resident;

(ii) A quarterly case-mix score that includes each resident regardless of payment source.

(b) Every six months, determine a semiannual average case-mix score for each nursing facility by using the quarterly case-mix scores determined for the nursing facility pursuant to division (A)(1)(a)(i) of this section;

(c) After the end of each calendar year, determine an annual average case-mix score for each nursing facility by using the quarterly case-mix scores determined for the nursing facility pursuant to division (A)(1)(a)(ii) of this section.

(2) When determining case-mix scores under division (A)(1) of this section, the department shall use all of the following:

(a) Data from a resident assessment instrument specified in rules authorized by section 5165.191 of the Revised Code;

(b) Except as provided in rules authorized by this section, the case-mix values established by the United States

department of health and human services;

(c) Except as modified in rules authorized by this section, the grouper methodology used on October 1, 2019, for the patient driven payment model nursing index, by the United States department of health and human services for prospective payment of skilled nursing facilities under the medicare program.

(B)(1) Subject to division (B)(2) of this section, the department, for one or more months of a calendar quarter, may assign to a nursing facility a case-mix score that is five per cent less than the nursing facility's case-mix score for the immediately preceding calendar quarter if any of the following apply:

(a) The provider does not timely submit complete and accurate resident assessment data necessary to determine the nursing facility's case-mix score for the calendar quarter;

(b) The nursing facility was subject to an exception review under section 5165.193 of the Revised Code for the immediately preceding calendar quarter;

(c) The nursing facility was assigned a case-mix score for the immediately preceding calendar quarter.

(2) Before assigning a case-mix score to a nursing facility due to the submission of incorrect resident assessment data, the department shall permit the provider to correct the data. The department may assign the case-mix score if the provider fails to submit the corrected resident assessment data not later than the earlier of the forty-fifth day after the end of the calendar quarter to which the data pertains or the deadline for submission of such corrections established by

regulations adopted by the United States department of health and human services under Title XVIII and Title XIX.

(3) If, for more than six months in a calendar year, a provider is paid a rate determined for a nursing facility using a case-mix score assigned to the nursing facility under division (B)(1) of this section, the department may assign the nursing facility a cost per case-mix unit that is five per cent less than the nursing facility's actual or assigned cost per case-mix unit for the immediately preceding calendar year. The department may use the assigned cost per case-mix unit, instead of determining the nursing facility's actual cost per case-mix unit in accordance with section 5165.19 of the Revised Code, to establish the nursing facility's rate for direct care costs for the fiscal year immediately following the calendar year for which the cost per case-mix unit is assigned.

(4) The department shall take action under division (B)(1), (2), or (3) of this section only in accordance with rules authorized by this section. The department shall not take an action that affects rates for prior payment periods except in accordance with sections 5165.41 and 5165.42 of the Revised Code.

~~(C)~~ (C)(1) The medicaid director shall adopt rules ~~under section 5165.02 of the Revised Code as necessary to implement this section.~~

~~(1) The rules shall~~ that do all of the following:

(a) Specify the process for determining the semiannual and annual average case-mix scores for nursing facilities;

(b) Modify the grouper methodology specified in division (A)(2)(c) of this section as follows:

(i) Incorporate the grouper methodology for the patient driven payment model nursing index used by the United States department of health and human services on October 1, 2019, for prospective payment of skilled nursing facilities under the medicare program;

(ii) Make other changes the department determines are necessary.

(c) Establish procedures under which resident assessment data shall be reviewed for accuracy and providers shall be notified of any data that requires correction;

(d) Establish procedures for providers to correct resident assessment data and specify a reasonable period of time by which providers shall submit the corrections. The procedures may limit the content of corrections in the manner required by regulations adopted by the United States department of health and human services under Title XVIII and Title XIX.

(e) Specify when and how the department will assign case-mix scores or costs per case-mix unit to a nursing facility under division (B) of this section if information necessary to calculate the nursing facility's case-mix score is not provided or corrected in accordance with the procedures established by the rules.

(2) Notwithstanding any other provision of this chapter, the rules may provide for the exclusion of case-mix scores assigned to a nursing facility under division (B) of this section from the determination of the nursing facility's semiannual or annual average case-mix score and the cost per case-mix unit for the nursing facility's peer group.

Sec. 5165.193. (A) The department of medicaid may,

pursuant to rules authorized by this section, conduct an exception review of resident assessment data submitted by a nursing facility provider under section 5165.191 of the Revised Code. The department may conduct an exception review based on the findings of a medicaid certification survey conducted by the department of health, a risk analysis, or prior performance of the provider.

Exception reviews shall be conducted by appropriate health professionals under contract with or employed by the department. The professionals may review resident assessment forms and supporting documentation, conduct interviews, and observe residents to identify any patterns or trends of inaccurate resident assessments and resulting inaccurate case-mix scores.

(B) If an exception review is conducted before the effective date of a nursing facility's rate for direct care costs that is based on the resident assessment data being reviewed and the review results in findings that exceed tolerance levels specified in the rules authorized by this section, the department, in accordance with those rules, may use the findings to redetermine individual resident case-mix scores, the nursing facility's case-mix score for the quarter, and the nursing facility's annual average case-mix score. The department may use the nursing facility's redetermined quarterly and annual average case-mix scores to determine the nursing facility's rate for direct care costs for the appropriate calendar quarter or quarters.

(C) The department shall prepare a written summary of any exception review finding that is made after the effective date of a nursing facility's rate for direct care costs that is based on the resident assessment data that was reviewed. Where the

provider is pursuing judicial or administrative remedies in good faith regarding the finding, the department shall not withhold from the provider's current payments any amounts the department claims to be due from the provider pursuant to section 5165.41 of the Revised Code.

(D)(1) The medicaid director shall adopt rules ~~under section 5165.02 of the Revised Code as necessary to implement this section. The rules shall~~ to establish an exception review program that does all of the following:

(a) Requires each exception review to comply with Title XVIII and Title XIX;

(b) Requires a written summary for each exception review that states whether resident assessment forms have been completed accurately;

(c) Prohibits each health professional who conducts an exception review from doing either of the following:

(i) During the period of the professional's contract or employment with the department, having or being committed to acquire any direct or indirect financial interest in the ownership, financing, or operation of nursing facilities in this state;

(ii) Reviewing any provider that has been a client of the professional.

(2) For the purposes of division (D)(1)(c)(i) of this section, employment of a member of a health professional's family by a nursing facility that the professional does not review does not constitute a direct or indirect financial interest in the ownership, financing, or operation of the nursing facility.

Sec. 5165.38. The medicaid director shall adopt rules ~~under section 5165.02 of the Revised Code~~ that establish a process under which a nursing facility provider, or a group or association of nursing facility providers, may seek reconsideration of medicaid payment rates established under this chapter, including a rate for direct care costs recalculated before the effective date of the rate as a result of an exception review of resident assessment data conducted under section 5165.193 of the Revised Code. The only issue that a provider, group, or association may raise in the rate reconsideration shall be whether the rate was calculated in accordance with this chapter and the rules adopted under ~~section 5165.02 of the Revised Code~~it. The provider, group, or association may submit written arguments or other materials that support its position. The provider, group, or association and department of medicaid shall take actions regarding the rate reconsideration within time frames specified in rules authorized by this section.

If the department determines, as a result of the rate reconsideration, that the rate determined for one or more nursing facilities is less than the rate to which the nursing facility is entitled, the department shall increase the rate. If the department has paid the incorrect rate for a period of time, the department shall pay the provider the difference between the amount the provider was paid for that period for the nursing facility and the amount the provider should have been paid for the nursing facility.

Sec. 5165.48. The provider of a nursing facility is not required to submit a claim to the department of medicaid regarding the medicare cost-sharing expenses of a resident of the nursing facility who, under federal law, is eligible to have

the medicaid program pay for a part of the cost-sharing expenses if the provider determines that~~, under rules adopted under section 5165.02 of the Revised Code,~~ the nursing facility would not receive a medicaid payment for any part of the medicare cost-sharing expenses. In such a situation, a claim for the medicare cost-sharing expenses shall be considered to have been adjudicated at no payment.

Sec. 5165.516. The medicaid director may adopt rules ~~under section 5165.02 of the Revised Code~~ governing adjustments to the medicaid payment rate for a nursing facility that undergoes a change of operator. No rate adjustment resulting from a change of operator shall be effective before the effective date of the entering operator's provider agreement. This is the case regardless of whether the provider agreement is entered into under section 5165.511, section 5165.512, or, pursuant to section 5165.515, section 5165.07 of the Revised Code.

Sec. 5165.53. The medicaid director shall adopt rules ~~under section 5165.02 of the Revised Code to implement sections 5165.50 to 5165.53 of the Revised Code, including rules~~ applicable to an exiting operator that provides written notification under section 5165.50 of the Revised Code of a voluntary withdrawal of participation. Rules adopted under this section shall comply with the "Social Security Act," section 1919(c)(2)(F), 42 U.S.C. 1396r(c)(2)(F), regarding restrictions on transfers or discharges of nursing facility residents in the case of a voluntary withdrawal of participation. The rules may prescribe a medicaid payment methodology and other procedures that are applicable after the effective date of a voluntary withdrawal of participation that differ from the payment methodology and other procedures that would otherwise apply. The rules shall specify all of the following:

(A) The method by which written notices to the department required by sections 5165.50 to 5165.53 of the Revised Code are to be provided;

(B) The forms and documents that are to be provided to the department of medicaid under sections 5165.511 and 5165.512 of the Revised Code, which shall include, in the case of such forms and documents provided by entering operators, all the fully executed leases, management agreements, merger agreements and supporting documents, and fully executed sales contracts and any other supporting documents culminating in the change of operator;

(C) The method by which the forms and documents identified in division (B) of this section are to be provided to the department.

Sec. 5165.61. The medicaid director may adopt rules ~~under section 5165.02 of the Revised Code~~ that are consistent with regulations, guidelines, and procedures issued by the United States secretary of health and human services under the "Social Security Act," sections 1819 and 1919, 42 U.S.C. 1395i-3 and 1396r, and necessary for administration and enforcement of sections 5165.60 to 5165.89 of the Revised Code. If the secretary does not issue appropriate regulations for enforcement of those sections of the "Social Security Act" on or before December 13, 1990, the medicaid director may adopt~~, under section 5165.02 of the Revised Code,~~ rules that are consistent with those sections and with sections 5165.60 to 5165.89 of the Revised Code.

Sec. 5165.62. The department of medicaid is hereby authorized to enforce sections 5165.60 to 5165.89 of the Revised Code. The department may enforce the sections directly or

through contracting agencies. The department and agencies shall enforce the sections in accordance with the requirements of the "Social Security Act," sections 1819 and 1919, 42 U.S.C. 1395i-3 and 1396r, that apply to nursing facilities~~;~~ and with regulations, guidelines, and procedures adopted by the United States secretary of health and human services for the enforcement of those sections of the "Social Security ~~Act"; and with the rules authorized by section 5165.61 of the Revised Code.~~Act." The department and agencies shall enforce sections 5165.60 to 5165.89 of the Revised Code for purposes of the medicare program only to the extent prescribed by the regulations, guidelines, and procedures issued by the secretary under the "Social Security Act," section 1819, 42 U.S.C. 1395i-3.

Sec. 5165.64. (A) The department of health shall conduct a survey, titled a standard survey, of every nursing facility in this state on a statewide average of not more than once every twelve months. Each nursing facility shall undergo a standard survey at least once every fifteen months as a condition of meeting certification requirements. The department may extend a standard survey; such a survey is titled an extended survey.

(B) The department may conduct surveys in addition to standard surveys when it considers them necessary.

(C) The department shall conduct surveys in accordance with the regulations, guidelines, and procedures issued by the United States secretary of health and human services under Title XVIII and Title XIX~~,~~ and sections 5165.65 to 5165.68 of the Revised Code~~, and rules adopted under section 3721.022 of the Revised Code~~.

Sec. 5165.771. (A) As used in this section:

(1) "Special focus facility program" means the program conducted by the United States secretary of health and human services pursuant to the "Social Security Act," section 1919(f)(10), 42 U.S.C. 1396r(f)(10).

(2) "Standard health surveys" mean the comprehensive on-site inspections conducted by the department of health on behalf of the United States centers for medicare and medicaid services every six months to evaluate the safety and quality of care provided by a nursing facility as required under the special focus facility program.

(B) The department of medicaid shall issue an order terminating a nursing facility's participation in the medicaid program if either of the following apply:

(1) The nursing facility fails to graduate from the special focus facility program after two standard health surveys while in the program.

(2) The nursing facility is terminated from participation in the medicare or medicaid program by the United States centers for medicare and medicaid services or voluntarily chooses not to continue participation in either of those programs.

(C) Except as provided in division (C)(1) or (2) of this section, a nursing facility may appeal, under Chapter 119. of the Revised Code, a termination order issued by the department under division (B) of this section.

(1) A nursing facility shall not appeal to the department of medicaid any standard health survey findings that form the basis, in whole or in part, for an order issued pursuant to division (B) of this section terminating a nursing facility's participation in the medicaid program. Any challenges to

standard health survey findings shall be made to the department of health.

(2) A nursing facility shall not appeal to the department of medicaid a determination by the United States centers for medicare and medicaid services to terminate a nursing facility's participation in the medicare or medicaid program. Any challenge to such a determination shall be made to the centers for medicare and medicaid services.

(3) The medicaid director shall adopt rules ~~under section 5165.02 of the Revised Code as necessary~~ to provide for an appeal under this division. Notwithstanding the timeframes listed in section 119.07 of the Revised Code, the rules may provide for an expedited appeal under this division.

(D) A nursing facility shall take all steps necessary to improve its quality of care to avoid having its participation in the medicaid program terminated pursuant to division (B) of this section. Technical assistance and quality improvement initiatives to help a nursing facility avoid having its participation in the medicaid program terminated pursuant to division (B) of this section are available through the nursing home quality initiative established under section 173.60 of the Revised Code or initiatives offered through a quality improvement organization under contract with the United States secretary of health and human services to carry out in this state the functions described in section 1154 of the "Social Security Act," 42 U.S.C. 1320c-3.

Sec. 5165.78. (A) If the department of medicaid determines that a nursing facility is experiencing or is likely to experience a serious financial loss or failure that jeopardizes or is likely to jeopardize the health, safety, and welfare of

its residents, the department, subject to the provider's consent, may appoint a temporary resident safety assurance manager in the nursing facility to take actions the department determines are appropriate to ensure the health, safety, and welfare of the residents.

(B) A temporary resident safety assurance manager appointed under this section is vested with the authority necessary to take actions the department of medicaid determines are appropriate to ensure the health, safety, and welfare of the residents.

(C) A temporary resident safety assurance manager appointed under this section may use any of the following funds to pay for costs the manager incurs on behalf of the nursing facility:

(1) Medicaid payments made in accordance with the provider agreement for the nursing facility;

(2) Funds from the residents protection fund that the department provides the manager under section 5162.66 of the Revised Code;

(3) Other funds the department determines are appropriate if such use of the funds is consistent with the appropriations that authorize the use of the funds and all other state and federal laws governing the use of the funds.

(D) The provider is liable to the department for the amount of any payments the department makes to the temporary resident safety assurance manager, other than payments specified in division (C)(1) of this section. The department may recover the amount the provider owes the department by doing any of the following:

(1) Offsetting medicaid payments made to the provider in accordance with the provider agreement;

(2) Placing a lien on any of the provider's real and personal property;

(3) Initiating other collection actions.

(E) No action the department takes under this section is subject to appeal under Chapter 119. of the Revised Code.

(F) ~~In rules authorized by section 5165.61 of the Revised Code, the~~ The medicaid director may establish all of the following in rules adopted in accordance with Chapter 119. of the Revised Code:

(1) Qualifications persons must meet to be appointed temporary resident safety assurance managers under this section;

(2) Procedures for maintaining a list of qualified temporary resident safety assurance managers;

(3) Procedures consistent with federal law for paying for the services of temporary resident safety assurance managers;

(4) Accounting and reporting requirements for temporary resident safety assurance managers~~;~~

~~(5) Other procedures and requirements the director determines are necessary to implement this section~~.

Sec. 5165.81. (A) A temporary manager of a nursing facility appointed by the department of medicaid or a contracting agency under sections 5165.60 to 5165.89 of the Revised Code shall meet all of the following qualifications:

(1) Be licensed as a nursing home administrator under Chapter 4751. of the Revised Code;

(2) Have demonstrated competence as a nursing home administrator;

(3) Have had no disciplinary action taken against the temporary manager by any licensing board or professional society in this state.

(B) The salary of a temporary manager or special master appointed under sections 5165.60 to 5165.89 of the Revised Code shall be paid by the facility and set by the department of medicaid or contracting agency, in the case of a temporary manager, or by the court, in the case of a special master, at a rate not to exceed the maximum allowable compensation for an administrator under the medicaid program. The extent to which this compensation is allowable under the medicaid program is subject to and limited by this chapter and rules adopted under ~~section 5165.02 of the Revised Code~~it.

Subject to division (C) of this section, any costs incurred on behalf of a nursing facility by a temporary manager or special master appointed under sections 5165.60 to 5165.89 of the Revised Code shall be paid by the facility. The allowability of these costs under the medicaid program shall be subject to and governed by this chapter and rules adopted under ~~section 5165.02 of the Revised Code~~it. This division does not prohibit a facility from applying for or receiving any waiver of cost ceilings available under the rules.

(C) No temporary manager or special master appointed under sections 5165.60 to 5165.89 of the Revised Code shall enter into any employment contract on behalf of a facility, or purchase any capital goods using facility funds totaling more than ten thousand dollars, unless the temporary manager or special master has obtained prior approval for the contract or purchase from

either the provider or the court.

(D)(1) A temporary manager appointed for a nursing facility under section 5165.72 of the Revised Code is hereby vested, subject to division (C) of this section, with the legal authority necessary to correct any deficiency or cluster of deficiencies at a facility, bring the facility into compliance with certification requirements, and otherwise ensure the health and safety of the residents.

(2) A temporary manager appointed under section 5165.77 of the Revised Code is hereby vested, subject to division (C) of this section, with the authority necessary to eliminate the emergency, bring the facility into compliance with certification requirements, and otherwise ensure the health and safety of the residents.

(3) A temporary manager appointed under section 5165.80 of the Revised Code is hereby vested, subject to division (C) of this section, with the authority necessary to ensure the transfer of medicaid eligible residents to other appropriate care settings and, if applicable, the orderly closure of the facility, and to otherwise ensure the health and safety of the residents.

(E) Prior to acting under division (A)(1)(b) or (2)(b) of section 5165.72 of the Revised Code to appoint a temporary manager or apply for a special master, the department of medicaid or contracting agency shall order the facility to substantially correct the deficiency or deficiencies within five days after receiving the statement and inform the facility, in the statement it provides pursuant to division (B) of section 5165.75 of the Revised Code, of the order and that it will not take that action unless the facility fails to substantially

correct the deficiency or deficiencies within that five-day period. At the end of the five-day period, the department of health shall conduct a follow-up survey that focuses on the deficiency or deficiencies. If the department of health determines that the facility has substantially corrected the deficiency or deficiencies within that time, the department of medicaid or contracting agency shall not appoint a temporary manager or apply for a special master. If the department of health determines that the facility has failed to substantially correct the deficiency or deficiencies within that time, the department of medicaid or contracting agency may proceed with appointment of the temporary manager or application for a special master. Until the statement required under division (B) of section 5165.75 of the Revised Code is actually delivered, no action taken by the department or agency to appoint a temporary manager or apply for a temporary manager under division (A)(1)(b) or (2)(b) of section 5165.72 of the Revised Code shall have any legal effect. No action taken by a facility under this division to substantially correct a deficiency or deficiencies shall be considered an admission by the facility of the existence of a deficiency or deficiencies.

(F) Appointment of a temporary manager under division (A)(1)(b) or (2)(b) of section 5165.72 or division (A)(1)(d) of section 5165.77 of the Revised Code shall expire at the end of the seventh day following the appointment. If the department of medicaid or contracting agency finds that the deficiency or deficiencies that prompted the appointment under division (A)(1)(b) or (2)(b) of section 5165.72 of the Revised Code cannot be substantially corrected, or the condition of immediate jeopardy that prompted the appointment under division (A)(1)(d) of section 5165.77 of the Revised Code cannot be eliminated, prior

to the expiration of the appointment, it may take one of the following actions:

(1) Appoint, subject to the continuing consent of the provider, a temporary manager for the facility;

(2) Apply to the common pleas court of the county in which the facility is located for an order appointing a special master who, under the authority and direct supervision of the court and subject to divisions (B) and (C) of this section, may take such additional actions as are necessary to correct the deficiency or deficiencies or eliminate the condition of immediate jeopardy and bring the facility into compliance with certification requirements.

(G) The court, on finding that the deficiency or deficiencies for which a special master was appointed under division (F)(2) of this section or division (A)(1)(b) or (2)(b) of section 5165.72 of the Revised Code has been substantially corrected, or the emergency for which a special master was appointed under division (F)(2) of this section or division (A)(1)(b) or (B)(2) of section 5165.77 of the Revised Code has been eliminated, that the facility has been brought into compliance with certification requirements, and that the provider has established the management capability to ensure continued compliance with the certification requirements, shall immediately terminate its jurisdiction over the facility and return control and management of the facility to the provider. If the deficiency or deficiencies cannot be substantially corrected, or the emergency cannot be eliminated practicably within a reasonable time following appointment of the special master, the court may order the special master to close the facility and transfer all residents to other nursing facilities

or other appropriate care settings.

(H) This section does not apply to temporary resident safety assurance managers appointed under section 5165.78 of the Revised Code.

Sec. 5166.02. (A) The medicaid director shall adopt rules in accordance with Chapter 119. of the Revised Code governing medicaid waiver components. The rules may establish all of the following:

(1) Eligibility requirements for the medicaid waiver components;

(2) The type, amount, duration, and scope of medicaid services the medicaid waiver components cover;

(3) The conditions under which the medicaid waiver components cover medicaid services;

(4) The amounts the medicaid waiver components pay for medicaid services or the methods by which the amounts are determined;

(5) The manners in which the medicaid waiver components pay for medicaid services;

(6) Safeguards for the health and welfare of medicaid recipients receiving medicaid services under a medicaid waiver component;

(7) Procedures for prioritizing and approving for enrollment individuals who are eligible for a home and community-based services medicaid waiver component and choose to be enrolled in the component;

(8) Procedures for enforcing the rules, including

establishing corrective action plans for, and imposing financial and administrative sanctions on, persons and government entities that violate the rules. Sanctions shall include terminating provider agreements. The procedures shall include due process protections.

~~(9) Other policies necessary for the efficient administration of the medicaid waiver components.~~

(B) The director may adopt different rules for the different medicaid waiver components. The rules shall be consistent with the terms of the waiver authorizing the medicaid waiver component.

(C) The following apply to procedures established under division (A)(7) of this section:

(1) Any such procedures established for the medicaid-funded component of the PASSPORT program shall be consistent with section 173.521 of the Revised Code.

(2) Any such procedures established for the medicaid-funded component of the assisted living program shall be consistent with section 173.542 of the Revised Code.

(3) Any such procedures established for the Ohio home care waiver program shall be consistent with section 5166.121 of the Revised Code.

Sec. 5166.04. The following requirements apply to each home and community-based services medicaid waiver component:

(A) Only an individual who qualifies for a component shall receive that component's medicaid services.

(B) A level of care determination shall be made as part of the process of determining whether an individual qualifies for a

component and shall be made each year after the initial determination if, during such a subsequent year, the administrative agency determines there is a reasonable indication that the individual's needs have changed.

(C) A written plan of care or individual service plan based on an individual assessment of the medicaid services that an individual needs to avoid needing admission to a hospital, nursing facility, or ICF/IID shall be created for each individual determined eligible for a component.

(D) Each individual determined eligible for a component shall receive that component's medicaid services in accordance with the individual's level of care determination and written plan of care or individual service plan.

(E) No individual may receive medicaid services under a component while the individual is a hospital inpatient or resident of a skilled nursing facility, nursing facility, or ICF/IID.

(F) No individual may receive prevocational, educational, or supported employment services under a component if the individual is eligible for such services that are funded with federal funds provided under 29 U.S.C. 730 or the "Individuals with Disabilities Education Act," 111 Stat. 37 (1997), 20 U.S.C. 1400, as amended.

(G) Safeguards shall be taken to protect the health and welfare of individuals receiving medicaid services under a component, including safeguards established in rules adopted ~~under section 5166.02 of the Revised Code~~ by the medicaid director and safeguards established by licensing and certification requirements that are applicable to the providers

of that component's medicaid services.

(H) No medicaid services may be provided under a component by a provider that is subject to standards that the "Social Security Act," section 1616(e)(1), 42 U.S.C. 1382e(e)(1), requires be established if the provider fails to comply with the standards applicable to the provider.

(I) Individuals determined to be eligible for a component, or such individuals' representatives, shall be informed of that component's medicaid services, including any choices that the individual or representative may make regarding the component's medicaid services, and given the choice of either receiving medicaid services under that component or, as appropriate, hospital services, nursing facility services, or ICF/IID services.

(J) No individual shall lose eligibility for services under a component, or have the services reduced or otherwise disrupted, on the basis that the individual also receives services under the medicaid buy-in for workers with disabilities program.

(K) No individual shall lose eligibility for services under a component, or have the services reduced or otherwise disrupted, on the basis that the individual's income or resources increase to an amount above the eligibility limit for the component if the individual is participating in the medicaid buy-in for workers with disabilities program and the amount of the individual's income or resources does not exceed the eligibility limit for the medicaid buy-in for workers with disabilities program.

(L) No individual receiving services under a component

shall be required to pay any cost sharing expenses for the services for any period during which the individual also participates in the medicaid buy-in for workers with disabilities program.

Sec. 5166.121. (A) Unless the Ohio home care waiver program is terminated pursuant to section 5165.12 of the Revised Code, the department of medicaid shall establish a home first component for the Ohio home care waiver program. An individual is eligible for the Ohio home care waiver program's home first component if the individual has been determined to be eligible for the Ohio home care waiver program and at least one of the following applies:

(1) If the individual is under twenty-one years of age, the individual received inpatient hospital services for at least fourteen consecutive days, or had at least three inpatient hospital stays during the twelve months, immediately preceding the date the individual applies for the Ohio home care waiver program.

(2) If the individual is at least twenty-one but less than sixty years of age, the individual received inpatient hospital services for at least fourteen consecutive days immediately preceding the date the individual applies for the Ohio home care waiver program.

(3) The individual received private duty nursing services under the medicaid program for at least twelve consecutive months immediately preceding the date the individual applies for the Ohio home care waiver program.

(4) The individual does not reside in a nursing facility or hospital long-term care unit at the time the individual

applies for the Ohio home care waiver program but is at risk of imminent admission to a nursing facility or hospital long-term care unit due to a documented loss of a primary caregiver.

(5) The individual resides in a nursing facility at the time the individual applies for the Ohio home care waiver program.

(6) At the time the individual applies for the Ohio home care waiver program, the individual participates in the money follows the person demonstration project authorized by section 6071 of the "Deficit Reduction Act of 2005," Pub. L. No. 109-171, as amended, and either resides in a residential treatment facility or inpatient hospital setting.

(B) An individual determined to be eligible for the home first component of the Ohio home care waiver program shall be enrolled in the program ~~in accordance with rules adopted under section 5166.02 of the Revised Code~~.

Sec. 5166.23. (A) Subject to division (D) of this section, the medicaid director shall adopt rules ~~under section 5166.02 of the Revised Code~~ establishing the payment amounts or the methods by which the payment amounts are to be determined for home and community-based services specified in division (A)(1) of section 5166.20 of the Revised Code and provided under the components of the medicaid program that the department of developmental disabilities administers under section 5166.21 of the Revised Code. With respect to these rules, all of the following apply:

(1) The rules shall establish procedures for the department of developmental disabilities to follow in arranging for the initial and ongoing collection of cost information from a comprehensive, statistically valid sample of persons and

government entities providing the services at the time the information is obtained.

(2) The rules shall establish procedures for the collection of consumer-specific information through an assessment instrument the department of developmental disabilities shall provide to the department of medicaid.

(3) With the information collected pursuant to divisions (A)(1) and (2) of this section, an analysis of that information, and other information the director determines relevant, the rules shall establish payment standards that do all of the following:

(a) Assure that payment amounts are consistent with efficiency, economy, and quality of care;

(b) Consider the intensity of consumer resource need;

(c) Recognize variations in different geographic areas regarding the resources necessary to assure the health and welfare of consumers;

(d) Recognize variations in environmental supports available to consumers.

(B) As part of the process of adopting rules authorized by this section, the director shall consult with the director of developmental disabilities, representatives of county boards of developmental disabilities, persons who provide the home and community-based services, and other persons and government entities the director identifies.

(C) The medicaid director and director of developmental disabilities shall review the rules authorized by this section at times they determine are necessary to ensure that the payment

amounts or the methods by which the payment amounts are to be determined continue to meet the payment standards established under division (A)(3) of this section.

(D) This section applies to home and community-based services provided under the medicaid waiver component known as the transitions developmental disabilities waiver only to the extent, if any, provided by the contract required by section 5166.21 of the Revised Code regarding the component.

Sec. 5166.30. (A) As used in sections 5166.30 to 5166.3010 of the Revised Code:

(1) "Adult" means an individual at least eighteen years of age.

(2) "Appropriate director" means the following:

(a) The medicaid director in the context of both of the following:

(i) The Ohio home care waiver program;

(ii) The integrated care delivery system medicaid waiver component authorized by section 5166.16 of the Revised Code.

(b) The director of aging in the context of the medicaid-funded component of the PASSPORT program.

(3) "Authorized representative" means the following:

(a) In the case of a consumer who is a minor, the consumer's parent, custodian, or guardian;

(b) In the case of a consumer who is an adult, an individual selected by the consumer pursuant to section 5166.3010 of the Revised Code to act on the consumer's behalf for purposes regarding home care attendant services.

(4) "Authorizing health care professional" means a health care professional who, pursuant to section 5166.307 of the Revised Code, authorizes a home care attendant to assist a consumer with self-administration of medication, nursing tasks, or both.

(5) "Consumer" means an individual to whom all of the following apply:

(a) The individual is enrolled in a participating medicaid waiver component.

(b) The individual has a medically determinable physical impairment to which both of the following apply:

(i) It is expected to last for a continuous period of not less than twelve months.

(ii) It causes the individual to require assistance with activities of daily living, self-care, and mobility, including either assistance with self-administration of medication or the performance of nursing tasks, or both.

(c) In the case of an individual who is an adult, the individual is mentally alert and is, or has an authorized representative who is, capable of selecting, directing the actions of, and dismissing a home care attendant.

(d) In the case of an individual who is a minor, the individual has an authorized representative who is capable of selecting, directing the actions of, and dismissing a home care attendant.

(6) "Controlled substance" has the same meaning as in section 3719.01 of the Revised Code.

(7) "Custodian" has the same meaning as in section

2151.011 of the Revised Code.

(8) "Gastrostomy tube" means a percutaneously inserted catheter that terminates in the stomach.

(9) "Guardian" has the same meaning as in section 2111.01 of the Revised Code.

(10) "Health care professional" means a physician or registered nurse.

(11) "Home care attendant" means an individual holding a valid provider agreement in accordance with section 5166.301 of the Revised Code that authorizes the individual to provide home care attendant services to consumers.

(12) "Home care attendant services" means all of the following as provided by a home care attendant:

(a) Personal care aide services;

(b) Assistance with the self-administration of medication;

(c) Assistance with nursing tasks.

(13) "Jejunostomy tube" means a percutaneously inserted catheter that terminates in the jejunum.

(14) "Medication" means a drug as defined in section 4729.01 of the Revised Code.

(15) "Minor" means an individual under eighteen years of age.

(16) "Participating medicaid waiver component" means all of the following:

(a) The medicaid-funded component of the PASSPORT program;

(b) The Ohio home care waiver program;

(c) The integrated care delivery system medicaid waiver component authorized by section 5166.16 of the Revised Code.

(17) "Physician" means an individual authorized under Chapter 4731. of the Revised Code to practice medicine and surgery or osteopathic medicine and surgery.

(18) "Practice of nursing as a registered nurse," "practice of nursing as a licensed practical nurse," and "registered nurse" have the same meanings as in section 4723.01 of the Revised Code. "Registered nurse" includes an advanced practice registered nurse, as defined in section 4723.01 of the Revised Code.

(19) "Schedule II," "schedule III," "schedule IV," and "schedule V" have the same meanings as in section 3719.01 of the Revised Code.

(B) Participating medicaid waiver components may cover home care attendant services in accordance with sections 5166.30 to 5166.3010 of the Revised Code ~~and rules adopted under section 5166.02 of the Revised Code~~.

Sec. 5166.301. The medicaid director shall enter into a provider agreement with an individual to authorize the individual to provide home care attendant services to consumers if the individual does both of the following:

(A) Agrees to comply with the requirements of sections 5166.30 to 5166.3010 ~~and rules adopted under section 5166.02~~ of the Revised Code;

(B) Provides the director evidence satisfactory to the director of ~~all~~ both of the following:

(1) That the individual either meets the personnel

qualifications specified in 42 C.F.R. 484.4 for home health aides or has successfully completed at least one of the following:

(a) A competency evaluation program or training and competency evaluation program approved or conducted by the director of health under section 3721.31 of the Revised Code;

(b) A training program approved by the appropriate director that includes training in at least all of the following and provides training equivalent to a training and competency evaluation program specified in division (B)(1)(a) of this section or meets the requirements of 42 C.F.R. 484.36(a):

(i) Basic home safety;

(ii) Universal precautions for the prevention of disease transmission, including hand-washing and proper disposal of bodily waste and medical instruments that are sharp or may produce sharp pieces if broken;

(iii) Personal care aide services;

(iv) The labeling, counting, and storage requirements for schedule II, III, IV, and V medications.

(2) That the individual has obtained a certificate of completion of a course in first aid from a first aid course to which all of the following apply:

(a) It is not provided solely through the internet.

(b) It includes hands-on training provided by a first aid instructor who is qualified to provide such training according to standards set in rules adopted ~~under section 5166.02 of the Revised Code~~by the medicaid director.

(c) It requires the individual to demonstrate successfully that the individual has learned the first aid taught in the course.

~~(3) That the individual meets any other requirements for the medicaid provider agreement specified in rules adopted under section 5166.02 of the Revised Code.~~

Sec. 5166.303. A home care attendant shall do all of the following:

(A) Maintain a clinical record for each consumer to whom the attendant provides home care attendant services in a manner that protects the consumer's privacy;

(B) Participate in a face-to-face visit every ninety days with all of the following to monitor the health and welfare of each of the consumers to whom the attendant provides home care attendant services:

(1) The consumer;

(2) The consumer's authorized representative, if any;

(3) A registered nurse who agrees to answer any questions that the attendant, consumer, or authorized representative has about consumer care needs, medications, and other issues.

(C) Document the activities of each visit required by division (B) of this section in the consumer's clinical record with the assistance of the registered nurse.

(D) The face-to-face visit requirement in division (B) of this section may be satisfied by telephone or electronically if permitted by rules adopted ~~under section 5166.02 of the Revised Code~~by the medicaid director.

Sec. 5166.308. When authorizing a home care attendant to assist a consumer with nursing tasks or self-administration of medication, a health care professional may not authorize a home care attendant to do any of the following:

(A) Perform a task that is outside of the health care professional's scope of practice;

(B) Assist the consumer with the self-administration of a medication, including a schedule II, schedule III, schedule IV, or schedule V drug unless both of the following apply:

(1) The medication is administered orally, topically, or via a gastrostomy tube or jejunostomy tube, including through any of the following:

(a) In the case of an oral medication, a metered dose inhaler;

(b) In the case of a topical medication, including a transdermal medication, either of the following:

(i) An eye, ear, or nose drop or spray;

(ii) A vaginal or rectal suppository.

(c) In the case of a gastrostomy tube or jejunostomy tube, only through a pre-programmed pump.

(2) The medication is in its original container and the label attached to the container displays all of the following:

(a) The consumer's full name in print;

(b) The medication's dispensing date, which must not be more than twelve months before the date the attendant assists the consumer with self-administration of the medication;

(c) The exact dosage and means of administration that

match the health care professional's authorization to the attendant.

(C) Assist the consumer with the self-administration of a schedule II, schedule III, schedule IV, or schedule V medication unless, in addition to meeting the requirements of division (B) of this section, all of the following apply:

(1) The medication has a warning label on its container.

(2) The attendant counts the medication in the consumer's or authorized representative's presence when the medication is administered to the consumer and records the count on a form used for the count as specified in rules adopted ~~under section 5166.02 of the Revised Code~~by the medicaid director.

(3) The attendant recounts the medication in the consumer's or authorized representative's presence at least monthly and reconciles the recount on a log located in the consumer's clinical record.

(4) The medication is stored separately from all other medications and is secured and locked at all times when not being administered to the consumer to prevent unauthorized access.

(D) Perform an intramuscular injection;

(E) Perform a subcutaneous injection unless it is for a routine dose of insulin;

(F) Program a pump used to deliver a medication unless the pump is used to deliver a routine dose of insulin;

(G) Insert, remove, or discontinue an intravenous access device;

(H) Engage in intravenous medication administration;

(I) Insert or initiate an infusion therapy;

(J) Perform a central line dressing change.

Sec. 5166.409. The medicaid director shall adopt rules ~~under section 5166.02 of the Revised Code~~ to do all of the following:

(A) For the purpose of division (F)(1)(a) of section 5166.402 of the Revised Code, establish requirements regarding preventative health services for healthy Ohio program participants. The requirements may differ for participants of different ages and genders.

(B) For the purpose of division (G)(2) of section 5166.402 of the Revised Code, authorize additional uses of a buckeye account and establish the means for using the account for those purposes.

(C) For the purpose of division (A)(3) of section 5166.403 of the Revised Code, establish requirements for the use of a healthy Ohio program debit swipe card to pay for the costs of medically necessary health care services not covered by the health plan in which a healthy Ohio program participant enrolls.

(D) For the purpose of division (C) of section 5166.404 of the Revised Code, establish a system under which the director may award points to healthy Ohio program participants who achieve health care goals. The rules shall specify the goals that qualify for points and the number of points each goal is worth. The number of points may vary for different goals.

(E) For the purpose of section 5166.407 of the Revised Code, establish procedures and requirements for the transfer of

the amounts remaining in former healthy Ohio program participants' buckeye accounts to bridge accounts.

Sec. 5167.031. (A) As used in this section:

(1) "Children's care network" means any of the following:

(a) A children's hospital;

(b) A group of children's hospitals;

(c) A group of pediatric physicians.

(2) "Children's hospital" has the same meaning as in section 2151.86 of the Revised Code.

(B) If the department of medicaid includes in the care management system, pursuant to section 5167.03 of the Revised Code, individuals under twenty-one years of age who are included in the category of individuals who receive medicaid on the basis of being aged, blind, or disabled, the department may recognize entities as pediatric accountable care organizations.

An entity recognized by the department as a pediatric accountable care organization may develop innovative partnerships between relevant groups and may contract directly or subcontract with the state to provide care coordination and other services to the medicaid recipients under twenty-one years of age described in this division who are permitted or required to participate in the care management system.

(C)(1) To be recognized by the department as a pediatric accountable care organization, an entity shall meet the standards established by the department. Unless required by section 2706 of the "Patient Protection and Affordable Care Act," 124 Stat. 325 (2010) and the "Social Security Act," section 1895, 42 U.S.C. 1395jjj, the regulations adopted

pursuant to those sections, and the laws of this state, the department shall not require that an entity be a health insuring corporation as a condition of receiving the department's recognition.

(2) Any of the following entities may receive the department's recognition, if the standards for recognition have been met:

(a) A children's care network;

(b) A children's care network that may include one or more other entities, including, but not limited to, health insuring corporations or other managed care organizations;

(c) Any other entity the department determines is qualified.

(D) The medicaid director shall consult with all of the following in adopting rules authorized by division (E) of this section necessary for an entity to be recognized by the department as a pediatric accountable care organization:

(1) The superintendent of insurance;

(2) Children's hospitals;

(3) Medicaid managed care organizations;

(4) Any other relevant entities, as determined necessary by the department, with interests in pediatric accountable care organizations.

(E) ~~In adopting rules under section 5167.02 of the Revised Code, the~~ The medicaid director shall adopt rules to do all of the following:

(1) Establish application procedures to be followed by an

entity seeking recognition as a pediatric accountable care organization;

(2) Ensure that the standards for recognition as a pediatric accountable care organization are the same as and do not conflict with those specified in section 2706 of the "Patient Protection and Affordable Care Act," 124 Stat. 325 (2010) and the "Social Security Act," section 1895, 42 U.S.C. 1395jjj or the regulations adopted pursuant to those sections;

(3) Establish requirements regarding the access to pediatric specialty care provided through or by a pediatric accountable care organization;

(4) Establish accountability and financial requirements for an entity recognized as a pediatric accountable care organization;

(5) Establish quality improvement initiatives consistent with any state medicaid quality plan established by the department;

(6) Establish transparency and consumer protection requirements for an entity recognized as a pediatric accountable care organization;

(7) Establish a process for sharing data.

(F) This section does not limit the authority of the department of insurance to regulate the business of insurance in this state.

Sec. 5167.101. (A) Subject to division (B) of this section, the department of medicaid or its actuary shall base the hospital inpatient capital payment portion of the payment made to a medicaid managed care organization on data for

services provided to all of the organization's enrollees, as reported by hospitals on relevant cost reports submitted pursuant to rules adopted ~~under section 5167.02 of the Revised Code~~by the medicaid director.

(B) The hospital inpatient capital payment portion of the payment made to medicaid managed care organizations shall not exceed any maximum rate established in rules adopted ~~under section 5167.02 of the Revised Code~~by the medicaid director.

If a maximum rate is established, a medicaid managed care organization shall not compensate hospitals for inpatient capital costs in an amount that exceeds that rate.

Sec. 5167.173. (A) As used in this section:

(1) "Board of health" means the board of health of a city or general health district or the authority having the duties of a board of health under section 3709.05 of the Revised Code.

(2) "Certified community health worker" has the same meaning as in section 4723.01 of the Revised Code.

(3) "Community health worker services" means the services described in section 4723.81 of the Revised Code.

(4) "Public health nurse" means a registered nurse employed or contracted by a board of health.

(5) "Qualified community hub" means a central clearinghouse for a network of community care coordination agencies that meets all of the following criteria:

(a) Demonstrates to the director of health that it uses an evidenced-based, pay-for-performance community care coordination model (endorsed by the federal agency for healthcare research and quality, the national institutes of health, and the centers

for medicare and medicaid services or their successors) or uses certified community health workers or public health nurses to connect at-risk individuals to health, housing, transportation, employment, education, and other social services;

(b) Is a board of health or demonstrates to the director of health that it has achieved, or is engaged in achieving, certification from a national hub certification program;

(c) Has a plan, approved by the medicaid director, specifying how the board of health or community hub ensures that children served by it receive appropriate developmental screenings as specified in the publication titled "Bright Futures: Guidelines for Health Supervision of Infants, Children, and Adolescents," available from the American academy of pediatrics, as well as appropriate early and periodic screening, diagnostic, and treatment services.

(B) Each medicaid managed care organization shall provide to an enrollee who meets the criteria in division (C) of this section, or arrange for the enrollee to receive, both of the following services provided by a certified community health worker or public health nurse, as applicable, who is employed by, or works under a contract with, a qualified community hub:

(1) Community health worker services or services provided by a public health nurse;

(2) Other services that are not community health worker services or services provided by a public health nurse but are performed for the purpose of ensuring that the enrollee is linked to employment services, housing, educational services, social services, or medically necessary physical and behavioral health services.

(C) An enrollee qualifies to receive the services specified in division (B) of this section if the enrollee is pregnant or capable of becoming pregnant, resides in a community served by a qualified community hub, and has been recommended to receive the services by a physician, public health nurse, or another licensed health professional specified in rules adopted under division (D) of this section.

(D) The medicaid director shall adopt rules ~~under section 5167.02 of the Revised Code~~ specifying the licensed health professionals, in addition to physicians and public health nurses, who may recommend that an enrollee receive the services specified in division (B) of this section.

Sec. 5167.20. (A) Except as provided in division (B) of this section, when a medicaid managed care organization refers an enrollee to receive services, other than emergency services provided on or after January 1, 2007, at a hospital that participates in the medicaid program but is not under contract with the organization, the hospital shall provide the service for which the referral was made and shall accept from the organization, as payment in full, the amount derived from the payment rate used by the department of medicaid to pay other hospitals of the same type for providing the same service to a medicaid recipient who is not enrolled in a medicaid MCO plan.

(B) A hospital is not subject to division (A) of this section if all of the following are the case:

(1) The hospital is located in a county in which participants in the care management system are required before January 1, 2006, to be enrolled in a medicaid MCO plan;

(2) The hospital has entered into a contract before

January 1, 2006, with at least one health insuring corporation serving the participants specified in division (B)(1) of this section;

(3) The hospital remains under contract with at least one health insuring corporation serving participants in the care management system who are required to be enrolled in a medicaid MCO plan.

(C) The medicaid director shall adopt rules ~~under section 5167.02 of the Revised Code~~ specifying the circumstances under which a medicaid managed care organization is permitted to refer an enrollee to a hospital that is not under contract with the organization.

Sec. 5167.31. The department of medicaid may provide financial incentive awards to medicaid managed care organizations that meet or exceed performance standards specified in provider agreements ~~or rules adopted by the medicaid director under section 5167.02 of the Revised Code~~. The department may specify in a contract with a medicaid managed care organization the amounts of financial incentive awards, methodology for distributing awards, types of awards, and standards for administration by the department.

Sec. 5167.33. (A) Not later than July 1, 2018, each medicaid managed care organization shall implement strategies that base payments to providers on the value received from the providers' services, including their success in reducing waste in the provision of the services. Not later than July 1, 2020, each medicaid managed care organization shall ensure that at least fifty per cent of the aggregate net payments it makes to providers are based on the value received from the providers' services.

The department of medicaid may measure a medicaid managed care organization's compliance with this section based on the actions of the organization, the providers in the organization's provider panel, the organization's subcontractors, or any combination of the organization, providers, and subcontractors.

(B) The medicaid director shall adopt rules ~~under section 5167.02 of the Revised Code as necessary to implement this section, including rules~~ that specify how all of the following are to be determined:

(1) The value received from a provider's services;

(2) A provider's success in reducing waste in the provision of services;

(3) The percentage of a medicaid managed care organization's aggregate net payments to providers that are based on the value received from the providers' services.

Sec. 5167.35. (A) Consistent with the requirements of the care management system implemented on February 1, 2023, to address medicaid population health and social determinants of health and encourage optimal health and self-sufficiency of medicaid enrollees, the department of medicaid, in collaboration with the department of job and family services, shall develop a program to assist medicaid enrollees with securing meaningful employment.

(B) As part of that program, each medicaid managed care organization shall develop a specialized component of its medicaid MCO plan to provide referral and support to medicaid enrollees in obtaining and maintaining meaningful employment. Each medicaid managed care organization shall give priority to identified enrollees who are of working age and are able-bodied,

or who would benefit from assistance to overcome unemployment or underemployment. In carrying out the requirements of this section, each medicaid managed care organization shall do all of the following:

(1) Identify any barriers that an identified enrollee has to achieving greater financial independence, including the following:

(a) Education;

(b) Employment;

(c) Physical and behavioral health care;

(d) Transportation;

(e) Childcare;

(f) Housing;

(g) Legal history, including prior conviction of a criminal offense.

(2) Develop state and local relationships that link and refer identified enrollees to assessments, resources, and supports that assist with obtaining and maintaining meaningful employment.

(3) Utilize a standard health risk assessment form established by the medicaid director to identify enrollees to receive assistance under the program established by this section.

(C)(1) Not later than six months after ~~the effective date of this section~~ October 3, 2023, the medicaid director and the director of job and family services shall convene a workgroup. The workgroup shall consist of the following members, selected

by the directors:

(a) Representatives of the director of opportunities for Ohioans with disabilities, the director of developmental disabilities, and director of mental health and addiction services;

(b) Representatives of the Ohio job and family services directors' association and workforce development agencies;

(c) Representatives of technical, career, and higher education;

(d) Representatives of each medicaid managed care organization;

(e) Representatives of other organizations with expertise and resources involved in career and job development, as determined by the medicaid director and director of job and family services.

(2) The workgroup shall do all of the following:

(a) Identify state and local resources that provide job skills and career development, including available resources to support identified enrollees to seek employment and develop needed skills;

(b) Develop models for local agreements or protocols for collaboration between medicaid managed care organizations and other community agencies;

(c) Identify conflicts among program requirements that should be addressed by state agencies and the general assembly to facilitate identified enrollees' ability to secure and maintain employment.

(D) The medicaid director may do ~~any~~ either of the following with respect to the program established under this section:

(1) Establish additional requirements for medicaid managed care organizations;

(2) Create supplemental assessments to assist in identifying barriers to achieving financial independence, in addition to the barriers identified in division (B)(1) of this section~~;~~

~~(3) Adopt rules, in accordance with Chapter 119. of the Revised Code, as necessary to implement these provisions~~.

(E) The medicaid director and the director of job and family services shall report to the governor, the senate medicaid committee, and any other standing legislative committee having jurisdiction over medicaid regarding the implementation and operation of the program. The directors shall report on a periodic basis during the first year of the program. Thereafter, the directors shall report not less than annually.

Sec. 5167.40. The department of medicaid shall appoint a temporary manager for a medicaid managed care organization if the department determines that the medicaid managed care organization has repeatedly failed to meet substantive requirements specified in the "Social Security Act," sections 1903(m) and 1932, 42 U.S.C. 1396b(m) and 1396u-2; or 42 C.F.R. 438 Part I. The appointment of a temporary manager does not preclude the department from imposing other sanctions available to the department against the medicaid managed care organization.

The medicaid managed care organization shall pay all costs

of having the temporary manager perform the temporary manager's duties, including all costs the temporary manager incurs in performing those duties. If the temporary manager incurs costs or liabilities on behalf of the medicaid managed care organization, the medicaid managed care organization shall pay those costs and be responsible for those liabilities.

The appointment of a temporary manager is not subject to Chapter 119. of the Revised Code, but the managed care organization may request a reconsideration of the appointment. Reconsiderations shall be requested and conducted in accordance with rules the medicaid director shall adopt ~~under section 5167.02 of the Revised Code~~.

The appointment of a temporary manager does not cause the medicaid managed care organization to lose the right to appeal, in accordance with Chapter 119. of the Revised Code, any proposed termination or any decision not to revalidate the medicaid managed care organization's provider agreement or the right to initiate the sale of the medicaid managed care organization or its assets.

Sec. 5167.41. The department of medicaid may disenroll some or all medicaid recipients from a medicaid MCO plan offered by a medicaid managed care organization if the department proposes to terminate or not to renew the contract entered into under section 5167.10 of the Revised Code and determines that the recipients' access to medically necessary services is jeopardized by the proposal to terminate or not to renew the contract. The disenrollment is not subject to Chapter 119. of the Revised Code, but the medicaid managed care organization may request a reconsideration of the disenrollment. Reconsiderations shall be requested and conducted in accordance with rules the

medicaid director shall adopt ~~under section 5167.02 of the Revised Code~~. The request for, or conduct of, a reconsideration regarding a proposed disenrollment shall not delay the disenrollment.

Sec. 5167.47. (A) When contracting with a medicaid managed care organization, the department of medicaid shall require the medicaid managed care organization to provide to medicaid enrollees the same benefits and rights as required under division (B) of section 3902.36 of the Revised Code.

(B) The medicaid director shall do both of the following:

(1) Implement and enforce division (B) of section 3902.36 of the Revised Code with respect to medicaid managed care organizations;

(2) Enforce, monitor compliance with, and ensure continued compliance with this section.

~~(C) The director may adopt rules under section 5167.02 of the Revised Code as necessary to carry out the provisions of this section.~~

Sec. 5168.02. (A) The medicaid director shall adopt rules in accordance with Chapter 119. of the Revised Code ~~for the purpose of administering sections 5168.01 to 5168.14 of the Revised Code, including rules~~ that do all of the following:

(1) Define as a "disproportionate share hospital" any hospital included under the "Social Security Act," section 1923(b), 42 U.S.C. 1396r-4(b), and any other hospital the director determines appropriate;

(2) Prescribe the form for submission of cost reports under section 5168.05 of the Revised Code;

(3) Establish, in accordance with division (A) of section 5168.06 of the Revised Code, the assessment rate or rates to be applied to hospitals under that section;

(4) Establish schedules for hospitals to pay installments on their assessments under section 5168.06 of the Revised Code and for governmental hospitals to pay installments on their intergovernmental transfers under section 5168.07 of the Revised Code;

(5) Establish procedures to notify hospitals of adjustments made under division (B)(2)(b) of section 5168.06 of the Revised Code in the amount of installments on their assessment;

(6) Establish procedures to notify hospitals of adjustments made under division (D) of section 5168.08 of the Revised Code in the total amount of their assessment and to adjust for the remainder of the program year the amount of the installments on the assessments;

(7) Establish, in accordance with section 5168.09 of the Revised Code, the methodology for paying hospitals under that section.

The director shall consult with hospitals when adopting the rules required by divisions (A)(4) and (5) of this section in order to minimize hospitals' cash flow difficulties.

(B) Rules adopted under this section may provide that "total facility costs" excludes costs associated with any of the following:

(1) Medicaid recipients;

(2) Recipients of the program for children and youth with

special health care needs established under section 3701.023 of the Revised Code;

(3) Medicare beneficiaries;

(4) Recipients of Title V of the "Social Security Act," 42 U.S.C. 701 et seq.~~;~~

~~(5) Any other category of costs deemed appropriate by the director in accordance with Title XIX of the "Social Security Act," 42 U.S.C. 1396 et seq., and the rules adopted under that title.~~

Sec. 5168.26. (A) The medicaid director shall adopt rules in accordance with Chapter 119. of the Revised Code ~~as necessary to implement sections 5168.20 to 5168.28 of the Revised Code, including rules~~ that specify the percentage of hospitals' total facility costs to be used in calculating hospitals' assessments under section 5168.21 of the Revised Code.

(B) The rules adopted under this section may do the following:

(1) Provide that a hospital's total facility costs for the purpose of the assessment under section 5168.21 of the Revised Code exclude any of the following:

(a) A hospital's costs associated with providing care to recipients of any of the following:

(i) The medicaid program;

(ii) The medicare program;

(iii) The program for children and youth with special health care needs established under section 3701.023 of the Revised Code;

(iv) Services provided under the maternal and child health services block grant established under Title V of the "Social Security Act," 42 U.S.C. 701 et seq.

(b) Any other category of hospital costs the director deems appropriate under federal law and regulations governing the medicaid program.

(2) Subject to division (C) of this section, provide for the percentage of hospitals' total facility costs used in calculating hospitals' assessments to vary for different hospitals.

(C) Before adopting rules authorized by division (B)(2) of this section that establish varied percentages to be used in calculating hospitals' assessments, the director shall obtain a waiver from the United States secretary of health and human services under the "Social Security Act," section 1903(w)(3)(E), 42 U.S.C. 1396b(w)(3)(E), if the varied percentages would cause the assessments to not be imposed uniformly.

Sec. 5168.56. The medicaid director shall adopt rules in accordance with Chapter 119. of the Revised Code to ~~do both of the following:~~

~~(A) Prescribe~~ prescribe the actions the department of medicaid will take to cease implementation of sections 5168.40 to 5168.56 of the Revised Code if the United States centers for medicare and medicaid services determines that the franchise permit fee established by those sections is an impermissible health-care related tax under the "Social Security Act," section 1903(w), 42 U.S.C. 1396b(w)~~;~~

~~(B) Establish any requirements or procedures the director considers necessary to implement sections 5168.40 to 5168.56 of~~

~~the Revised Code~~.

Sec. 5168.71. To the extent authorized by rules authorized by section 5162.021 of the Revised Code, the director of developmental disabilities shall adopt rules in accordance with Chapter 119. of the Revised Code to ~~do both of the following:~~

~~(A) Prescribe~~ prescribe the actions the department of developmental disabilities will take to cease implementation of sections 5168.60 to 5168.71 of the Revised Code if the United States secretary of health and human services determines that the franchise permit fee imposed under section 5168.61 of the Revised Code is an impermissible health care-related tax under the "Social Security Act," section 1903(w), 42 U.S.C. 1396b(w)~~;~~

~~(B) Establish any other requirements or procedures the director considers necessary to implement sections 5168.60 to 5168.71 of the Revised Code~~.

Sec. 5168.75. As used in sections 5168.75 to ~~5168.86~~ 5168.85 of the Revised Code:

(A) "Basic health care services" means all of the services listed in division (A)(1) of section 1751.01 of the Revised Code.

(B) "Care management system" has the same meaning as in section 5167.01 of the Revised Code.

(C) "Dual eligible individual" has the same meaning as in section 5160.01 of the Revised Code.

(D) "Franchise fee" means the fee imposed on health insuring corporation plans under section 5168.76 of the Revised Code.

(E) "Health insuring corporation" has the same meaning as

in section 1751.01 of the Revised Code, except it does not mean a corporation that, pursuant to a policy, contract, certificate, or agreement, pays for, reimburses, or provides, delivers, arranges for, or otherwise makes available, only supplemental health care services or only specialty health care services.

(F) "Health insuring corporation plan" means a policy, contract, certificate, or agreement of a health insuring corporation under which the corporation pays for, reimburses, provides, delivers, arranges for, or otherwise makes available basic health care services. "Health insuring corporation plan" does not mean any of the following:

(1) A policy, contract, certificate, or agreement under which a health insuring corporation pays for, reimburses, provides, delivers, arranges for, or otherwise makes available only supplemental health care services or only specialty health care services;

(2) An approved health benefits plan described in 5 U.S.C. 8903 or 8903a, if imposing the franchise fee on the plan would violate 5 U.S.C. 8909(f);

(3) A medicare advantage plan authorized by Part C of Title XVIII of the "Social Security Act," 42 U.S.C. 1395w-21 et seq.

(G) "Indirect guarantee percentage" means the percentage specified in section 1903(w)(4)(C)(ii) of the "Social Security Act," 42 U.S.C. 1396b(w)(4)(C)(ii), that is to be used in determining whether a health care class is indirectly held harmless for any portion of the costs of a broad-based health-care-related tax. If the indirect guarantee percentage changes during a fiscal year, the indirect guarantee percentage is the

following:

(1) For the part of the fiscal year before the change takes effect, the percentage in effect before the change;

(2) For the part of the fiscal year beginning with the date the indirect guarantee percentage changes, the new percentage.

(H) "Medicaid managed care organization" has the same meaning as in section 5167.01 of the Revised Code.

(I) "Medicaid provider" has the same meaning as in section 5164.01 of the Revised Code.

(J) "Ohio medicaid member month" means a month in which a medicaid recipient residing in this state is enrolled in a health insuring corporation plan.

(K) "Other Ohio member month" means a month in which a resident of this state who is not a medicaid recipient is enrolled in a health insuring corporation plan.

(L) "Rate year" means the fiscal year for which a franchise fee is imposed.

Sec. 5168.78. The department of medicaid may request that a health insuring corporation provide the department documentation the department needs to verify the amount of the franchise fees imposed on the health insuring corporation plans administered by the corporation and to ensure the corporation's compliance with sections 5168.75 to ~~5168.86~~ 5168.85 of the Revised Code. On receipt of the request, the health insuring corporation shall provide the department the requested documentation. The department also may review relevant documentation possessed by other entities for the purpose of

making such verifications.

Sec. 5168.90. (A) At least quarterly, the medicaid director shall report to the legislative service commission both of the following:

(1) The fee rates and the aggregate total of the fees assessed for each of the following:

(a) The hospital assessment established under section 5168.21 of the Revised Code;

(b) The nursing home and hospital long-term care unit franchise permit fee under section 5168.41 of the Revised Code;

(c) The ICF/IID franchise permit fee under section 5168.61 of the Revised Code;

(d) The health insuring corporation franchise fee under section 5168.76 of the Revised Code.

(2) If there is a rate increase for any of the fee rates listed under division (A)(1) of this section pending before the centers for medicare and medicaid services.

(B) The director may adopt rules ~~under section 5162.02 of the Revised Code~~ to compile and submit the reports required under this section, including rules, as authorized under section 5162.021 of the Revised Code, that specify the information that must be submitted to the director by the department of developmental disabilities regarding the ICF/IID franchise permit fee.

Sec. 5180.02. (A) The director of children and youth is the chief executive of and appointing authority for the department of children and youth. In this role, the director shall administer the department and implement the delivery in

this state of children's services, including by doing all of the following:

(1) ~~Adopting as necessary rules in accordance with Chapter 119. of the Revised Code and section 111.15 of the Revised Code;~~

~~(2)~~ Approving and entering into contracts, agreements, and other business arrangements on behalf of the department;

~~(3)~~ (2) Making as necessary appointments to the department and approving actions related to departmental employees and officers, including their hiring, promotion, termination, discipline, or investigation;

~~(4)~~ (3) Administering the department and directing the performance of its employees and officers;

~~(5)~~ (4) Applying for grants available under federal law or from other federal, state, or private sources and allocating, disbursing, or accounting for any funds awarded;

~~(6)~~ (5) Any other action, except for adopting rules that the Revised Code does not specifically authorize the director to adopt, as necessary to carry out the purposes of this chapter.

(B) Whenever by law a duty is imposed on or an action is required of the department, the director or director's designee shall fulfill the duty or perform the action.

(C) The director may organize the department for its efficient operation, including by creating as necessary any divisions or offices within it. The director also may establish procedures for the governance of the department, the conduct of its employees and officers, the performance of its business, and the custody, use, and preservation of departmental books, documents, papers, property, and records.

(D) If the director issues any directive governing the delivery in this state of children's services, each state and local agency involved in the delivery of those services shall comply with the directive and collaborate with the department.

(E) ~~For purposes of division (A)(1) of this section, if~~ If a law permits or requires the director to adopt a rule, the director shall do so in accordance with Chapter 119. of the Revised Code, unless the law requiring or permitting adoption of the rule specifies a different rule adoption procedure.

Sec. 5180.21. (A) The department of children and youth shall establish the help me grow program as the state's evidence-based parent support program that encourages early prenatal and well-baby care, as well as provides parenting education to promote the comprehensive health and development of children. The program shall provide home visiting services to families with a pregnant woman or child under five years of age that meet the eligibility requirements established in rules adopted under this section. Home visiting services shall be provided through evidence-based home visiting models or innovative, promising home visiting models recommended by the children and youth advisory council created under section 5180.04 of the Revised Code.

(B) Families shall be referred to the appropriate home visiting services through the central intake and referral system created under section 5180.22 of the Revised Code.

(C) To the extent possible, the goals of the help me grow program shall be consistent with the goals of the federal home visiting program, as specified by the maternal and child health bureau of the health resources and services administration in the United States department of health and human services or its

successor.

(D) The director of children and youth shall enter into an interagency agreement with one or more state agencies, including the department of developmental disabilities, department of job and family services, department of medicaid, commission on minority health, Ohio fatherhood commission, and children's trust fund board, to implement the help me grow program, to ensure coordination of early childhood programs, and to maximize reimbursement for the help me grow program from any federal source.

In addition to creating the central intake and referral system as described in section 5180.22 of the Revised Code, the department of children and youth shall ensure there is a consistent comprehensive screening and connection program to support the coordination of home visiting services across the state, including through the department of health, department of developmental disabilities, department of job and family services, department of medicaid, and commission on minority health. Following the program's establishment, the department of children and youth shall evaluate the program's effectiveness in coordinating home visiting services at least once annually.

(E) The director may distribute help me grow program funds through contracts, grants, or subsidies to entities providing services under the program.

(F) As a condition of receiving payments for home visiting services, providers shall report to the director data on the program performance indicators, specified in rules adopted under division (G) of this section, that are used to assess progress toward achieving all of the following:

(1) The benchmark domains established for the federal home visiting program, including improvement in maternal and newborn health; reduction in child injuries, abuse, and neglect; improved school readiness and achievement; reduction in crime and domestic violence; and improved family economic self-sufficiency;

(2) Improvement in birth outcomes and reduction in stillbirths, as that term is defined in section 5180.12 of the Revised Code;

(3) Reduction in tobacco use by pregnant women, new parents, and others living in households with children.

The providers shall report the data in the format and within the time frames specified in the rules.

The director shall prepare an annual report on the data received from the providers. Each report shall include an evaluation addressing the number of families and children served, the number and type of services provided, health and developmental outcomes for participating families and children, and variation in outcomes between the types of home visiting programs specified in division (B)(3) of section 5180.22 of the Revised Code. The director shall submit the report to the general assembly in accordance with section 101.68 of the Revised Code and make the report available on the internet web site maintained by the department of children and youth.

(G) Pursuant to Chapter 119. of the Revised Code, the director shall adopt rules that ~~are necessary and proper to implement this section. The rules shall~~ specify all of the following:

(1) Subject to division (H) of this section, eligibility

requirements for home visiting services;

(2) Eligibility requirements for providers of home visiting services;

(3) Standards and procedures for the provision of program services, including data collection, program monitoring, and program evaluation;

(4) Procedures for appealing the denial of an application for program services or the termination of services;

(5) Procedures for appealing the denial of an application to become a provider of program services or the termination of the department's approval of a provider;

(6) Procedures for addressing complaints;

(7) The program performance indicators on which data must be reported by providers of home visiting services under division (F) of this section, which, to the extent possible, shall be consistent with federal reporting requirements for federally funded home visiting services;

(8) The format in which reports must be submitted under division (F) of this section and the time frames within which the reports must be submitted;

(9) Criteria for payment of approved providers of program services~~;~~

~~(10) Any other rules necessary to implement the program~~.

(H) When adopting rules required by division (G)(1) of this section, the director shall specify that families residing in the urban and rural communities specified in rules adopted under section 3701.142 of the Revised Code and families in the

child welfare system are to receive priority over other families for home visiting services.

(I) The department, in collaboration with the departments of job and family services and medicaid, shall propose strategies to increase the workforce capacity of home visiting service providers and parenting support professionals, including efforts to incentivize and retain such providers and professionals in this state.

Sec. 5180.278. The director of children and youth shall adopt rules ~~that are necessary for the implementation of sections 5180.27 to 5180.277 of the Revised Code, including rules~~ that do all of the following:

(A) Establish a procedure for the PAMR board to follow in conducting pregnancy-associated death reviews;

(B) Specify the data and other relevant information the board must use when conducting pregnancy-associated death reviews;

(C) Establish guidelines for the board to follow to prevent an unauthorized dissemination of confidential information in violation of division (B) of section 5180.275 of the Revised Code.

The rules shall be adopted in accordance with Chapter 119. of the Revised Code.

Sec. 5180.32. The director of children and youth shall adopt rules in accordance with Chapter 119. of the Revised Code ~~that are necessary to implement the state's part C early intervention services program, including rules~~ that specify all of the following:

(A) Eligibility requirements to receive part C early intervention services program services;

(B) Eligibility requirements to be a program service provider;

(C) Operating standards and procedures for program service providers, including standards and procedures governing data collection, program monitoring, and program evaluation;

(D) Procedures to appeal the denial of an application to receive program services or the termination of program services;

(E) Procedures to appeal a decision by the department of developmental disabilities to deny an application to be a program service provider or to terminate a provider's status;

(F) Procedures for addressing complaints by persons who receive program services;

(G) Criteria for the payment of program service providers;

(H) The metrics or indicators used to measure program service provider performance.

Sec. 5180.404. (A) Notwithstanding any provision of the Revised Code that requires confidentiality of information that is contained in the uniform statewide automated child welfare information system established in section 5180.40 of the Revised Code, the department of children and youth shall adopt rules in accordance with Chapter 119. of the Revised Code regarding a private child placing agency's or private noncustodial agency's access, data entry, and use of information in the uniform statewide automated child welfare information system.

~~(B)(1) The department of children and youth may adopt rules in accordance with section 111.15 of the Revised Code, as~~

~~if they were internal management rules, as necessary to carry out the purposes of sections 5180.40 to 5180.403 of the Revised Code.~~

~~(2)~~ (B) The department may adopt rules in accordance with Chapter 119. of the Revised Code as necessary to carry out the purposes of division (A)(2) of section 5180.402 of the Revised Code.

(C) Public children services agencies shall implement and use the information system established pursuant to section 5180.40 of the Revised Code in accordance with rules adopted by the department.

Sec. 5180.42. (A) As used in sections 5180.42 to 5180.4214 of the Revised Code:

(1) "Adopted young adult" means a person:

(a) Who was in the temporary or permanent custody of a public children services agency;

(b) Who was adopted at the age of sixteen or seventeen and attained the age of sixteen before a Title IV-E adoption assistance agreement became effective;

(c) Who has attained the age of eighteen; and

(d) Who has not yet attained the age of twenty-one.

(2) "Child" means any of the following:

(a) A person who meets the requirements of division (B)(3) of section 5153.01 of the Revised Code;

(b) An adopted young adult;

(c) An emancipated young adult.

(3) "Emancipated young adult" means a person:

(a) Who was in the temporary or permanent custody of a public children services agency, a planned permanent living arrangement, or in the Title-IV-E-eligible care and placement responsibility of a juvenile court or other governmental agency that provides Title IV-E reimbursable placement services;

(b) Whose custody, arrangement, or care and placement was terminated on or after the person's eighteenth birthday; and

(c) Who has not yet attained the age of twenty-one.

(4) "Kinship guardianship young adult" means an individual that meets the following criteria:

(a) Was in the temporary or permanent custody of a public children services agency or a planned permanent living arrangement prior to the commitment described in division (A)(4)(b) of this section;

(b) Was committed to the legal custody or legal guardianship of a kinship caregiver at the age of sixteen or seventeen and attained the age of sixteen before a Title IV-E kinship guardianship assistance agreement became effective;

(c) Has attained the age of eighteen;

(d) Has not yet attained the age of twenty-one.

(5) "Relative" means, with respect to a child, any of the following who is eighteen years of age or older:

(a) The following individuals related by blood or adoption to the child:

(i) Grandparents, including grandparents with the prefix "great," "great-great," or "great-great-great";

(ii) Siblings;

(iii) Aunts, uncles, nephews, and nieces, including such relatives with the prefix "great," "great-great," "grand," or "great-grand";

(iv) First cousins and first cousins once removed.

(b) Stepparents and stepsiblings of the child;

(c) Spouses and former spouses of individuals named in divisions (A)(5)(a) and (b) of this section;

(d) A legal guardian of the child;

(e) A legal custodian of the child;

(f) Any nonrelative adult that has a familiar and long-standing relationship or bond with the child or the family, which relationship or bond will ensure the child's social ties.

(6) "Representative" means a person with whom the department of children and youth has entered into a contract, pursuant to division (B)(2)(b) of this section.

(7) "Title IV-E" means Title IV-E of the "Social Security Act," 94 Stat. 501, 42 U.S.C. 670 (1980), as amended.

(B)(1) Except as provided in divisions (B)(2) and (3) of this section, the department of children and youth shall act as the single state agency to administer federal payments for foster care, kinship guardianship assistance, and adoption assistance made pursuant to Title IV-E. The director of children and youth shall adopt rules ~~to implement this authority. Rules~~ governing financial and administrative requirements applicable to public children services agencies and government entities that provide Title IV-E reimbursable placement services to

children, and such rules shall be adopted in accordance with section 111.15 of the Revised Code, as if they were internal management rules. Rules governing requirements applicable to private child placing agencies and private noncustodial agencies and rules establishing eligibility, program participation, and other requirements concerning Title IV-E shall be adopted in accordance with Chapter 119. of the Revised Code. A public children services agency to which the department distributes Title IV-E funds shall administer the funds in accordance with ~~those~~ any associated rules.

(2)(a) The department shall implement the state plan as amended under section 5180.428 of the Revised Code if the general assembly has appropriated sufficient funds to operate the program required under the plan as amended.

(b) The department shall have, exercise, and perform all new duties required under the plan as amended. In doing so, the department may contract with another person to carry out those new duties, to the extent permitted under Title IV-E.

(3) The department shall implement the state plan as amended under section 5180.4213 of the Revised Code.

(C)(1) Except with regard to the new duties imposed on the department or its contractor under division (B)(2)(b) of this section that are not imposed on the county, the county, on behalf of each child eligible for foster care maintenance payments under Title IV-E, shall make payments to cover the cost of providing all of the following:

(a) The child's food, clothing, shelter, daily supervision, and school supplies;

(b) The child's personal incidentals;

(c) Reasonable travel to the child's home for visitation.

(2) In addition to payments made under division (C)(1) of this section, the county may, on behalf of each child eligible for foster care maintenance payments under Title IV-E, make payments to cover the cost of providing the following:

(a) Liability insurance with respect to the child;

(b) If the county is participating in the demonstration project established under division (A) of section 5180.421 of the Revised Code, services provided under the project.

(3) With respect to a child who is in a child-care institution, including any type of group home designed for the care of children or any privately operated program consisting of two or more certified foster homes operated by a common administrative unit, the foster care maintenance payments made by the county on behalf of the child shall include the reasonable cost of the administration and operation of the institution, group home, or program, as necessary to provide the items described in divisions (C)(1) and (2) of this section.

(D) To the extent that either foster care maintenance payments under division (C) of this section, Title IV-E kinship guardianship assistance, or Title IV-E adoption assistance payments for maintenance costs require the expenditure of county funds, the board of county commissioners shall report the nature and amount of each expenditure of county funds to the department.

(E) The department shall distribute to public children services agencies that incur and report expenditures of the type described in division (D) of this section federal financial participation received for administrative and training costs

incurred in the operation of foster care maintenance, kinship guardianship assistance, and adoption assistance programs. The department may withhold not more than three per cent of the federal financial participation received. The funds withheld may be used only to fund the following:

(1) The Ohio child welfare training program established under section 5103.30 of the Revised Code;

(2) The university partnership program for college and university students majoring in social work who have committed to work for a public children services agency upon graduation;

(3) Efforts supporting organizational excellence, including voluntary activities to be accredited by a nationally recognized accreditation organization.

The funds withheld shall be in addition to any administration and training cost for which the department is reimbursed through its own cost allocation plan.

(F) All federal financial participation funds received by a county pursuant to this section shall be deposited into the county's children services fund created pursuant to section 5180.411 of the Revised Code.

(G)(1) The department shall periodically publish and distribute the maximum amounts that the department will reimburse public children services agencies for making payments on behalf of children eligible for foster care maintenance payments.

(2) The department may issue a request for proposals to establish statewide rate cards for placement and care of children eligible for foster care maintenance payments. If a request for proposals is issued, the department shall review and

accept the reasonable cost of providing the items described in division (C) of this section. Foster homes, as defined in section 5103.02 of the Revised Code, and kinship caregivers, as defined in section 5101.85 of the Revised Code, shall be exempt from the established statewide rates.

(H) The department, by and through its director, is hereby authorized to develop, participate in the development of, negotiate, and enter into one or more interstate compacts on behalf of this state with agencies of any other states, for the provision of social services to children in relation to whom all of the following apply:

(1) They have special needs.

(2) This state or another state that is a party to the interstate compact is providing kinship guardianship assistance or adoption assistance on their behalf.

(3) They move into this state from another state or move out of this state to another state.

Sec. 5180.422. (A) In adopting rules ~~under section 5180.42 of the Revised Code~~ regarding financial requirements applicable to public children services agencies, private child placing agencies, private noncustodial agencies, and government entities that provide Title IV-E reimbursable placement services to children, the department of children and youth may establish both of the following:

(1) A single form for the agencies or entities to report costs reimbursable under Title IV-E and costs reimbursable under medicaid;

(2) Procedures to monitor cost reports submitted by the agencies or entities.

(B) The procedures established under division (A)(2) of this section shall be used to do both of the following:

(1) Determine which of the costs are reimbursable under Title IV-E;

(2) Ensure that costs reimbursable under medicaid are excluded from determinations made under division (B)(1) of this section.

Sec. 5180.427. In addition to the remedies available under sections 5101.24 and 5180.423 of the Revised Code, the department of children and youth may certify a claim to the attorney general under section 131.02 of the Revised Code for the attorney general to take action under that section against a public children services agency, private child placing agency, private noncustodial agency, or government entity that provides Title IV-E reimbursable placement services to children if all of the following are the case:

(A) The agency or entity files a cost report with the department pursuant to rules ~~adopted under division (B) of section 5180.42 of the Revised Code~~.

(B) The department receives and distributes federal Title IV-E reimbursement funds based on the cost report.

(C) The agency's or entity's misstatement, misclassification, overstatement, understatement, or other inclusion or omission of any cost included in the cost report causes the United States department of health and human services to disallow all or part of the federal Title IV-E reimbursement funds the department received and distributed.

(D) The agency's or entity's misstatement, misclassification, overstatement, understatement, or other

inclusion or omission of any cost included in the cost report is not the direct result of a written directive concerning the agency or entity's cost report that the department issued to the agency or entity.

Sec. 5180.4211. (A) The department of children and youth shall adopt rules ~~necessary to carry out the purposes of sections 5180.428 to 5180.4210 of the Revised Code, including rules that~~ to do all of the following:

(1) Allow an emancipated young adult described in division (A)(1) of section 5180.428 of the Revised Code who is directly receiving foster care payments, or on whose behalf such foster care payments are received, or an adopted young adult whose adoptive parents are receiving adoption assistance payments, to maintain eligibility while transitioning into, or out of, qualified employment or educational activities;

(2) Require that a thirty-day notice of termination be given by the department to an emancipated young adult described in division (A)(1) of section 5180.428 of the Revised Code who is receiving foster care payments, or on whose behalf such foster care payments are received, or to a parent receiving adoption assistance payments for an adopted young adult described in division (B)(1) of section 5180.428 of the Revised Code, who is determined to be ineligible for payments;

(3) Establish the scope of practice and training necessary for case managers and supervisors who care for emancipated young adults described in division (A)(1) of section 5180.428 of the Revised Code who are receiving foster care payments, or on whose behalf such foster care payments are received, under section 5180.428 of the Revised Code.

(B) The department of children and youth shall create an advisory council to evaluate and make recommendations for statewide implementation of sections 5180.428 and 5180.429 of the Revised Code.

Sec. 5180.4214. The department of children and youth shall adopt rules ~~necessary to carry out the purposes of sections 5180.42, 5180.428, and 5180.4213 of the Revised Code, and 42 U.S.C. 673(d) of the "Social Security Act," including rules~~ that do all of the following:

(A) Allow a kinship guardianship young adult described in division (C) of section 5180.428 of the Revised Code on whose behalf kinship guardianship assistance is received, to maintain eligibility while transitioning into, or out of, qualified employment or educational activities;

(B) Require that a thirty-day notice of termination be given by the department to a person receiving kinship guardianship assistance for a kinship guardianship young adult described in division (C) of section 5180.428 of the Revised Code, who is determined to be ineligible for assistance.

Sec. 5180.43. (A)(1) If, after a child's adoption is finalized, the department of children and youth considers the child to be in need of public care or protective services, the department may, to the extent state funds are available for this purpose, enter into an agreement with the child's adoptive parent under which the department may make post adoption special services subsidy payments on behalf of the child as needed when both of the following apply:

(a) The child has a physical or developmental disability or mental or emotional condition that either:

(i) Existed before the adoption petition was filed; or

(ii) Developed after the adoption petition was filed and can be directly attributed to factors in the child's preadoption background, medical history, or biological family's background or medical history.

(b) The department determines the expenses necessitated by the child's disability or condition are beyond the adoptive parent's economic resources.

(2) Services for which the department may make post adoption special services subsidy payments on behalf of a child under this section shall include medical, surgical, psychiatric, psychological, and counseling services, including residential treatment.

(3) The department shall establish clinical standards to evaluate a child's physical or developmental disability or mental or emotional condition and assess the child's need for services.

(4) The total dollar value of post adoption special services subsidy payments made on a child's behalf shall not exceed ten thousand dollars in any fiscal year, unless the department determines that extraordinary circumstances exist that necessitate further funding of services for the child. Under such extraordinary circumstances, the value of the payments made on the child's behalf shall not exceed fifteen thousand dollars in any fiscal year.

(5) The adoptive parent or parents of a child who receives post adoption special services subsidy payments shall pay at least five per cent of the total cost of all services provided to the child; except that the department may waive this

requirement if the gross annual income of the child's adoptive family is not more than two hundred per cent of the federal poverty guideline.

(6) The department may use other sources of revenue to make post adoption special services subsidy payments, in addition to any state funds appropriated for that purpose.

(7) The department may contract with another person to carry out any of the duties described in this section.

(B) No payment shall be made on behalf of any person eighteen years of age or older beyond the end of the school year during which the person attains the age of eighteen or on behalf of a mentally or physically disabled person twenty-one years of age or older.

(C) The director of children and youth shall adopt rules in accordance with Chapter 119. of the Revised Code necessary to implement this section. The rules shall establish all of the following:

(1) The application process for all forms of assistance provided under this section;

(2) Standards for determining the children who qualify to receive assistance provided under this section;

(3) The method of determining the amount, duration, and scope of services provided to a child;

(4) The method of transitioning the post adoption special services subsidy program from public children services agencies to the department~~;~~

~~(5) Any other rule, requirement, or procedure the department considers appropriate for the implementation of this~~

~~section~~.

Sec. 5180.453. (A) ~~The director of children and youth shall adopt rules to administer and implement the Ohio adoption grant program.~~ The director of children and youth, in consultation with the tax commissioner, shall ~~also~~ adopt rules authorizing the department to withhold and remit to the Internal Revenue Service federal income tax from grant payments under division (B) of section 5180.451 of the Revised Code, provided such withholding is authorized under federal law or approved by the Internal Revenue Service.

(B) No application fee shall be charged for the grant program.

(C) Notwithstanding any law to the contrary, the director may require, as necessary to administer the Ohio adoption grant program, either or both of the following:

(1) Certified copies of any court or legal document necessary to prove a final order of adoption, an interlocutory order of adoption, or recognition of the adoption under section 3107.18 of the Revised Code;

(2) Any department, agency, court, or division of the state, including the department of health, to provide any document related to the adoption.

(D)(1) No person shall knowingly produce or submit any false or misleading documentation or information to the department of children and youth in an effort to qualify for or obtain a grant from the Ohio adoption grant program.

(2) Whoever violates division (D)(1) of this section is guilty of falsification in accordance with section 2921.13 of the Revised Code.

(E) Notwithstanding any provision of section 121.95 of the Revised Code to the contrary, a regulatory restriction contained in a rule adopted under section 5180.453 of the Revised Code is not subject to sections 121.95 to 121.953 of the Revised Code.

Sec. 5180.52. (A) As used in this section:

(1) "Custodian," "guardian," and "minor child" have the same meanings as in section 5107.02 of the Revised Code.

(2) "Federal poverty guidelines" has the same meaning as in section 5101.46 of the Revised Code.

(3) "Kinship caregiver" has the same meaning as in section 5180.50 of the Revised Code.

(B) Subject to division (E) of section 5101.801 of the Revised Code, there is hereby created the kinship permanency incentive program to promote permanency for a minor child in the legal and physical custody of a kinship caregiver. The program shall provide an initial one-time incentive payment to the kinship caregiver to defray the costs of initial placement of the minor child in the kinship caregiver's home. The program may provide additional permanency incentive payments for the minor child at six-month intervals, based on the availability of funds. An eligible caregiver may receive a maximum of eight incentive payments per minor child.

(C) A kinship caregiver may participate in the program if all of the following requirements are met:

(1) The kinship caregiver applies to a public children services agency in accordance with the application process established in rules authorized by division (E) of this section;

(2) Not earlier than July 1, 2005, a juvenile court issues

an order granting legal custody to the kinship caregiver, or a probate court grants guardianship to the kinship caregiver, except that a temporary court order is not sufficient to meet this requirement;

(3) The kinship caregiver is either the minor child's custodian or guardian;

(4) The minor child resides with the kinship caregiver pursuant to a placement approval process established in rules authorized by division (E) of this section;

(5) Excluding any income excluded under rules adopted under division (E) of this section, the gross income of the kinship caregiver's family, including the minor child, does not exceed three hundred per cent of the federal poverty guidelines.

(6) The kinship caregiver is not receiving kinship guardianship assistance under Title IV-E of the "Social Security Act," 42 U.S.C. 673(d), as amended, or the program described in section 5180.428 of the Revised Code or the program described in section 5153.163 of the Revised Code.

(D) Public children services agencies shall make initial and ongoing eligibility determinations for the kinship permanency incentive program in accordance with rules authorized by division (E) of this section. The director of children and youth shall supervise public children services agencies' duties under this section.

(E) The director of children and youth shall adopt rules ~~under division (C) of section 5101.801 of the Revised Code as necessary to implement the kinship permanency incentive program. The rules shall~~ to establish all of the following:

(1) The application process for the program;

(2) The placement approval process through which a minor child is placed with a kinship caregiver for the kinship caregiver to be eligible for the program;

(3) The initial and ongoing eligibility determination process for the program, including the computation of income eligibility;

(4) The amount of the incentive payments provided under the program;

(5) The method by which the incentive payments are provided to a kinship caregiver.

(F) The amendments made to this section by Am. Sub. H.B. 119 of the 127th general assembly shall not affect the eligibility of any kinship caregiver whose eligibility was established before June 30, 2007.

Sec. 5180.53. As used in sections 5180.531 to ~~5180.536~~ 5180.535 of the Revised Code:

(A) "Cost-of-living adjustment" has the same meaning as in section 5107.04 of the Revised Code.

(B) "Kinship caregiver" has the same meaning as in section 5180.50 of the Revised Code.

Sec. 5180.71. (A) Subject to division (E) of section 5101.801 of the Revised Code, there is hereby created the Ohio parenting and pregnancy program to provide services for pregnant women and parents or other relatives caring for children twelve months of age or younger that do both of the following:

(1) Promote childbirth, parenting, and alternatives to abortion;

(2) Meet one or more of the four purposes of the temporary assistance for needy families block grant as specified in 42 U.S.C. 601.

(B) To the extent permitted by federal law, the department of children and youth may provide funds under the program to entities with which the department enters into agreements under division (B)(3) of section 5101.801 of the Revised Code. In accordance with criteria the department develops, the department may solicit proposals from entities seeking to provide services under the program. The department may enter into an agreement with an entity only if it meets all of the following conditions:

(1) Is a private, not-for-profit entity;

(2) Is an entity whose primary purpose is to promote childbirth, rather than abortion, through counseling and other services, including parenting and adoption support;

(3) Provides services to pregnant women and parents or other relatives caring for children twelve months of age or younger, including clothing, counseling, diapers, food, furniture, health care, parenting classes, postpartum recovery, shelter, and any other supportive services, programs, or related outreach;

(4) Does not charge pregnant women and parents or other relatives caring for children twelve months of age or younger a fee for any services received;

(5) Is not involved in or associated with any abortion activities, including providing abortion counseling or referrals to abortion clinics, performing abortion-related medical procedures, or engaging in pro-abortion advertising;

(6) Does not discriminate in its provision of services on

the basis of race, religion, color, age, marital status, national origin, disability, or gender.

(C) An entity that has entered into an agreement with the department under division (B)(3) of section 5101.801 of the Revised Code may enter into a subcontract with another entity under which the other entity provides all or part of the services described in division (B)(3) of this section. A subcontract may be entered into with another entity only if that entity meets all of the following conditions:

(1) Is a private, not-for-profit entity;

(2) Is physically and financially separate from any entity, or component of an entity, that engages in abortion activities;

(3) Is not involved in or associated with any abortion activities, including providing abortion counseling or referrals to abortion clinics, performing abortion-related medical procedures, or engaging in pro-abortion advertising.

~~(D) The director of children and youth shall adopt rules under division (C) of section 5101.801 of the Revised Code as necessary to implement the Ohio parenting and pregnancy program.~~

Sec. 5180.72. (A) There is hereby created in the state treasury the "choose life" fund. The fund shall consist of the contributions that are paid to the registrar of motor vehicles by applicants who voluntarily elect to obtain "choose life" license plates pursuant to section 4503.91 of the Revised Code and any money returned to the fund under division (E)(1)(d) of this section. All investment earnings of the fund shall be credited to the fund.

(B)(1) At least annually, the director of children and

youth shall distribute the money in the fund to any private, nonprofit organization that is eligible to receive funds under this section and that applies for funding under division (C) of this section.

(2) The director shall allocate the funds to each county in proportion to the number of "choose life" license plates issued during the preceding year to vehicles registered in each county. The director shall distribute funds allocated for a county as follows:

(a) To one or more eligible organizations located within the county;

(b) If no eligible organization located within the county applies for funding, to one or more eligible organizations located in contiguous counties;

(c) If no eligible organization located within the county or a contiguous county applies for funding, to one or more eligible organizations within any other county.

(3) The director shall ensure that any funds allocated for a county are distributed equally among eligible organizations that apply for funding within the county.

(C) Any organization seeking funds under this section annually shall apply for distribution of the funds based on the county in which the organization is located. An organization also may apply for funding in a county in which it is not located if it demonstrates that it provides services for pregnant women residing in that county. The director shall develop an application form and may determine the schedule and procedures that an organization shall follow when annually applying for funds. The application shall inform the applicant

of the conditions for receiving and using funds under division (E) of this section. The application shall require evidence that the organization meets all of the following requirements:

(1) Is a private, nonprofit organization;

(2) Is committed to counseling pregnant women about the option of adoption;

(3) Provides services within the state to pregnant women who are planning to place their children for adoption, including counseling and meeting the material needs of the women;

(4) Does not charge women for any services received;

(5) Is not involved or associated with any abortion activities, including counseling for or referrals to abortion clinics, providing medical abortion-related procedures, or pro-abortion advertising;

(6) Does not discriminate in its provision of any services on the basis of race, religion, color, age, marital status, national origin, disability, gender, or age;

(7) If the organization is applying for funding in a county in which it is not located, provides services for pregnant women residing in that county.

(D) The director shall not distribute funds to an organization that does not provide verifiable evidence of the requirements specified in the application under division (C) of this section and shall not provide additional funds to any organization that fails to comply with division (E) of this section in regard to its previous receipt of funds under this section.

(E)(1) An organization receiving funds under this section

shall do all of the following:

(a) Use not more than sixty per cent of the funds distributed to it for the material needs of pregnant women who are planning to place their children for adoption or for infants awaiting placement with adoptive parents, including clothing, housing, medical care, food, utilities, and transportation;

(b) Use not more than forty per cent of the funds distributed to it for counseling, training, or advertising;

(c) Not use any of the funds distributed to it for administrative expenses, legal expenses, or capital expenditures;

(d) Annually return to the fund created under division (A) of this section any unused money that exceeds ten per cent of the money distributed to the organization.

(2) The organization annually shall submit to the director an audited financial statement verifying its compliance with division (E)(1) of this section.

(F) ~~The director, in accordance with Chapter 119. of the Revised Code, shall adopt rules to implement this section.~~

~~It~~ It is not the intent of the general assembly that the department create a new position within the department to implement and administer this section. It is the intent of the general assembly that the implementation and administration of this section be accomplished by existing department personnel.

(G) If funds that have been allocated to a county for any previous year have not been distributed to one or more eligible organizations, the director may distribute those funds in accordance with this section.

Sec. 5301.254. (A) For the purposes of this section, "nonresident alien" means any individual who is not a citizen of, and is not domiciled in, the United States.

(B) Every nonresident alien who acquires any interest either in ~~his~~the nonresident alien's own name or in the name of another, in real property located in this state that is in excess of three acres or that has a market value greater than one hundred thousand dollars or any interest in and to minerals, and any mining or other rights appurtenant thereto or in connection therewith that has a market value in excess of fifty thousand dollars shall, within thirty days of the acquisition of the interest in the property, together with a filing fee of five dollars, submit to the secretary of state on forms prescribed by ~~him~~the secretary of state all of the following information:

(1) Name, address, and telephone number;

(2) Country of citizenship;

(3) Location and amount of acreage of real property;

(4) Intended use of real property at the time of filing.

(C) Every corporation or other business entity that is created or organized under the laws of any state or a foreign nation or that has its principal place of business in a foreign nation, in which a nonresident alien acquires at least ten per cent of the shares of stock or other interests or in which any number of nonresident aliens acquire at least forty per cent of the shares of stock or other interests, and which acquires any interest either in its own name or in the name of another, in real property located in this state that is in excess of three acres or that has a market value greater than one hundred thousand dollars or any interest in and to minerals, and any

mining or other rights appurtenant thereto or exercisable in connection therewith that has a market value in excess of fifty thousand dollars shall, within thirty days of acquisition of the interest in the property, together with a filing fee of twenty-five dollars, submit to the secretary of state on forms prescribed by ~~him~~the secretary of state all of the following information:

(1) Name, address of principal place of business, and address of principal Ohio office;

(2) Name, address, telephone number, and country of citizenship of each nonresident alien who owns at least ten per cent of the shares of stock or other interests, if any;

(3) The percentage, within five percentage points, of shares of stock or other interests controlled by the nonresident aliens of each country represented by them if such interests exceed five per cent;

(4) Location and amount of acreage of real property;

(5) Principal business of corporation or entity;

(6) Intended use of real property at the time of filing;

(7) ~~Chairman~~Chairperson of the governing board, if any, chief executive, if any, and partners, if any;

(8) Corporation's or entity's agent in this state;

(9) Place of incorporation, if a corporation;

(10) Number of persons who own shares of stock or other interests.

(D) If the ownership or control of a corporation or other business entity that is required in division (C) of this section

to file with the secretary of state changes in such a way that the information contained on the filing form is no longer accurate, the corporation or other business entity shall notify the secretary of state in writing of such change within thirty days of the occurrence of the change.

If the ownership or control of a corporation or other business entity that owns real property in an amount larger than three acres or that has a market value greater than one hundred thousand dollars or that owns any interest in and to minerals, and any mining or other rights appurtenant thereto or exercisable in connection therewith that has a market value in excess of fifty thousand dollars changes in such a way that a nonresident alien acquires at least ten per cent of the shares of stock or other interests or any number of nonresident aliens acquire at least forty per cent of the shares of stock or other interests, the corporation or other business entity shall file with the secretary of state as required in division (C) of this section within thirty days of the occurrence of the change.

If a nonresident alien who is required to file with the secretary of state in division (B) of this section becomes a resident alien or a citizen of the United States, ~~he~~the former nonresident alien shall notify the secretary of state in writing of the change in ~~his~~ status within thirty days of the change.

If a nonresident alien or a corporation or other business entity that is required to file with the secretary of state pursuant to this section sells the real property or mineral or mining rights that were reported to the secretary of state, the nonresident alien or corporation or other business entity shall notify the secretary of state in writing of the sale within thirty days of the sale.

(E) The secretary of state shall:

(1) Prescribe all forms ~~and make all rules~~ that are necessary for the implementation of this section;

(2) Maintain accurate records of the information that ~~he~~the secretary of state receives pursuant to this section and make such information available to the public;

(3) Annually report this information, itemized by county, to the general assembly.

(F) No nonresident alien or corporation or other business entity that is required to file with the secretary of state pursuant to this section shall fail to comply with this section. Either the county prosecutor of the county in which the real property or the mineral or mining rights are located or the attorney general may bring action against any alleged offender. The secretary of state may request a county prosecutor or the attorney general to bring such an action.

(G) The filing of the information required by this section shall not be construed to perfect any interests permitted to be perfected under Title XIII of the Revised Code by filing with the secretary of state.

Sec. 5315.02. To assist in the establishment of the D.O.L.L.A.R. deed program, the Ohio housing finance agency shall adopt in rule all of the following:

(A) A model form by which a person may apply to participate in the program;

(B) A model for the deed, which ~~act~~ shall act as the deed in lieu of foreclosure described in division (A)(1) of section 5315.04 of the Revised Code;

(C) A model for the lease with option to purchase agreement described in divisions (A)(2) and (3) of section 5315.04 of the Revised Code~~;~~

~~(D) Any other rules necessary to implement this chapter~~.

Sec. 5501.311. (A) Notwithstanding sections 123.01 and 127.16 of the Revised Code the director of transportation may lease or lease-purchase all or any part of a transportation facility to or from one or more persons, one or more governmental agencies, a transportation improvement district, or any combination thereof, and may grant leases, easements, or licenses for lands under the control of the department of transportation. ~~The director may adopt rules necessary to give effect to this section.~~

(B) Plans and specifications for the construction of a transportation facility under a lease or lease-purchase agreement are subject to approval of the director and must meet or exceed all applicable standards of the department.

(C) Any lease or lease-purchase agreement under which the department is the lessee shall be for a period not exceeding the then current two-year period for which appropriations have been made by the general assembly to the department, and such agreement may contain such other terms as the department and the other parties thereto agree, notwithstanding any other provision of law, including provisions that rental payments in amounts sufficient to pay bond service charges payable during the current two-year lease term shall be an absolute and unconditional obligation of the department independent of all other duties under the agreement without set-off or deduction or any other similar rights or defenses. Any such agreement may provide for renewal of the agreement at the end of each term for

another term, not exceeding two years, provided that no renewal shall be effective until the effective date of an appropriation enacted by the general assembly from which the department may lawfully pay rentals under such agreement. Any such agreement may include, without limitation, any agreement by the department with respect to any costs of transportation facilities to be included prior to acquisition and construction of such transportation facilities. Any such agreement shall not constitute a debt or pledge of the faith and credit of the state, or of any political subdivision of the state, and the lessor shall have no right to have taxes or excises levied by the general assembly, or the taxing authority of any political subdivision of the state, for the payment of rentals thereunder. Any such agreement shall contain a statement to that effect.

(D) A municipal corporation, township, or county may use service payments in lieu of taxes credited to special funds or accounts pursuant to sections 5709.43, 5709.47, 5709.75, and 5709.80 of the Revised Code to provide its contribution to the cost of a transportation facility, provided such facility was among the purposes for which such service payments were authorized. The contribution may be in the form of a lump sum or periodic payments.

(E) Pursuant to the "Telecommunications Act of 1996," 110 Stat. 152, 47 U.S.C. 332 note, the director may grant a lease, easement, or license in a transportation facility to a telecommunications service provider for construction, placement, or operation of a telecommunications facility. An interest granted under this division is subject to all of the following conditions:

(1) The transportation facility is owned in fee simple or

easement by this state at the time the lease, easement, or license is granted to the telecommunications provider.

(2) The lease, easement, or license shall be granted on a competitive basis in accordance with policies and procedures to be determined by the director. The policies and procedures may include provisions for master leases for multiple sites.

(3) The telecommunications facility shall be designed to accommodate the state's multi-agency radio communication system, the intelligent transportation system, and the department's communication system as the director may determine is necessary for highway or other departmental purposes.

(4) The telecommunications facility shall be designed to accommodate such additional telecommunications equipment as may feasibly be co-located thereon as determined in the discretion of the director.

(5) The telecommunications service providers awarded the lease, easement, or license, agree to permit other telecommunications service providers to co-locate on the telecommunications facility, and agree to the terms and conditions of the co-location as determined in the discretion of the director.

(6) The director shall require indemnity agreements in favor of the department as a condition of any lease, easement, or license granted under this division. Each indemnity agreement shall secure this state and its agents from liability for damages arising out of safety hazards, zoning, and any other matter of public interest the director considers necessary.

(7) The telecommunications service provider fully complies with any permit issued under section 5515.01 of the Revised Code

pertaining to land that is the subject of the lease, easement, or license.

(8) All plans and specifications shall meet with the director's approval.

(9) Any other conditions the director determines necessary.

(F) In accordance with section 5501.031 of the Revised Code, to further efforts to promote energy conservation and energy efficiency, the director may grant a lease, easement, or license in a transportation facility to a utility service provider that has received its certificate from the Ohio power siting board or appropriate local entity for construction, placement, or operation of an alternative energy generating facility service provider as defined in section 4928.64 of the Revised Code. An interest granted under this division is subject to all of the following conditions:

(1) The transportation facility is owned in fee simple or in easement by this state at the time the lease, easement, or license is granted to the utility service provider.

(2) The lease, easement, or license shall be granted on a competitive basis in accordance with policies and procedures to be determined by the director. The policies and procedures may include provisions for master leases for multiple sites.

(3) The alternative energy generating facility shall be designed to provide energy for the department's transportation facilities with the potential for selling excess power on the power grid, as the director may determine is necessary for highway or other departmental purposes.

(4) The director shall require indemnity agreements in

favor of the department as a condition of any lease, easement, or license granted under this division. Each indemnity agreement shall secure this state from liability for damages arising out of safety hazards, zoning, and any other matter of public interest the director considers necessary.

(5) The alternative energy service provider fully complies with any permit issued by the Ohio power siting board under Chapter 4906. of the Revised Code and complies with section 5515.01 of the Revised Code pertaining to land that is the subject of the lease, easement, or license.

(6) All plans and specifications shall meet with the director's approval.

(7) Any other conditions the director determines necessary.

(G) Money the department receives under this section shall be deposited into the state treasury to the credit of the highway operating fund.

(H) A lease, easement, or license granted under division (E) or (F) of this section, and any telecommunications facility or alternative energy generating facility relating to such interest in a transportation facility, is hereby deemed to further the essential highway purpose of building and maintaining a safe, energy-efficient, and accessible transportation system.

Sec. 5501.51. (A) The state shall reimburse a utility for the cost of relocation of utility facilities necessitated by the construction of a highway project only in the event that the utility can evidence a vested interest in the nature of a fee interest, an easement interest, or a lesser estate in the real

property it occupies in the event that the utility possesses a vested interest in such property. The utility shall present evidence satisfactory to the state substantiating the cost of relocation. The director may audit all financial records which the director determines necessary to verify such actual costs.

(B) ~~The director of transportation may establish and enforce such rules and procedures as the director may determine to be necessary to assure consistency governing any and all aspects of the cost of utility relocations. The director may adopt such amendments to such rules as are necessary and within the guidelines of this section.~~

~~(C)~~ As used in this section:

(1) "Cost of relocation" includes the actual cost paid by a utility directly attributable to relocation after deducting any increase in the value of the new facility and any salvage value derived from the old facility.

(2) "Utility" includes all of the following:

(a) Publicly, privately, and cooperatively owned utilities that are subject to the authority of the public utilities commission of Ohio;

(b) A cable operator as defined in the "Cable Communications Policy Act of 1984," 98 Stat. 2780, 47 U.S.C. 522, as amended by the "Telecommunications Act of 1996," 110 Stat. 56, 47 U.S.C. 151, and includes the provision of other information or telecommunications services, or both;

(c) An electric cooperative and a municipal electric utility, both as defined in section 4928.01 of the Revised Code;

(d) County-owned or county-operated water and sewer

facilities.

Sec. 5502.011. (A) As used in this section, "department of public safety" and "department" include all divisions within the department of public safety.

(B) The director of public safety is the chief executive and administrative officer of the department. The director may establish policies governing the department, the performance of its employees and officers, the conduct of its business, and the custody, use, and preservation of departmental records, papers, books, documents, and property. The director also may authorize and approve investigations to be conducted by any of the department's divisions. Whenever the Revised Code imposes a duty upon or requires an action of the department, the director may perform the action or duty in the name of the department or direct such performance to be performed by the director's designee.

(C) In addition to any other duties enumerated in the Revised Code, the director or the director's designee shall do all of the following:

(1) Administer and direct the performance of the duties of the department;

(2) ~~Pursuant to Chapter 119. of the Revised Code, approve, adopt, and prescribe such forms and rules as are necessary to carry out the duties of the department;~~

~~(3)~~ On behalf of the department and in addition to any authority the Revised Code otherwise grants to the department, have the authority and responsibility for approving and entering into contracts, agreements, and other business arrangements;

~~(4)~~ (3) Make appointments for the department as needed to

comply with requirements of the Revised Code;

~~(5)~~ (4) Approve employment actions of the department, including appointments, promotions, discipline, investigations, and terminations;

~~(6)~~ (5) Accept, hold, and use, for the benefit of the department, any gift, donation, bequest, or devise, and may agree to and perform all conditions of the gift, donation, bequest, or devise, that are not contrary to law;

~~(7)~~ (6) Apply for, allocate, disburse, and account for grants made available under federal law or from other federal, state, or private sources;

~~(8)~~ (7) Develop a list of disqualifying offenses for licensure as a private investigator or a security guard provider pursuant to sections 9.79, 4749.03, 4749.04, 4749.10, and 4776.10 of the Revised Code;

~~(9)~~ (8) Do all other acts, except adopting rules that the Revised Code does not specifically authorize the director or the director's designee to adopt, that are necessary or desirable to carry out this chapter.

(D)(1) The director of public safety may assess a reasonable fee, plus the amount of any charge or fee passed on from a financial institution, on a drawer or indorser for each of the following:

(a) A check, draft, or money order that is returned or dishonored;

(b) An automatic bank transfer that is declined, due to insufficient funds or for any other reason;

(c) Any financial transaction device that is returned or

dishonored for any reason.

(2) The director shall deposit any fee collected under this division in an appropriate fund as determined by the director based on the tax, fee, or fine being paid.

(3) As used in this division, "financial transaction device" has the same meaning as in section 113.40 of the Revised Code.

(E)(1) The director shall establish a homeland security advisory council to advise the director on homeland security, including homeland security funding efforts.

(2) The advisory council shall consist of the following members, who shall serve without compensation:

(a) The secretary of state;

(b) State and local government officials, appointed by the director, who have homeland security or emergency management responsibilities and who represent first responders;

(c) Any other members appointed by the director.

Sec. 5502.22. (A) There is hereby established within the department of public safety an emergency management agency, which shall be governed under rules adopted by the director of public safety under ~~section 5502.25~~ Chapter 119. of the Revised Code. The director, with the concurrence of the governor, shall appoint an executive director, who shall be head of the emergency management agency. The executive director may appoint a chief executive assistant, executive assistants, and administrative and technical personnel within that agency as may be necessary to plan, organize, and maintain emergency management adequate to the needs of the state. The executive

director shall coordinate all activities of all agencies for emergency management within the state, shall maintain liaison with similar agencies of other states and of the federal government, shall cooperate with those agencies subject to the approval of the governor, and shall develop a statewide emergency operations plan that shall meet any applicable federal requirements for such plans. The executive director shall have such additional authority, duties, and responsibilities as are prescribed by the governor and the director or provided by law in all matters relating to emergency management that may be reflected in other sections of the Revised Code. The executive director shall advise the governor and director on matters pertaining to emergency management on a regular basis.

Whenever the disaster services agency or director is referred to or designated in any statute, rule, contract, or other document, the reference or designation shall be deemed to refer to the emergency management agency or executive director, as the case may be.

(B) For the purposes of emergency management, the executive director, with the approval of the director, may participate in federal programs, accept grants from, and enter into cooperative agreements or contractual arrangements with any federal, state, or local department, agency, or subdivision thereof, or any other person or body politic. Whenever the duties of the emergency management agency overlap with rights or duties of other federal, state, or local departments, agencies, subdivisions, or officials, or private agencies, the executive director shall cooperate with, and not infringe upon the rights and duties of, the other public or private entities.

Funds made available by the United States for the use of

the emergency management agency shall be expended by that agency only for the purposes for which the funds were appropriated. In accepting federal funds, the emergency management agency shall abide by the terms and conditions of the grant, cooperative agreement, or contractual arrangement and shall expend the funds in accordance with the laws and regulations of the United States.

Sec. 5502.26. (A) The board of county commissioners of a county and the chief executive of all or a majority of the other political subdivisions within the county may enter into a written agreement establishing a countywide emergency management agency.

A representative from each political subdivision entering into the agreement, selected by the political subdivision's chief executive, shall constitute a countywide advisory group for the purpose of appointing an executive committee under this section through which the countywide agency shall implement emergency management in the county in accordance with this section and for the purpose of advising the executive committee on matters pertaining to countywide emergency management. The executive committee shall consist of at least the following seven members: one county commissioner representing the board of county commissioners entering into the agreement; five chief executives representing the municipal corporations and townships entering into the agreement; and one nonelected representative. The countywide agreement shall specify how many additional members, if any, shall serve on the executive committee and their manner of selection.

The agency shall be supported financially by the political subdivisions entering into the countywide agreement. The

executive committee shall appoint a director/coordinator of emergency management who shall pursue a professional development training program in accordance with rules adopted by the director of public safety under ~~section 5502.25~~ Chapter 119. of the Revised Code. The director/coordinator of emergency management may be an official or employee of any political subdivision entering into the countywide agreement, except that the director/coordinator shall not be the chief executive of any such political subdivision.

A countywide emergency management agency organized under this section shall establish a program for emergency management that:

(1) Is in accordance with sections 5502.21 to 5502.51 of the Revised Code, rules adopted under those sections, local ordinances pertaining to emergency management, the "Robert T. Stafford Disaster Relief and Emergency Assistance Act," 88 Stat. 143, 42 U.S.C. 5121, et~~.~~ seq., as amended, and all applicable rules and regulations adopted under that act;

(2) Includes, without limitation, development of an all-hazards emergency operations plan that has been coordinated with all agencies, boards, and divisions having emergency management functions within the county;

(3) Includes the preparation and conduct of an annual exercise of the county's all-hazards emergency operations plan;

(4) Is applicable to all political subdivisions entering into the countywide agreement.

The director/coordinator of emergency management for a countywide agency organized under this section shall be responsible for coordinating, organizing, administering, and

operating emergency management in accordance with the agency's program established under this section, subject to the direction and control of the executive committee. All agencies, boards, and divisions having emergency management functions within each political subdivision within the county shall cooperate in the development of the all-hazards emergency operations plan and shall cooperate in the preparation and conduct of the annual exercise.

(B) Nothing in this section requires any political subdivision that is located within a county that has entered into a written agreement under this section establishing a countywide emergency management agency to enter into that agreement, provided that the political subdivision has established a program for emergency management in accordance with section 5502.271 of the Revised Code.

(C) A countywide emergency management agency shall be considered a county board and shall receive the services of the auditor, treasurer, and prosecuting attorney of the county in the same manner as other county agencies, boards, or divisions.

Sec. 5502.27. (A) In lieu of establishing a countywide emergency management agency under section 5502.26 of the Revised Code, the boards of county commissioners of two or more counties, with the consent of the chief executives of a majority of the participating political subdivisions of each county involved, may enter into a written agreement establishing a regional authority for emergency management.

A representative from each political subdivision entering into the agreement, selected by the political subdivision's chief executive, shall constitute a regional advisory group for the purpose of appointing an executive committee under this

section through which the regional authority shall implement emergency management in the counties in accordance with this section and for the purpose of advising the executive committee on matters pertaining to regional emergency management. The executive committee shall consist of at least the following nine members: two county commissioners representing the boards of county commissioners entering into the agreement; six chief executives representing the municipal corporations and townships entering into the agreement; and one nonelected representative. The regional agreement shall specify how many additional members, if any, shall serve on the executive committee and their manner of selection.

The authority shall be supported financially by the political subdivisions entering into the regional agreement. The executive committee shall appoint a director/coordinator of emergency management who shall pursue a professional development training program in accordance with rules adopted by the director of public safety under ~~section 5502.25~~ Chapter 119. of the Revised Code. The director/coordinator of emergency management may be an official or employee of any political subdivision entering into the regional agreement, except that the director/coordinator shall not be the chief executive of any such political subdivision.

A regional authority for emergency management organized under this section shall establish a program for emergency management that:

(1) Is in accordance with sections 5502.21 to 5502.51 of the Revised Code, rules adopted under those sections, local ordinances pertaining to emergency management, the "Robert T. Stafford Disaster Relief and Emergency Assistance Act," 88 Stat.

143, 42 U.S.C. 5121, et. seq., as amended, and all applicable rules and regulations adopted under that act;

(2) Includes, without limitation, development of an all-hazards emergency operations plan that has been coordinated with all agencies, boards, and divisions having emergency management functions within the regional authority;

(3) Includes the preparation and conduct of an annual exercise of the regional authority's all-hazards emergency operations plan;

(4) Is applicable to all political subdivisions entering into the regional agreement.

The director/coordinator of emergency management for a regional authority organized under this section shall be responsible for coordinating, organizing, administering, and operating emergency management in accordance with the authority's program established under this section, subject to the direction and control of the executive committee. All agencies, boards, and divisions having emergency management functions within each political subdivision within the regional authority shall cooperate in the development of the all-hazards emergency operations plan and shall cooperate in the preparation and conduct of the annual exercise.

(B) Nothing in this section requires any political subdivision that is located within a county that has entered into a written agreement under this section establishing a regional authority for emergency management to enter into that agreement, provided that the political subdivision has established a program for emergency management in accordance with section 5502.271 of the Revised Code.

(C) A regional authority for emergency management may designate the county auditor and county treasurer of one of the counties in the region as fiscal officers for the regional authority and may designate the prosecuting attorney of one of the counties in the region as legal advisor for the regional authority.

Sec. 5502.271. The chief executive of any political subdivision that has not entered into a written agreement establishing either a countywide emergency management agency under section 5502.26 of the Revised Code or a regional authority for emergency management under section 5502.27 of the Revised Code shall establish a program for emergency management within that political subdivision that meets all of the following criteria:

(A) Is in accordance with sections 5502.21 to 5502.51 of the Revised Code, rules adopted under those sections, local ordinances pertaining to emergency management, the "Robert T. Stafford Disaster Relief and Emergency Assistance Act," 88 Stat. 143, 42 U.S.C. 5121, et. seq., as amended, and all applicable rules and regulations adopted under that act;

(B) Includes, without limitation, development of an all-hazards emergency operations plan that has been coordinated with all agencies, boards, and divisions having emergency management functions within the political subdivision;

(C) Includes the preparation and conduct of an annual exercise of the political subdivision's all-hazards emergency operations plan;

(D) Is not inconsistent with the program for emergency management established for the county in which the political

subdivision is located by a countywide emergency management agency under section 5502.26 of the Revised Code or a regional authority for emergency management under section 5502.27 of the Revised Code.

All agencies, boards, and divisions having emergency management functions within the political subdivision shall cooperate in the development of the all-hazards emergency operations plan and shall cooperate in the preparation and conduct of the annual exercise.

The chief executive shall appoint a director/coordinator of emergency management who shall pursue a professional development training program in accordance with rules adopted by the director of public safety under ~~section 5502.25~~ Chapter 119. of the Revised Code. The director/coordinator of emergency management may be an official or employee of the political subdivision, but shall not be the chief executive of the political subdivision.

The director/coordinator shall be responsible for coordinating, organizing, administering, and operating emergency management in accordance with the political subdivision's program established under this section, subject to the direction and control of the chief executive.

Sec. 5502.65. (A)(1) When funds are available for criminal justice purposes pursuant to section 5502.64 of the Revised Code, the division of criminal justice services shall provide funds to metropolitan county criminal justice services agencies for the purpose of developing, coordinating, evaluating, and implementing comprehensive plans within their respective counties. The division of criminal justice services shall provide funds to an agency only if it complies with the

conditions of division (B) of this section.

(2) When funds are available for juvenile justice purposes pursuant to section 5502.64 of the Revised Code, the department of youth services shall provide funds to metropolitan county criminal justice services agencies for the purpose of developing, coordinating, evaluating, and implementing comprehensive plans within their respective counties. The department shall provide funds to an agency only if it complies with the conditions of division (B) of this section.

(B) A metropolitan county criminal justice services agency shall do all of the following:

(1) Submit, in a form that is acceptable to the division of criminal justice services or the department of youth services pursuant to section 5139.01 of the Revised Code, a comprehensive plan for the county;

(2) Establish a metropolitan county criminal justice services supervisory board whose members shall include a majority of the local elected officials in the county and representatives from law enforcement agencies, courts, prosecuting authorities, public defender agencies, rehabilitation and correction agencies, community organizations, juvenile justice services agencies, professionals, and private citizens in the county, and that shall have the authority set forth in division (C) of this section;

(3) Organize in the manner provided in sections 167.01 to 167.03, 302.21 to 302.24, or 713.21 to 713.27 of the Revised Code, unless the board created pursuant to division (B)(2) of this section organizes pursuant to these sections.

(C) A metropolitan county criminal justice services

supervisory board shall do all of the following:

(1) Exercise leadership in improving the quality of the criminal and juvenile justice systems in the county;

(2) Review, approve, and maintain general oversight of the comprehensive plans for the county and the implementation of the plans;

(3) Review and comment on the overall needs and accomplishments of the criminal and juvenile justice systems in the county;

(4) Establish, as required to comply with this division, task forces, ad hoc committees, and other committees, whose members shall be appointed by the chairperson of the board~~;~~

~~(5) Establish any rules that the board considers necessary and that are consistent with the federal criminal justice acts and section 5502.62 of the Revised Code~~.

Sec. 5502.703. (A) The Ohio school safety and crisis center is hereby created within the department of public safety and shall be operated by the mobile training team established under section 5502.70 of the Revised Code.

(B) The mobile training team shall develop curriculum and provide instruction and training, including firearms training, that individuals may complete to satisfy the criterion specified in division (D)(1)(d)(i) of section 2923.122 of the Revised Code to be permitted to convey deadly weapons or dangerous ordnance into a school safety zone under division (D)(1)(d) of that section. Except as otherwise specified in division (D)(1)(d)(i) of that section, an individual shall successfully complete the curriculum, instruction, and training so developed as a requirement to be permitted to convey deadly weapons or

dangerous ordnance into a school safety zone under the authority of division (D)(1)(d) of that section.

The curriculum, instruction, and training shall follow the private investigator and security guard firearms training guidelines adopted under section 4749.06 of the Revised Code and include both of the following:

(1) Initial instruction and training, which shall not exceed twenty-four hours;

(2) Annual requalification training, which shall not exceed eight hours.

Nothing in this section prohibits a school district board of education or governing body of a school from requiring additional training for an individual to which this section applies.

(C)(1) The curriculum of the initial and requalification instruction and training required under this section shall include instruction in all of the following:

(a) Mitigation techniques;

(b) Communications capabilities and coordination and collaboration techniques;

(c) Neutralization of potential threats and active shooters;

(d) Accountability;

(e) Reunification;

(f) Psychology of critical incidents;

(g) De-escalation techniques;

(h) Crisis intervention;

(i) Trauma and first aid care;

(j) The history and pattern of school shootings;

(k) Tactics of responding to critical incidents in schools;

(l) At least four hours of training in scenario-based or simulated training exercises;

(m) Completion of tactical live firearms training;

(n) Realistic urban training.

(2) The board or governing body of the school that authorizes an individual to convey deadly weapons or dangerous ordnance into a school safety zone, under division (D)(1)(d) of section 2923.122 of the Revised Code, shall pay all fees for the training described in divisions (B) and (C)(1) of this section that the individual receives.

(3) A school district board of education or governing body of a school may adopt alternate curriculum, instruction, and training, provided it includes all of the topics specified in division (C)(1) of this section.

A district board or governing body shall submit any alternate curriculum, instruction, and training adopted under division (C)(3) of this section to the school safety and crisis center for approval prior to granting authorization to an individual to convey deadly weapons or dangerous ordnance into a school safety zone under the control of the district board or governing authority. The school safety center shall approve any curriculum, instruction, and training within thirty days after receipt if the curriculum, instruction, and training comply with

divisions (B) and (C) of this section.

(D) Each school district board of education or governing body of a school shall provide to the school safety and crisis center a current list of the qualified personnel authorized to convey deadly weapons or dangerous ordnance into a school safety zone under the control of the district board or governing body who have completed training under this section.

The list is not a public record under section 149.43 of the Revised Code.

~~(E) The department of public safety, in accordance with Chapter 119. of the Revised Code, shall adopt rules to implement this section.~~

Sec. 5503.10. There is hereby created in the department of public safety, division of state highway patrol, a program for administering and operating a law enforcement automated data system, to be known as LEADS, providing computerized data and communications to the various criminal justice agencies of the state. The program shall be administered by the superintendent of the state highway patrol, who may employ such persons as are necessary to carry out the purposes of this section. The superintendent shall adopt rules under Chapter 119. of the Revised Code establishing fees ~~and guidelines~~ for the operation of and participation in the LEADS program. These rules shall ~~include~~ establish criteria for granting and restricting access to information maintained in LEADS.

The superintendent shall appoint a steering committee to advise ~~him~~the superintendent in the operation of the law enforcement automated data system, comprised of persons who are representative of the criminal justice agencies in Ohio that use

the system. The superintendent or ~~his~~the superintendent's designee shall be ~~chairman~~chairperson of the committee.

Sec. 5503.11. (A) The superintendent of the state highway patrol, with the approval of the director of public safety, may establish an auxiliary unit within the state highway patrol, and provide for the regulation of the auxiliary officers. The superintendent shall be the head of the auxiliary unit, and shall have the sole authority to make all appointments to and dismissals from the auxiliary unit. The superintendent shall prescribe rules for the organization, administration, and control of the auxiliary unit, and the eligibility requirements, training, and conduct of the auxiliary officers. The superintendent also shall have the authority to expend any funds appropriated to the state highway patrol to pay any expenses the state highway patrol incurs in administering the auxiliary unit. Members of the auxiliary unit may be required to pay any portion of their expenses, as determined by the superintendent.

No member of the auxiliary unit shall have any power to arrest any person or to enforce any law of this state.

(B) Each member of the auxiliary unit, in the performance of the member's official duties as determined by the superintendent, possesses personal immunity from civil liability for damages for injury, death, or loss to person or property as specified in section 9.86 of the Revised Code, and is entitled to ~~idemnification~~indemnification and representation as an officer or employee of this state to the extent described in and in accordance with sections 109.361 to ~~109.366~~109.365 of the Revised Code.

Sec. 5505.07. (A) The state highway patrol retirement board may employ a secretary and secure the services of

employees for the transaction of business of the state highway patrol retirement system.

Effective ninety days after ~~the effective date of this amendment~~September 15, 2004, the board may not employ a state retirement system investment officer, as defined in section 1707.01 of the Revised Code, who does not hold a valid state retirement system investment officer license issued by the division of securities in the department of commerce.

The compensation of all persons engaged by the board and all other expenses of the board necessary for the proper operation of the pension fund shall be paid at such rates and in such amounts as the board approves. Every expense voucher of an employee, officer, or board member of the state highway patrol retirement system shall itemize all purchases and expenditures.

(B) The clerical procedures required in the operation of the retirement system shall be performed by the staff of the secretary appointed by the board. The cost of such clerical procedures and the services performed by the secretary of the retirement system shall be paid by the retirement system.

(C) The board shall appoint an actuary who shall be its technical advisor.

(D) The board shall from time to time adopt such mortality and other tables of experience, and such rate or rates of interest, as are required in the proper operation of the retirement system.

(E) The board shall determine by appropriate rules the service to be credited any member in any calendar year.

The board shall perform other functions ~~and adopt rules~~, except for adopting rules that the Revised Code does not

specifically authorize the board to adopt, as required for the proper execution of Chapter 5505. of the Revised Code.

Sec. 5505.17. (A)(1) Upon retirement as provided in section 5505.16 of the Revised Code, a state highway patrol retirement system retirant shall receive a life pension, without guaranty or refund, equal to the greater of one thousand fifty dollars or the sum of two and one-half per cent of the retirant's final average salary multiplied by the first twenty years of total service credit, plus two and one-quarter per cent of the retirant's final average salary multiplied by the number of years, and fraction of a year, of total service credit in excess of twenty years but not in excess of twenty-five years, plus two per cent of the retirant's final average salary multiplied by the number of years, and fraction of a year, in excess of twenty-five years; provided that in no case shall the pension exceed the lesser of seventy-nine and one-quarter per cent of the retirant's final average salary or the limit established by section 415 of the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 415, as amended.

(2) A member with fifteen or more years of total service credit, who voluntarily resigns or who is discharged from the state highway patrol for any reason except retirement under this chapter, death, dishonesty, cowardice, intemperate habits, or conviction of a felony, shall receive a pension equal to one and one-half per cent of the member's final average salary multiplied by the number of years, and fraction of a year, of total service credit, except that the pension shall not exceed the limit established by section 415 of the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 415, as amended. The pension shall commence at the end of the calendar month in which the application is filed with the retirement board on or after

the attainment of age fifty-five years by the applicant. A member or former member who withdraws any part or all of the accumulated contributions from the employees' savings fund shall thereupon forfeit all rights to a pension provided for in this division.

(3)(a) A surviving spouse of a deceased member who died before ~~the effective date of this amendment~~ May 11, 2018, shall receive a monthly pension, determined as follows, during the spouse's life:

(i) If at the time of death the member was not eligible to be granted a pension payable under division (A)(1) of this section or to elect to receive a reduced pension payable under section 5505.16 of the Revised Code, nine hundred dollars;

(ii) If at the time of death the member was eligible to be granted a pension payable under division (A)(1) of this section or to elect to receive a reduced pension payable under section 5505.16 of the Revised Code, the greater of nine hundred dollars or fifty per cent of the computed monthly pension the member would have received had the member been granted a pension under division (A)(1) of this section or elected to receive a reduced pension under section 5505.16 of the Revised Code.

(b) The surviving spouse of a retirant who retired before ~~the effective date of this amendment~~ May 11, 2018, shall receive a monthly pension, determined as follows, during the spouse's life:

(i) If the retirant had been granted retirement under section 5505.16 of the Revised Code, but at the time of death had not attained the age of eligibility for a pension, nine hundred dollars;

(ii) If the retirant had been granted retirement under section 5505.16 of the Revised Code and had attained the age of eligibility for a pension, but at the time of death had not elected to begin receiving the pension, the greater of nine hundred dollars or fifty per cent of the computed monthly pension the retirant was eligible to receive under section 5505.16 of the Revised Code;

(iii) If the retirant had been granted retirement and was receiving a pension under division (A)(1) of this section or section 5505.16 or 5505.18 of the Revised Code, or, regardless of whether or not the retirant had actually received any payment, was eligible to receive a pension under division (A)(1) of this section or section 5505.16 or 5505.18 of the Revised Code and had elected to begin receiving it, the greater of nine hundred dollars or fifty per cent of the computed monthly pension awarded the retirant.

(c) The surviving spouse of a deceased member who dies on or after ~~the effective date of this amendment~~ May 11, 2018, or a retirant who retires on or after ~~the effective date of this amendment~~ May 11, 2018, shall receive a monthly pension during the spouse's life if the spouse was married to the member or retirant while the member or retirant was in the active service of the state highway patrol. The pension shall be determined as follows:

(i) During the period beginning ~~on the effective date of this amendment~~ May 11, 2018, and ending December 31, 2018, nine hundred dollars;

(ii) During the period beginning January 1, 2019, and continuing the following twelve months, and the period beginning the first day of January of each year thereafter and continuing

the following twelve months, an amount equal to the monthly amount payable during the prior twelve-month period plus an amount determined by multiplying nine hundred dollars by the amount the board determines annually under division (B)(1)(b) of section 5505.174 of the Revised Code.

(d) In addition to the pension determined under division (A)(3)(c) of this section, the surviving spouse of a deceased member who dies on or after ~~the effective date of this amendment~~ May 11, 2018, shall receive a monthly pension during the spouse's life if the spouse was married to the member while the member was in the active service of the state highway patrol and, at the time of death, the member was eligible to be granted a pension payable under division (A)(1) of this section or to elect to receive a reduced pension payable under section 5505.16 of the Revised Code. The pension shall be an amount equal to the amount the surviving spouse would have been entitled to receive had the member retired effective the day following the date of death having selected an option 2 plan under division (A)(2)(b) of section 5505.162 of the Revised Code providing for one-half of the member's lesser pension to be paid to the surviving spouse.

(e) If a monthly pension to a surviving spouse was terminated due to a remarriage, the surviving spouse is eligible to receive a monthly pension under division (A)(3) of this section effective the first day of the first month following June 5, 1996. The pension shall be computed under division (A)(3) of this section as of June 5, 1996. The pension payable to a person who is the surviving spouse of more than one state highway patrol retirement system member or retirant shall be computed on the basis of the service of the member or retirant to whom the surviving spouse was most recently married.

(4) A pension of one hundred fifty dollars per month shall be paid by the system to or for the benefit of each child of a deceased member or retirant until the child attains the age of eighteen years or marries, whichever event occurs first, or until the child attains twenty-three years of age if the child is a student in and attending an institution of learning or training pursuant to a program designed to complete in each school year the equivalent of at least two-thirds of the full-time curriculum requirements of the institution, as determined by the retirement board. If any surviving child, regardless of age at the time of the member's or retirant's death, because of physical or mental disability, was totally dependent upon the deceased member or retirant for support at the time of death, a pension of one hundred fifty dollars per month shall be paid by the system to or for the benefit of the child during the child's natural life or until the child recovers from the disability.

(5)(a) If a retirant died prior to June 6, 1988, and the surviving spouse was not married to the retirant while the retirant was in the active service of the patrol, the surviving spouse shall receive a pension of the greater of four hundred twenty-five dollars per month or fifty per cent of the computed monthly pension the retirant was receiving.

(b) If the pension payable to a person receiving a pension under division (A)(5)(a) of this section on June 30, 2000, is less than nine hundred dollars per month, the pension shall be increased to nine hundred dollars per month.

(6) If a deceased member or retirant leaves no spouse or surviving children, but leaves two parents depending solely upon the deceased member or retirant for support, each parent shall be paid a monthly pension of one hundred fifty-four dollars. If

in such case there is only one parent dependent solely upon the deceased member or retirant for support, such parent shall be paid a monthly pension of one hundred fifty-four dollars. Such pension shall be paid during the life of the surviving parents, or until dependency ceases, or until remarriage, whichever event occurs first.

(7) Any amount remaining as accumulated contributions at the time of death of a retirant who leaves no surviving spouse or dependent children or parents shall be paid to the beneficiary or beneficiaries the retirant has nominated by written designation duly executed and filed with the board. A retirant may designate an individual or a trust as a beneficiary. If there is no designated beneficiary surviving the retirant, the retirant's accumulated contributions shall be paid according to the state law of descent and distribution; provided that, if the retirant's accumulated contributions are not claimed by an eligible person or by the estate of the retirant within seven years, they shall be transferred to the income fund of the system and after that shall be paid from that fund to such person or estate upon application to the board.

(8) The increase provided for by division (A)(5) of this section shall be included in the calculation of the additional benefit paid under section 5505.174 of the Revised Code.

(B) ~~The board shall adopt, and may amend or rescind, the necessary rules for the administration of this section and all~~All decisions of the board shall be final. Any payment of a pension or benefit under this section is subject to the provisions of section 5505.26 of the Revised Code.

(C) A member's total service credit may include periods during which the member's employment with the state highway

patrol is interrupted by a leave of absence, when requested by the governor, to accept employment with another agency of the state, provided that:

(1) The member is reemployed by the state highway patrol within thirty days following termination of such other employment;

(2) The member pays into the retirement system, to the credit of the employees' savings fund, an amount equal to the total contributions the member would have paid had the state highway patrol employment not been so interrupted. Such repayment shall begin within ninety days after the member's return to duty with the state highway patrol and be completed within a period equal to that of the leave of absence.

(D) Service credits granted under division (C) of this section shall not include any duplications of credits for which a pension is payable by the public employees retirement system.

Sec. 5505.174. (A) Eligibility for an increase under this section shall be determined as follows:

(1) For a person whose pension effective date is prior to January 7, 2013, an "eligible person" is one of the following:

(a) A person fifty-three years old or older who has been receiving a pension pursuant to division (B) of section 5505.16, division (A)(1) of section 5505.17, or division (B) of section 5505.18 of the Revised Code for not less than twelve months;

(b) A person who has been receiving a pension pursuant to division (B) of section 5505.18 of the Revised Code for not less than sixty months regardless of age;

(c) A person who has been receiving a pension pursuant to

section 5505.162 or division (A)(3), (4), (5), or (6) of section 5505.17 of the Revised Code for not less than twelve months regardless of age.

(2) For a person whose pension effective date is on or after January 7, 2013, but before ~~the effective date of this amendment~~ May 11, 2018, an "eligible person" is a person who is sixty years old or older who has been receiving a pension pursuant to division (B) of section 5505.16, section 5505.162, division (A)(1), (3), (4), (5), or (6) of section 5505.17, or division (B) of section 5505.18 of the Revised Code for not less than twelve months.

(3) For a person whose pension effective date is on or after ~~the effective date of this amendment~~ May 11, 2018, an "eligible person" is a person who is sixty years old or older who has been receiving a pension pursuant to division (B) of section 5505.16, section 5505.162, division (A)(1), (3)(a), (b), or (d), (4), (5), or (6) of section 5505.17, or division (B) of section 5505.18 of the Revised Code for not less than twelve months.

(B)(1) Except as otherwise provided in this section, the state highway patrol retirement board shall annually increase pensions payable to eligible persons under this chapter in accordance with the following:

(a) For each person sixty-five years of age or older who is receiving a pension not greater than one hundred eighty-five per cent of the federal poverty level for a family of two persons, as revised annually by the United States department of health and human services in accordance with section 673(2) of the "Omnibus Reconciliation Act of 1981," 95 Stat. 511, 42 U.S.C. 9902, as amended, the board shall increase the pension by

three per cent.

(b) For persons other than those described in division (B)(1)(a) of this section, the board may increase the pension. Any increase shall be determined by the board based on compliance with the amortization period requirement of section 5505.121 of the Revised Code. The board's determination shall be based on the annual actuarial valuation required by section 5505.12 of the Revised Code. If the board determines that an increase may be made, the increase shall not exceed three per cent of the eligible person's pension.

(2) No increase under this section shall exceed the limit established by section 415 of the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C. 415, as amended.

(3) The date of the first increase paid under this section shall be the anniversary date for future increases. The pension used in the first calculation of an increase under this section shall remain as the base for all future increases paid under this section, unless a new base is established.

(C) If payment of a portion of a benefit is made to an alternate payee under section 5505.261 of the Revised Code, increases under this section granted while the order is in effect shall be apportioned between the alternate payee and the eligible person in the same proportion that the amount being paid to the alternate payee bears to the amount paid to the eligible person.

If payment of a portion of a benefit is made to one or more beneficiaries under "option 4" under division (A)(4) of section 5505.162 of the Revised Code, each increase under this section granted while the plan of payment is in effect shall be

divided among the designated beneficiaries in accordance with the portion each beneficiary has been allocated.

~~(D) The board shall adopt, and may amend or rescind, any rule necessary to carry out this section.~~

Sec. 5505.177. The state highway patrol retirement board may establish and maintain a qualified governmental excess benefit arrangement that meets the requirements of division (m) of section 415 of the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 415, as amended, and any regulations adopted thereunder. If established, the arrangement shall be a separate portion of the state highway patrol retirement system and be maintained solely for the purpose of providing to retired members that part of a benefit otherwise payable under this chapter that exceeds the limits established by section 415 of the "Internal Revenue Code of 1986," as amended.

Members participating in an arrangement established under this section shall not be permitted to elect to defer compensation to the arrangement. Contributions to and benefits paid under an arrangement shall not be payable from a trust that is part of the system unless the trust is maintained solely for the purpose of providing such benefits.

~~The board shall adopt rules to administer an arrangement established under this section.~~

Sec. 5505.18. As used in this section, "member" does not include state highway patrol cadets attending training schools pursuant to section 5503.05 of the Revised Code.

(A) Upon the application of a member of the state highway patrol retirement system, a person acting on behalf of a member, or the superintendent of the state highway patrol on behalf of a

member, a member who becomes totally and permanently incapacitated for duty in the employ of the state highway patrol may be retired on disability by the board. To be eligible for retirement on account of disability incurred not in the line of duty, a member must have five or more years of service credit according to rules adopted by the board.

The medical or psychological examination of a member who has applied for disability retirement shall be conducted by a competent health-care professional or professionals appointed by the board. The health-care professional or professionals shall file a written report with the board containing the following information:

(1) Whether the member is totally incapacitated for duty in the employ of the patrol;

(2) Whether the incapacity is expected to be permanent;

(3) The cause of the member's incapacity.

The board shall determine whether the member qualifies for disability retirement and its decision shall be final. The board shall consider the written medical or psychological report, opinions, statements, and other competent evidence in making its determination. If the incapacity is a result of heart disease or any cardiovascular disease of a chronic nature, which disease or any evidence of which was not revealed by the physical examination passed by the member on entry into the patrol, the member is presumed to have incurred the disease in the line of duty as a member of the patrol, unless the contrary is shown by competent evidence.

(B)(1) Except as provided under division (A) of section 5505.58 of the Revised Code, a member whose retirement on

account of disability incurred in the line of duty shall receive the applicable pension provided for in section 5505.17 of the Revised Code, except that if the member has less than twenty-five years of contributing service, the member's service credit shall be deemed to be twenty-five years for the purpose of this provision. In no case shall the member's disability pension be less than sixty-one and one-quarter per cent or exceed the lesser of seventy-nine and one-quarter per cent of the member's final average salary or the limit established by section 415 of the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 415, as amended.

(2) Except as provided under division (B) of section 5505.58 of the Revised Code, a member whose retirement on account of disability incurred not in the line of duty shall receive the applicable pension provided for in section 5505.17 of the Revised Code, except that if the board's determination that the member qualifies for disability retirement was made before ~~the effective date of this amendment~~ May 11, 2018, and the member has less than twenty years of contributing service, the member's service credit shall be deemed to be twenty years for the purpose of this provision. If the board's determination that the member qualifies for disability retirement is made on or after ~~the effective date of this amendment~~ May 11, 2018, and the member has less than twelve years of contributing service, the member's service credit shall be deemed to be twelve years for the purpose of this provision.

In no case shall the member's disability pension under this division exceed the lesser of seventy-nine and one-quarter per cent of the member's final average salary or the limit established by section 415 of the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 415, as amended.

(C) The state highway patrol retirement board shall adopt rules requiring a disability retirant, as a condition of continuing to receive a disability pension, to agree in writing to obtain any medical or psychological treatment recommended by the board's health-care professional and submit medical or psychological reports regarding the treatment. If the board determines that a disability retirant is not obtaining the medical or psychological treatment or the board does not receive a required medical or psychological report, the disability pension shall be suspended until the treatment is obtained, the report is received by the board, or the board's health-care professional certifies that the treatment is no longer helpful or advisable. Should the retirant's failure to obtain treatment or submit a medical or psychological report continue for one year, the recipient's right to the disability pension shall be terminated as of the effective date of the original suspension.

(D) A disability retirant who has not attained the age of sixty years shall be subject to an annual medical or psychological re-examination by health-care professionals appointed by the board, except that the board may waive the re-examination if the board's health-care professionals certify that the retirant's disability is ongoing. If any retirant refuses to submit to a medical or psychological re-examination, the retirant's disability pension shall be suspended until the retirant withdraws the refusal. If the refusal continues for one year, all the retirant's rights under and to the disability pension shall be terminated as of the effective date of the original suspension.

(E) Each disability retirant who has not attained the age of sixty years shall file with the board an annual statement of earnings, current medical or psychological information on the

recipient's condition, and any other information required in rules adopted by the board. The board may waive the requirement that a disability retirant file an annual statement of earnings or current medical or psychological information if the board's health-care professional certifies that the retirant's disability is ongoing.

The board shall annually examine the information submitted by the retirant. If a retirant refuses to file the statement or information, the disability pension shall be suspended until the statement and information are filed. If the refusal continues for one year, the right to the pension shall be terminated as of the effective date of the original suspension.

(F)(1) Except as provided in division (F)(2) of this section, a disability retirant who has been physically or psychologically examined and found no longer incapable of performing the retirant's duties, or who becomes employed as a law enforcement officer, shall have the right to be restored to the rank the retirant held at the time the retirant was pensioned and the right to have all previous rights restored, including the retirant's civil service status, and the disability pension shall terminate. Upon return to employment in the patrol, the retirant shall again become a contributing member of the retirement system, the total service at the time of the retirant's retirement shall be restored to the retirant's credit, and the retirant shall be given service credit for the period the retirant was in receipt of a disability pension.

(2) The state highway patrol is not required to take action under division (F)(1) of this section if the retirant was dismissed or resigned in lieu of dismissal for dishonesty, misfeasance, malfeasance, or conviction of a felony.

(G) The board shall adopt a rule to define "law enforcement officer" for purposes of division (F)(1) of this section, and may adopt ~~other rules to carry out this section, including~~ rules that specify the types of health-care professionals the board may appoint for the purpose of this section.

Sec. 5505.28. (A) The state highway patrol retirement board may enter into an agreement with insurance companies, health insuring corporations, or government agencies authorized to do business in the state for issuance of a policy or contract of health, medical, hospital, or surgical benefits, or any combination thereof, for those persons receiving pensions and subscribing to the plan. Notwithstanding any other provision of this chapter, the policy or contract may also include coverage for any eligible individual's spouse and dependent children and for any of the individual's sponsored dependents as the board considers appropriate.

If all or any portion of the policy or contract premium is to be paid by any individual receiving a service, disability, or survivor pension or benefit, the individual shall, by written authorization, instruct the board to deduct from the individual's pension or benefit the premium agreed to be paid by the individual to the company, corporation, or agency.

The board may contract for coverage on the basis of part or all of the cost of the coverage to be paid from appropriate funds of the state highway patrol retirement system. The cost paid from the funds of the system shall be included in the employer's contribution rate as provided by section 5505.15 of the Revised Code.

(B) The board shall, beginning the month following receipt

of satisfactory evidence of the payment for coverage, pay monthly to each recipient of a pension under the state highway patrol retirement system who is eligible for coverage under part B of the medicare program established under Title XVIII of "The Social Security Amendments of 1965," 79 Stat. 301 (1965), 42 U.S.C.A. 1395j, as amended, an amount ~~established by board rule~~ not exceeding the basic premium for such coverage.

(C) The board shall establish by rule requirements for the coordination of any coverage, payment, or benefit provided under this section with any similar coverage, payment, or benefit made available to the same individual by the public employees retirement system, Ohio police and fire pension fund, state teachers retirement system, or school employees retirement system.

~~(D) The board shall make all other necessary rules pursuant to the purpose and intent of this section.~~

Sec. 5505.281. The state highway patrol retirement board may establish a program under which a member or a member's employer is permitted to make additional deposits for the purpose of providing funds for the payment of health, medical, hospital, surgical, dental, or vision care expenses, including insurance premiums, deductible amounts, or copayments. The program may be a voluntary employees' beneficiary association, as described in section 501(c)(9) of the Internal Revenue Code, 26 U.S.C. 501(c)(9), as amended; an account described in section 401(h) of the Internal Revenue Code, 26 U.S.C. 401(h), as amended; a medical savings account; or a similar type of program under which an individual may accumulate funds for the purpose of paying such expenses. To implement the program, the board may enter into agreements with insurance companies or other entities

authorized to conduct business in this state.

~~If the board establishes a program under this section, it shall adopt rules to administer the program.~~

Sec. 5505.41. (A) As used in this section, "transferred service credit" means service credit purchased or obtained under section 145.295, 145.2913, 3307.761, 3307.765, 3309.73, or 3309.731 of the Revised Code prior to the date a member commenced the employment covered by the state highway patrol retirement system for which the member is currently contributing to the system.

(B) A member of the state highway patrol retirement system who has contributions on deposit with, but is no longer contributing to, a non-uniform retirement system shall, in computing years of service, be given full credit for transferred service credit if a transfer to the state highway patrol retirement system is made under this section. At the request of a member, the non-uniform system shall transfer to the state highway patrol retirement system the sum of the following:

(1) An amount equal to the amounts transferred to the non-uniform system under section 145.295, 145.2913, 3307.761, 3307.765, 3309.73, or 3309.731 of the Revised Code;

(2) Interest, determined as provided in division (E) of this section, on the amount specified in division (B)(1) of this section for the period from the last day of the year in which the transfer under section 145.295, 145.2913, 3307.761, 3307.765, 3309.73, or 3309.731 of the Revised Code was made to the date a transfer is made under this section.

(C) A member with at least eighteen months of contributing service credit with the state highway patrol retirement system

who has received a refund of contributions to a non-uniform retirement system shall, in computing years of service, be given full credit for transferred service credit if, for each year of service, the state highway patrol retirement system receives the sum of the following:

(1) An amount, which shall be paid by the member, equal to the amount refunded by the non-uniform system to the member for that year for transferred service credit, with interest on that amount from the date of the refund to the date a payment is made under this section;

(2) Interest, which shall be transferred by the non-uniform system, on the amount refunded to the member for the period from the last day of the year in which the transfer under section 145.295, 145.2913, 3307.761, 3307.765, 3309.73, or 3309.731 of the Revised Code was made to the date the refund was made;

(3) If the non-uniform system retained any portion of the amount transferred under section 145.295, 145.2913, 3307.761, 3307.765, 3309.73, or 3309.731 of the Revised Code, an amount, which shall be transferred by the non-uniform system, equal to the amount retained, with interest on that amount for the period from the last day of the year in which the transfer under section 145.295, 145.2913, 3307.761, 3307.765, 3309.73, or 3309.731 of the Revised Code was made to the date a transfer is made under this section.

On receipt of payment from the member, the state highway patrol retirement system shall notify the non-uniform system, which, on receipt of the notice, shall make the transfer required by this division. Interest shall be determined as provided in division (E) of this section.

(D) Service credit purchased or obtained under this section shall be used in computing the pensions payable under section 5505.17 or 5505.18 of the Revised Code. A member may choose to purchase only part of the credit the member is eligible to purchase under division (C) of this section in any one payment~~, subject to rules adopted by the state highway patrol retirement board~~. A member is ineligible to purchase or obtain service credit under this section for service to be used in the calculation of any retirement benefit currently being paid or payable to the member in the future under any other retirement program or for service credit that may be purchased or obtained under section 5505.40 of the Revised Code.

(E) Interest charged under this section shall be calculated separately for each year of service credit at the lesser of the actuarial assumption rate for that year of the state highway patrol retirement system or of the non-uniform retirement system to which the credit was transferred under section 145.295, 145.2913, 3307.761, 3307.765, 3309.73, or 3309.731 of the Revised Code. The interest shall be compounded annually.

(F) Any amounts transferred or paid under divisions (B) and (C) of this section that are attributable to contributions made by the member or to amounts paid to purchase service credit shall be credited to the employees' savings fund created under section 5505.03 of the Revised Code. Any remaining amounts shall be credited to one or more of the funds created under that section as determined by the board.

(G) At the request of the state highway patrol retirement system, the non-uniform retirement system shall certify to the state highway patrol retirement system a copy of the records of

the service and contributions of a member who seeks service credit under this section. The non-uniform retirement system shall specify the portions of the amounts transferred that are attributable to employee contributions, employer contributions, and interest.

(H) If a member who is not a current contributor elects to receive service credit under section 145.2913, 3307.765, or 3309.731 of the Revised Code for transferred service credit, as defined in those sections, the system shall transfer to the non-uniform retirement system, as applicable, the amount specified in division (B) or (C) of section 145.2913, division (B) or (C) of section 3307.765, or division (B) or (C) of section 3309.731 of the Revised Code.

~~(I) The board may adopt rules to implement this section.~~

Sec. 5505.50. The state highway patrol retirement board shall establish and administer a deferred retirement option plan. In establishing and administering the plan, the board shall comply with sections 5505.51 to 5505.59 of the Revised Code and may do all things necessary to meet the requirements of section 401(a) of the "Internal Revenue Code of 1986," (26 U.S.C. 401(a)) as amended, applicable to governmental plans.

The board shall adopt rules to ~~implement this section and sections 5505.51 to 5505.59 of the Revised Code. The rules shall~~ specify the date of initial implementation of the plan established under this section. The rules may also specify a period during which an election made under section 5505.51 of the Revised Code may be rescinded.

Sec. 5505.54. (A) During the period beginning on the effective date of an election to participate in the deferred

retirement option plan and ending on the date participation ceases, a member's monthly pension amount determined under section 5505.53 of the Revised Code shall accrue to the member's benefit. To this amount shall be added any benefit increases the member would be eligible for under section 5505.174 of the Revised Code had the member, on the effective date of the member's election, retired under section 5505.16 of the Revised Code.

(B)(1) The amounts contributed under division (A) of section 5505.15 of the Revised Code by a member participating in the deferred retirement option plan shall be credited as follows:

(a) Ten per cent of the member's annual salary shall accrue to the member's benefit.

(b) Any amount of the member's annual salary that is in excess of ten per cent shall be credited to the employer's accumulation fund.

(2) The state highway patrol retirement system shall credit to the employer's accumulation fund the amounts contributed by the state under section 5505.15 of the Revised Code on behalf of a member participating in the deferred retirement option plan.

(C) During the period beginning on the election's effective date and ending on the date the member ceases participation in the plan, the amounts described in divisions (A) and (B)(1)(a) of this section shall earn interest at an annual rate established by the state highway patrol retirement board and compounded annually using a method established by rule adopted under section ~~5505.50~~ 111.15 of the Revised Code.

Sec. 5515.08. (A) The department of transportation may contract to sell commercial advertising space within or on the outside surfaces of any building located within a roadside rest area under its jurisdiction in exchange for cash payment. Money the department receives under this section shall be deposited in the state treasury to the credit of the highway operating fund.

(B) Advertising placed under this section shall comply with all of the following:

(1) It shall not be libelous or obscene and shall not promote any illegal product or service.

(2) It shall not promote illegal discrimination on the basis of the race, religion, national origin, disability, age, or ancestry of any person.

(3) It shall not support or oppose any candidate for political office or any political cause, issue, or organization.

(4) It shall comply with any controlling federal or state regulations or restrictions.

(5) To the extent physically and technically practical, it shall state that the advertisement is a paid commercial advertisement and that the state does not endorse the product or service promoted by the advertisement or make any representation about the accuracy of the advertisement or the quality or performance of the product or service promoted by the advertisement.

(6) It shall conform to all applicable rules adopted by the director of transportation under division (E) of this section.

(C) Contracts entered into under this section shall be

awarded only to the qualified bidder who submits the highest responsive bid or according to uniformly applied rate classes.

(D) No person, except an advertiser alleging a breach of contract or the improper awarding of a contract, has a cause of action against the state with respect to any contract or advertising authorized by this section. Under no circumstances is the state liable for consequential or noneconomic damages with respect to any contract or advertising authorized under this section.

(E) The director, in accordance with Chapter 119. of the Revised Code, shall adopt rules to ~~implement this section~~regulate the awarding of contracts and may adopt rules to regulate the content, display, and other aspects of the commercial advertising authorized by this section. The rules shall be consistent with the policy of protecting the safety of the traveling public and consistent with the national policy governing the use and control of such roadside rest areas. ~~The rules shall regulate the awarding of contracts and may regulate the content, display, and other aspects of the commercial advertising authorized by this section.~~

Sec. 5516.03. The director of transportation ~~shall~~ may adopt, amend, and enforce rules~~,~~ that are consistent with the customary use of outdoor advertising~~, the safety of the traveling public, and national policy as are necessary to carry out the provisions of this chapter. Such rules may~~ and that ~~include, but shall not be limited to,~~establish sizing, lighting, spacing, and ~~such~~ other conditions ~~as may be necessary~~ to promote the safety of the traveling public and effect the national policy. The rules shall be in addition to the provisions of municipal ordinances regulating advertising

devices and shall not invalidate the provisions of any municipal ordinance that are equivalent to and consistent with the rules adopted by the director under this section. The director shall furnish a copy of such rules, without charge, to any person making a request therefor.

Sec. 5516.14. The director may issue a permit to any sign owner who has a lawful permit issued pursuant to section 5516.10 of the Revised Code to remove, cut, and trim vegetation located on the right-of-way of any highway of the interstate or primary system adjacent to the permitted advertising device and replace the same as directed, whenever such vegetation prevents clear visibility from the main traveled way of such highway. The director ~~shall~~ may adopt rules ~~for the enforcement of this section. The rules may include~~ that establish requirements for appropriate vehicle identification signage, appropriate bond or insurance, and distance limits~~, and any other conditions as may be required by the director~~.

An application for a vegetation permit shall be made on forms designated by the director and a separate application must be submitted for each sign face. Each application shall be accompanied by a nonrefundable application fee in an amount to be determined by the director. Permits issued hereunder shall run for a period of one year and may be renewed upon application made upon forms prescribed by the director and upon the payment of a nonrefundable renewal fee in an amount to be determined by the director. Any permits that are not renewed shall be returned to the director for cancellation by the expiration date.

The director may modify any vegetation permit as is considered necessary for the safety of the traveling public. The director may revoke, cancel, or disapprove a permit or an

application pursuant to section 5516.12 of the Revised Code for any violation of this section or the rules adopted thereunder.

Sec. 5526.06. ~~(A) The director of transportation may adopt, amend, or rescind rules in accordance with Chapter 119. of the Revised Code for the purpose of implementing sections 5526.02 to 5526.05 of the Revised Code.~~

~~(B)~~ Sections 5526.02 to 5526.05 of the Revised Code do not apply to any of the following:

~~(1)~~ (A) A project with an estimated cost of less than fifty thousand dollars;

~~(2)~~ (B) A project that is determined by the director to be an emergency requiring immediate action under section 5526.08 of the Revised Code. When contracting for professional services for the purpose of addressing the emergency, the director shall comply with that section.

~~(3)~~ (C) A project requiring special expertise where there exist fewer than three qualified firms.

Sec. 5531.09. (A) As used in this section and section 5531.10 of the Revised Code:

(1) "Qualified project" means any public or private transportation project as determined by the director of transportation, including, without limitation, planning, environmental impact studies, engineering, construction, reconstruction, resurfacing, restoring, rehabilitation, or replacement of public or private transportation facilities within the state, studying the feasibility thereof, and the acquisition of real or personal property or interests therein; any highway, public transit, aviation, rail, or other transportation project eligible for financing or aid under any

federal or state program; and any project involving the maintaining, repairing, improving, or construction of any public or private highway, road, street, parkway, public transit, aviation, or rail project, and any related rights-of-way, bridges, tunnels, railroad-highway crossings, drainage structures, signs, guardrails, or protective structures.

(2) "Small municipal corporation" means a municipal corporation that is determined by the department of transportation to be an eligible small city in accordance with the department's small city program.

(B) The state infrastructure bank shall consist of the highway and transit infrastructure bank fund, the aviation infrastructure bank fund, the rail infrastructure bank fund, and the infrastructure bank obligations fund, which are hereby created as funds of the state treasury, to be administered by the director of transportation and used for the purposes described in division (C) of this section. The highway and transit infrastructure bank fund, the aviation infrastructure bank fund, and the rail infrastructure bank fund shall consist of federal grants and awards or other assistance received by the state and eligible for deposit therein under applicable federal law, payments received by the department in connection with providing financial assistance for qualifying projects under division (C) of this section, and such other amounts as may be provided by law. The infrastructure bank obligations fund shall consist of such amounts of the proceeds of obligations issued under section 5531.10 of the Revised Code as the director of transportation determines with the advice of the director of budget and management; and such other amounts as may be provided by law. The director of budget and management, upon the request of the director of transportation, may transfer amounts between

the funds created in this division, except the infrastructure bank obligations fund. The investment earnings of each fund created by this division shall be credited to such fund.

(C) The director of transportation shall use the state infrastructure bank to encourage public and private investment in transportation facilities that contribute to the multi-modal and intermodal transportation capabilities of the state, develop a variety of financing techniques designed to expand the availability of funding resources and to reduce direct state costs, maximize private and local participation in financing projects, and improve the efficiency of the state transportation system by using and developing the particular advantages of each transportation mode to the fullest extent. In furtherance of these purposes, the director shall use the state infrastructure bank to provide financial assistance to public or private entities for qualified projects. Such assistance shall be in the form of loans, loan guarantees, letters of credit, leases, lease-purchase agreements, interest rate subsidies, debt service reserves, and such other forms as the director determines to be appropriate. All fees, charges, rates of interest, payment schedules, security for, and other terms and conditions relating to such assistance shall be determined by the director. Any loan made to a small municipal corporation from the state infrastructure bank shall be a zero interest loan.

(D) The director of transportation shall adopt rules establishing guidelines necessary for ~~the implementation and exercise of the authority granted by this section, including rules for~~ receiving, reviewing, evaluating, and selecting projects for which financial assistance may be approved.

(E) The general assembly finds that state infrastructure

projects, as defined in division (A)(8) of section 5531.10 of the Revised Code, and the state infrastructure bank, will materially contribute to the economic revitalization of areas of the state and result in improving the economic welfare of all the people of the state. Accordingly, it is declared to be the public purpose of the state, through operations under sections 5531.09 and 5531.10 of the Revised Code, and other applicable laws adopted pursuant to Section 13 of Article VIII, Ohio Constitution, and other authority vested in the general assembly, to assist in and facilitate the purposes set forth in division (B) of section 5531.10 of the Revised Code, and to assist and cooperate with any governmental agency in achieving such purposes.

Sec. 5531.14. (A) To the extent permitted by federal law, the director of transportation may fix, revise, charge, and collect user fees for each toll project, and contract with any person or governmental agency desiring the use of any part thereof, including the right-of-way adjoining the paved portion, for placing thereon telephone, electric light, or power lines, service facilities, or for any other purpose, and fix the terms, conditions, rents, and rates of charge for such use; provided, that no user fee, charge, or rental may be made for placing in, on, along, over, or under the toll project, equipment or public utility facilities that are necessary to serve service facilities or to interconnect any public utility facilities.

A toll project operator shall display signs that identify the applicable user fees, including fees for motor vehicles that do not have an active, functioning electronic toll collection device registered for and in use in the vehicle. The toll project operator shall erect or otherwise display signs in advance of the toll project at locations that are of distances

that are sufficient to notify motor vehicle operators of the opportunity to exit the street or highway on which they are traveling before the street or highway becomes, becomes part of, or otherwise leads to the toll project and for the use of which user fees apply.

(B) In accordance with Chapter 119. of the Revised Code, the director shall establish a plan, schedule, or system of user fees or charges and shall declare the purpose, amount, and duration of the user fees or charges. Any proposal to implement a user fee or other charge under this section may include a plan, schedule, or system of tolls or charges that is subject to adjustment by the director within and in accordance with that plan, schedule, or system. As part of the plan, schedule, or system, the director shall develop a written process for setting user fee rates. In developing the process, the director shall seek and consider public comment. In doing so, the director shall hold at least one public hearing within fifty miles of the location of the toll project for which the written process is developed.

~~The director, in accordance with Chapter 119. of the Revised Code, also may adopt such additional rules as the director determines necessary for the establishment, collection, and enforcement of user fees and administrative fees, including the purpose, amount, and duration of the fees.~~

(C) One or more user fees, or a portion of any user fees, may be pledged to the repayment of obligations issued for the purpose of financing the toll project and shall be a pledged receipt for those obligations to the extent pledged in the proceedings authorizing such obligations. One or more user fees, or a portion of any user fees, also may be pledged to the

repayment of obligations under any public-private agreement or related financing as provided in sections 5501.70 to 5501.83 of the Revised Code.

(D) User fees shall be so fixed and adjusted by the director as to provide funds at least sufficient with other revenues of the Ohio transportation system, if any, to pay all of the following:

(1) Any debt service charges on obligations issued to pay costs of one or more toll projects as such charges become due and payable, taking into account any other amounts available for such purposes;

(2) Any obligations under any public-private agreement entered into in connection with a toll project as such amounts become due and payable;

(3) The cost of maintaining, improving, repairing, constructing, financing, and operating toll projects within the interstate system or the state highway system and its different parts and sections, and to create and maintain any reserves for those purposes.

(E) Except as provided in division (F) of this section, money received from user fees, other than those received pursuant to a public-private agreement, which shall be deposited in accordance with such agreement and shall be used for the exclusive benefit of such toll project, shall be deposited to the credit of the Ohio toll fund, which is hereby created in the state treasury. The treasurer of state may establish separate subaccounts within the Ohio toll fund as determined to be necessary or convenient to pay costs of constructing, improving, repairing, maintaining, administering, and operating toll

projects within the state highway system. Any remaining money deposited into the Ohio toll fund shall be used at the discretion of the director to support construction, improvement, repair, maintenance, administration, and operation costs for approved toll projects and highway projects within one mile of a toll project. All investment earnings of the fund shall be credited to the fund.

(F) The issuing authority of obligations issued for the purpose of financing the toll project, by the fifteenth day of July of each fiscal year, shall certify or cause to be certified to the department of transportation and the office of budget and management the total amount of money required during the current fiscal year to meet in full all debt service charges and otherwise comply with the requirements of any applicable bond proceedings and all obligations under any public-private agreement relating to a toll project as provided in sections 5501.70 to 5501.83 of the Revised Code. The issuing authority shall make or cause to be made supplemental certifications to the department and the office of budget and management for each bond service payment date and at such other times during each fiscal year as may be provided in the applicable bond proceeding or public-private agreement or required by that department or office. Bond service charges, costs of credit enhancement facilities, other financing costs, and any other amounts required under the applicable bond proceedings and all amounts required under any applicable public-private agreement shall be set forth separately in each certification. Money received from user fees and other pledged receipts shall be deposited to the credit of the bond service fund at such times and in such amounts as are necessary to satisfy all those payment requirements of the applicable bond proceedings or to the credit

of any fund established for such purpose under any public-private agreement. At such time that bond service charges on all outstanding bonds issued in connection with any toll project and the interest on the bonds have been paid or a sufficient amount for the payment of all such bonds and the interest on the bonds to the maturity of the bonds has been set aside in trust for the benefit of the bondholders, as provided in the applicable bond proceedings, and at such time as all amounts due and to become due pursuant to a public-private agreement, which are payable from user fees, have been paid, the project shall be operated, improved, and maintained by the department of transportation as a part of the state highway system and shall be free of user fees.

Sec. 5531.30. (A)(1) The director of transportation may enter into agreements and cooperate with the United States department of transportation, or any other appropriate federal agency as provided in 23 U.S.C. 325 to 327 and as authorized under the "Moving Ahead for Progress in the 21st Century Act (MAP-21)," 126 Stat. 405 (2012); the "Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU)," 119 Stat. 1144 (2005); and the "National Environmental Policy Act of 1969," 83 Stat. 852 (1970). Pursuant to such an agreement the director may assume certain responsibilities of the secretary of the United States department of transportation, and take any other actions required by any such agreement or by such federal laws.

(2) ~~The director may adopt any rules necessary to implement an agreement pursuant to division (A) of this section and carry out any duties imposed under such an agreement.~~

~~(3)~~ The director may make expenditures of money in

connection with an agreement authorized under division (A)(1) of this section from any funds of the department of transportation that are available to the director.

(B) Notwithstanding Chapter 2743. of the Revised Code, this state hereby waives its immunity from civil liability, including the immunity from suit in a federal court under the eleventh amendment to the United States Constitution, and consents to the jurisdiction of the federal courts over its civil liability with regard to the compliance, discharge, or enforcement of the responsibilities assumed under division (A) of this section in accordance with the same procedural and substantive requirements applicable to a suit against a federal agency. Division (B) of this section applies only to actions that are authorized under division (A) of this section and does not create liability that exceeds the liability created under 23 U.S.C. 325 to 327.

Sec. 5537.29. (A) As used in this section:

(1) "Electronic toll account record" means a record kept by the Ohio turnpike and infrastructure commission or any other tolling agency that contains the information required for the commission or other tolling agency to collect the tolls charged to the holder of the electronic toll account or the owner of a motor vehicle that travels on a tolled road.

(2) "Person" does not include any governmental agency.

(3) "Personal information" means information that identifies an individual, including an individual's photograph or digital image, social security number, driver or driver's license identification number, credit card or financial information, name, telephone number, or an individual's address

other than the five-digit zip code number. "Personal information" does not include information pertaining to a vehicular accident, driving or traffic violation, or driver's status.

(B) Except as provided in division (C) of this section, the commission, and any employee or contractor of the commission, shall not knowingly disclose or otherwise make available to any person or entity any personal information about an individual that the commission obtained in connection with processing a toll, fine, fee, or an electronic toll account record.

(C) The commission, or an employee or contractor of the commission, may disclose personal information as follows:

(1) For the use of a governmental agency, including a court or law enforcement agency, in carrying out its functions, or for the use of a private person or entity acting on behalf of an agency of this state, another state, the United States, or a political subdivision of this state or another state in carrying out its functions;

(2) For use in connection with a civil, criminal, administrative, or arbitral proceeding in a court or agency of this state, another state, the United States, or a political subdivision of this state or another state or before a self-regulatory body, including use in connection with the service of process, investigation in anticipation of litigation, or the execution or enforcement of a judgment or order;

(3) Pursuant to an order of a court of this state, another state, the United States, or a political subdivision of this state or another state;

(4) For use by the financial institutions and credit issuing companies directly involved in a credit transaction pertaining to the payment of a toll, fine, or fee;

(5) For the collection of an unpaid toll, fine, fee, or other administrative charge;

(6) For use in exchanging information between other private and public toll transportation facilities;

(7) For any use not otherwise identified in divisions (C)(1) to (6) of this section that is in response to a request for personal information, if the individual whose personal information is requested completes and submits to the commission a form prescribed by the commission ~~by rule~~ giving express consent to such disclosure;

(8) For use by a person, state, or state agency that requests the personal information, if the person, state, or state agency demonstrates that it has obtained the written consent of the individual to whom the information pertains.

(D) The commission shall establish procedures for denying a request for the disclosure of personal information if the request does not satisfy the criteria for disclosure under division (C) of this section.

(E) The commission shall establish any forms ~~and shall adopt rules in accordance with section 111.15 of the Revised Code as~~ necessary to administer this section.

Sec. 5595.12. The governing board of a regional transportation improvement project shall not use any amount pledged or allocated to the board under this chapter for administrative expenses of the board without prior approval of the director of transportation. The director may approve

expenses individually by line item or may approve an aggregate amount to be allocated for administrative expenses over a period of time not exceeding twelve months. ~~The director may prescribe rules pursuant to Chapter 119. of the Revised Code necessary to implement this section.~~

Sec. 5703.021. (A) There is hereby established a small claims docket within the board of tax appeals.

(B) An appeal may be filed with the board of tax appeals and assigned to the small claims docket as authorized under division (C) of this section, provided the appeal is either of the following:

(1) Commenced under section 5717.01 of the Revised Code in which the property at issue qualifies for the partial tax exemption described in section 319.302 of the Revised Code; or

(2) Commenced under section 5717.011 or 5717.02 of the Revised Code when the amount in controversy claimed by the taxpayer does not exceed ten thousand dollars exclusive of interest and penalty. The board by rule may modify the jurisdictional dollar threshold for cases qualifying for the small claims docket.

(C)(1) An appeal may be assigned to the small claims docket only if either of the following applies:

(a) The appellant is one or more taxpayers that requests assignment of the appeal to the small claims docket;

(b) The appellant is not a taxpayer, and the appellant files with the notice of appeal a written statement from every taxpayer that is a party to the appeal stating that each such taxpayer consents to the appeal being assigned to the small claims docket.

(2) After an appeal is assigned to the small claims docket or the regular docket, the board may reassign the case to the regular docket or the small claims docket, respectively, only with the written consent of all the parties or as authorized under division (D) of this section.

(D) Notwithstanding division (B) of this section, the board shall reassign an appeal initially assigned to the small claims docket to the regular docket upon the request of a party that is a taxpayer, when the appeal presents an issue of public or great general interest or presents a constitutional issue, or when the board determines that the appeal does not meet the requirements of division (B) of this section.

(E) The board shall ~~adopt rules to~~ implement procedures to provide informal review of the taxpayers' appeals in the small claims docket, which may include telephonic hearings.

(F) A decision or order for an appeal assigned to the small claims docket shall be conclusive as to all parties and may not be appealed, and shall be recorded in the journal required by division (C) of section 5703.02 of the Revised Code, but such a decision or order shall not be considered as precedent in any other case, hearing, or proceeding.

(G) The appearance of an attorney at law licensed to practice law in this state on behalf of any party to an appeal assigned to the small claims docket is permitted but not required. A person other than a natural person, which is a real party in interest as taxpayer or claimant, or an entity that may participate by statute, may commence such an appeal or appear through an attorney at law licensed to practice law in this state. Such an organization may, through any bona fide officer, partner, member, trustee, or salaried employee, file and present

its claim or defense in any appeal assigned to the small claims docket, provided the organization does not, in the absence of representation by an attorney at law licensed to practice law in this state, engage in cross-examination, argument, or other acts of advocacy. ~~The board may provide by rule for additional guidelines applicable to practice before the board.~~

Sec. 5703.49. (A) On or before December 31, 2001, the tax commissioner shall establish an electronic site accessible through the internet. The tax commissioner shall provide access on the site for each municipal corporation that has not established its own electronic site to post documents or information required under section 718.07 of the Revised Code. The tax commissioner shall provide electronic links for each municipal corporation that establishes a site under that section and for which a uniform resource locator has been provided to the tax commissioner. The tax commissioner is not responsible for the accuracy of the posted information, and is not liable for any inaccurate or outdated information provided by a municipal corporation. The tax commissioner may adopt rules governing the format and means of submitting such documents or information ~~and other matters necessary to implement this section~~. The tax commissioner may charge municipal corporations a fee to defray the cost of establishing and maintaining the electronic site established under this section.

(B) The tax commissioner shall deposit any fees received under this section to the credit of the municipal internet site fund, which is hereby created in the state treasury. The commissioner shall use the fund for costs of establishing and maintaining the electronic site established under this section.

Sec. 5703.56. (A) As used in this section:

(1) "Sham transaction" means a transaction or series of transactions without economic substance because there is no business purpose or expectation of profit other than obtaining tax benefits.

(2) "Tax" includes any tax or fee administered by the tax commissioner.

(3) "Taxpayer" includes any entity subject to a tax.

(4) "Controlled group" means two or more persons related in such a way that one person directly or indirectly owns or controls the business operation of another member of the group. In the case of persons with stock or other equity, one person owns or controls another if it directly or indirectly owns more than fifty per cent of the other person's common stock with voting rights or other equity with voting rights.

(B) The tax commissioner may disregard any sham transaction in ascertaining any taxpayer's tax liability. Except as otherwise provided in the Revised Code, with respect to transactions between members of a controlled group, the taxpayer shall bear the burden of establishing by a preponderance of the evidence that a transaction or series of transactions between the taxpayer and one or more members of the controlled group was not a sham transaction. Except as otherwise provided in the Revised Code, for all other taxpayers, the tax commissioner shall bear the burden of establishing by a preponderance of the evidence that a transaction or series of transactions was a sham transaction.

(C) In administering any tax, the tax commissioner may apply the doctrines of "economic reality," "substance over form," and "step transaction."

(D) If the commissioner disregards a sham transaction under division (B) of this section, the applicable limitation period for assessing the tax, together with applicable penalties, charges, and interest, shall be extended for a period equal to the applicable limitation period. Nothing in this division shall be construed as extending an applicable limitation period for claiming any refund of a tax.

~~(E) The tax commissioner may, in accordance with Chapter 119. of the Revised Code, adopt rules that are necessary to administer this section, including rules establishing criteria for identifying sham transactions.~~

Sec. 5703.76. Any payment or distribution of money that the tax commissioner is required by law to make to a political subdivision of this state, an officer thereof, or a political party shall be made by electronic funds transfer. ~~The commissioner shall promulgate any rules necessary to administer this section.~~

Sec. 5703.77. (A) As used in this section:

(1) "Taxpayer" means a person subject to or previously subject to a tax or fee, a person that remits a tax or fee, or a person required to or previously required to withhold or collect and remit a tax or fee on behalf of another person.

(2) "Tax or fee" means a tax or fee administered by the tax commissioner.

(3) "Credit account balance" means the amount that a taxpayer remits to the state in excess of the amount required to be remitted, after accounting for factors applicable to the taxpayer such as accelerated payments, estimated payments, tax credits, and tax credit balances that may be carried forward.

(4) "Tax debt" means an unpaid tax or fee or any unpaid penalty, interest, or additional charge on such a tax or fee due the state.

(B) As soon as practicable, but not later than sixty days before the expiration of the period of time during which a taxpayer may file a refund application for a tax or fee, the tax commissioner shall review the taxpayer's accounts for the tax or fee and notify the taxpayer of any credit account balance for which the commissioner is required to issue a refund if the taxpayer were to file a refund application for that balance, regardless of whether the taxpayer files a refund application or amended return with respect to that tax or fee. The notice shall be made using contact information for the taxpayer on file with the commissioner.

(C) Notwithstanding sections 128.47, 718.91, 3734.905, 4307.05, 5726.30, 5727.28, 5727.42, 5727.91, 5728.061, 5735.122, 5736.08, 5739.07, 5739.104, 5741.10, 5743.05, 5743.53, 5747.11, 5749.08, 5751.08, 5753.06, and any other section of the Revised Code governing refunds, the commissioner may apply the amount of any credit account balance for which the commissioner is required to issue a refund if the taxpayer were to file a refund application for that balance as a credit against the taxpayer's liability for the tax or fee in the taxpayer's next reporting period for that tax or fee or issue a refund of that credit account balance to the taxpayer, subject to division (D) of this section.

(D) Before issuing a refund to a taxpayer under division (C) of this section, the tax commissioner shall withhold from that refund the amount of any of the taxpayer's tax debt certified to the attorney general under section 131.02 of the

Revised Code and the amount of the taxpayer's liability, if any, for a tax debt. The commissioner shall apply any amount withheld first in satisfaction of the amount of the taxpayer's certified tax debt and then in satisfaction of the taxpayer's liability. If the credit account balance originates from the tax administered under sections 718.80 to 718.95 of the Revised Code, it may be applied only against the taxpayer's certified tax debt or tax liability due under those sections.

~~(E) The tax commissioner may adopt rules to administer this section.~~

Sec. 5703.94. (A) As used in this section:

(1) "Declared disaster" means an event for which a disaster declaration has been issued.

(2) "Disaster declaration" means a declaration issued by the president of the United States or the governor of this state that an emergency exists.

(3) "Disaster response period" means the period that begins on the tenth day preceding the day on which a disaster declaration is issued through the sixtieth day following the day that the disaster declaration expires or is rescinded.

(4) "Disaster work" means both of the following:

(a) Repairing, renovating, installing, or constructing critical infrastructure damaged or destroyed by the declared disaster, or other business activities related to that critical infrastructure;

(b) Activities conducted in preparation for any activity described in division (A)(4)(a) of this section.

(5) "Critical infrastructure" means property and equipment

owned or used by a qualifying owner or user to provide service to more than one customer, including related support facilities such as buildings, offices, power lines, cable lines, poles, communication lines, and structures.

(6) "Qualifying owner or user" means a public utility, commercial mobile radio service provider, cable service provider, or video service provider.

(7) "Public utility" has the same meaning as in section 4905.02 of the Revised Code, without regard to the exclusions from that definition prescribed in divisions (A)(1) to (5) of that section.

(8) "Commercial mobile radio service provider" means a person providing commercial mobile service as defined in 47 U.S.C. 332(d).

(9) "Cable service provider" and "video service provider" have the same meanings as in section 1332.21 of the Revised Code.

(10) "Out-of-state disaster business" means a person that does all of the following or to which apply all of the following:

(a) Receives a qualifying solicitation;

(b) Conducts disaster work in this state during a disaster response period;

(c) Is not subject to taxation under Chapter 5747. or 5751. of the Revised Code on any basis other than such disaster work during the calendar year preceding the year in which the disaster response period begins or is subject to such taxation during that year solely because the person is a related member

of another person.

(11) "Out-of-state employee" means an individual who performs no work in this state, except disaster work during a disaster response period, from the first day of the preceding calendar year to the date on which the disaster response period begins.

(12) "Related member" has the same meaning as in section 5733.042 of the Revised Code without regard to division (B) of that section.

(13) "Qualifying solicitation" means a written solicitation or request from the state, a county, municipal corporation, or township, or a qualifying user or owner of critical infrastructure soliciting or requesting the assistance of a person to perform disaster work in this state.

(14) "Qualifying employee" means one of the following:

(a) An out-of-state employee performing disaster work in this state during a disaster response period whose employer receives a qualifying solicitation to perform such work;

(b) An out-of-state employee performing disaster work in this state on critical infrastructure owned or used by the employee's employer during a disaster response period, provided that employer is a qualifying user or owner.

(B) An out-of-state disaster business or qualifying employee shall qualify for all of the following, as applicable:

(1) The exemption authorized in division (C)(20) of section 718.01, the exemption authorized in division (C)(10) of section 5741.02, the deduction authorized in division (A)(30) of section 5747.01, and the exclusion authorized in division (F)(2)

(ll) of section 5751.01 of the Revised Code;

(2) An exemption from any requirement to file a document or application with or to remit a fee to the secretary of state as a condition precedent to engaging in business in this state, in accordance with section 1701.041 of the Revised Code;

(3) An exemption from the requirements of Chapters 4121., 4123., and 4141. of the Revised Code, in accordance with division (A)(2) of section 4123.01 and section 4141.42 of the Revised Code;

(4) An exemption from the requirement to obtain a state or local occupational license or other authorization, in accordance with section 4799.04 of the Revised Code.

(C)(1) Upon the request of the tax commissioner, an out-of-state disaster business shall provide the following information to the commissioner:

(a) The name of the out-of-state disaster business and the address of its principal place of business;

(b) The business' federal tax identification number;

(c) A copy of the qualifying solicitation received by the business;

(d) The dates that the out-of-state disaster business and each of the business' out-of-state employees performing disaster work in this state during a disaster response period began performing disaster work in this state during that period;

(e) The name and social security number of each of the out-of-state disaster business' out-of-state employees performing disaster work in this state during a disaster response period;

(f) The name of any person of which the out-of-state disaster business is a related member, provided that person is subject to taxation under Chapter 5747. or 5751. of the Revised Code during the calendar year preceding the year in which the disaster response period begins;

(g) Any other information required by the tax commissioner.

(2) Upon the request of the tax commissioner, the employer of a qualifying employee shall provide the following information to the commissioner:

(a) The employer's name and the address of its principal place of business;

(b) The employer's federal tax identification number;

(c) For the employer of a qualifying employee described in division (A)(14)(a) of this section, a copy of the qualifying solicitation received by the employer;

(d) The date each of the employer's out-of-state employees performing disaster work in this state during a disaster response period began performing disaster work in this state during that period;

(e) The name and social security number of each of the employer's out-of-state employees performing disaster work in this state during a disaster response period;

(f) Any other information required by the tax commissioner.

(3) If the commissioner makes a request under division (C)(1) or (2) of this section, the out-of-state disaster business or employer shall submit information described in that division

to the commissioner not later than thirty days from the date the disaster response period terminates or thirty days after the business or employer receives the request, whichever is later.

~~(D) The department of taxation may adopt rules necessary to administer this section.~~

Sec. 5705.341. Any person required to pay taxes on real, public utility, or tangible personal property in any taxing district or other political subdivision of this state may appeal to the board of tax appeals from the action of the county budget commission of any county which relates to the fixing of uniform rates of taxation and the rate necessary to be levied by each taxing authority within a subdivision, taxing unit, library district, or association library district and which action has been certified by the county budget commission to the taxing authority of any political subdivision or other taxing district within the county.

Such appeal shall be in writing and shall set forth the tax rate complained of and the reason that such a tax rate is not necessary to produce the revenue needed by the taxing district or political subdivision for the ensuing fiscal year as those needs are set out in the tax budget of said taxing unit or, if adoption of a tax budget was waived under section 5705.281 of the Revised Code, as set out in such other information the district or subdivision was required to provide under that section, or that the action of the budget commission appealed from does not otherwise comply with sections 5705.01 to 5705.47 of the Revised Code. The notice of appeal shall be filed with the board of tax appeals, and a true copy thereof shall be filed with the tax commissioner, the county auditor, and with the fiscal officer of each taxing district or political

subdivision authorized to levy the tax complained of, and such notice of appeal and copies thereof must be filed within thirty days after the budget commission has certified its action as provided by section 5705.34 of the Revised Code. Such notice of appeal and the copies thereof may be filed either in person or by certified mail. If filed by certified mail, the date of the United States postmark placed on the sender's receipt by the postal employee to whom the notice of appeal is presented shall be treated as the date of filing.

Prior to filing the appeal provided by this section, the appellant shall deposit with the county auditor of the county or, in the event the appeal concerns joint taxing districts in two or more counties, with the county auditor of the county with the greatest valuation of taxable property the sum of five hundred dollars to cover the costs of the proceeding. The county auditor shall forthwith issue a pay-in order and pay such money into the county treasury to the credit of the general fund. The appellant shall produce the receipt of the county treasurer for such deposit and shall file such receipt with the notice of appeal.

The board of tax appeals shall forthwith consider the matter presented on appeal from the action of the county budget commission and may modify any action of the commission with reference to the fixing of tax rates, to the end that no tax rate shall be levied above that necessary to produce the revenue needed by the taxing district or political subdivision for the ensuing fiscal year and to the end that the action of the budget commission appealed from shall otherwise be in conformity with sections 5705.01 to 5705.47 of the Revised Code. The findings of the board of tax appeals shall be substituted for the findings of the budget commission and shall be sent to the county auditor

and the taxing authority of the taxing district or political subdivision affected as the action of such budget commission under sections 5705.01 to 5705.47 of the Revised Code and to the tax commissioner. At the request of an appellant, the findings of the board of tax appeals shall be sent by certified mail at the appellant's expense.

The board of tax appeals shall promptly prepare a cost bill listing the expenses incurred by the board in conducting any hearing on the appeal and certify the cost bill to the county auditor of the county receiving the deposit for costs, who shall forthwith draw a warrant on the general fund of the county in favor of the person or persons named in the bill of costs certified by the board of tax appeals.

In the event the appellant prevails, the board of tax appeals promptly shall direct the county auditor to refund the deposit to the appellant and the costs shall be taxed to the taxing district or political subdivision involved in the appeal. The county auditor shall withhold from any funds then or thereafter in the auditor's possession belonging to the taxing district or political subdivision named in the order of the board of tax appeals and shall reimburse the general fund of the county.

If the appellant fails, the costs shall be deducted from the deposit provided for in this section and any balance which remains shall be refunded promptly to the appellant by warrant of the county auditor drawn on the general fund of the county.

Nothing in this section or any section of the Revised Code shall permit or require the levying of any rate of taxation, whether within the ten-mill limitation or whether the levy has been approved by the electors of a taxing district, political

subdivision, library district, or association library district, or by the charter of a municipal corporation in excess of such ten-mill limitation, unless such rate of taxation for the ensuing fiscal year is clearly required by a budget of the taxing district or political subdivision properly and lawfully adopted under this chapter, or by other information that must be provided under section 5705.281 of the Revised Code if a tax budget was waived.

In the event more than one appeal is filed involving the same taxing district or political subdivision, all such appeals may be consolidated by the board of tax appeals and heard at the same time.

Nothing herein contained shall be construed to bar or prohibit the tax commissioner from initiating an investigation or hearing on the commissioner's own motion.

The tax commissioner shall adopt and issue such orders~~,~~ ~~rules,~~ and instructions, not inconsistent with law, as the commissioner deems necessary, as to the exercise of the powers and the discharge of the duties of any particular county budget commission, county auditor, or other officer which relate to the budget, the assessment of property, or the levy and collection of taxes. The commissioner shall cause the orders and instructions issued by the commissioner to be obeyed.

Sec. 5709.112. For tax year 2006 and each tax year thereafter, all tangible personal property used in the recovery of oil or gas, when installed and located on the premises or leased premises of the owner, shall be exempt from taxation. Such tangible personal property shall be subject to taxation if it is not installed on the premises or leased premises of the owner, or if it is used for the transmission, transportation, or

distribution of oil or gas, as provided in section 5711.22 of the Revised Code. ~~The tax commissioner may adopt rules governing the administration of the exemption provided by this section.~~

This section does not apply to any taxpayer that is required to file a report under section 5727.08 of the Revised Code.

Sec. 5709.67. (A) Except as otherwise provided in sections 5709.61 to 5709.69 of the Revised Code, the director of development shall administer those sections~~ and shall adopt rules necessary to implement and administer the enterprise zone program~~. The director shall assign to each zone currently certified a unique designation by which the zone shall be identified for purposes of administering sections 5709.61 to 5709.69 of the Revised Code. The tax commissioner shall administer all other tax incentives provided under sections 5709.61 to 5709.69 of the Revised Code~~ and shall adopt rules necessary to carry out that duty. No tax incentive qualification certificate or employee tax credit certificate shall be issued or remain in effect unless the enterprise applying for or holding the certificate complies with all such rules~~. The director of job and family services shall administer the incentive provided under division (B)(1) of section 5709.66 of the Revised Code~~ and shall adopt rules necessary to carry out that duty. No extension of benefits certificate shall be issued or remain in effect unless the enterprise applying for or holding the certificate complies with all such rules~~.

(B) Not later than the first day of August each year, the director of development shall report to the general assembly on all of the following for the preceding calendar year:

(1) The cost to the state of the tax and other incentives

provided under sections 5709.61 to 5709.69 of the Revised Code;

(2) The number of tax incentive qualification certificates, employee tax credit certificates, and extension of benefits certificates issued;

(3) The names of the municipal corporations and counties that have entered agreements under sections 5709.62, 5709.63, and 5709.632 of the Revised Code;

(4) The number of new employees hired as a result of the tax and other incentives provided under sections 5709.61 to 5709.69 of the Revised Code;

(5) Information on agreement terms concerning school district revenue that are not provided for in section 5709.631 of the Revised Code and that are forwarded to the director under division (H) of section 5709.62, division (H) of section 5709.63, or division (G) of section 5709.632 of the Revised Code.

The report shall include a finding by the director as to whether the incentives provided under sections 5709.61 to 5709.69 of the Revised Code have resulted in the creation of more positions in the state than would have been created without the incentives. The director shall send a copy of the report to each member of the general assembly and to the director of the legislative service commission.

Sec. 5713.012. (A) For purposes of this section:

(1) "Mass appraisal project" means any sexennial reappraisal, triennial update, or other revaluation of all real property or the valuation of newly constructed real property in accordance with section 5713.01 of the Revised Code.

(2) "Qualified project manager" means a person who plans, manages, coordinates, and controls the execution of a mass appraisal project under the direction of the county auditor and who has all of the following qualifications:

(a) Has passed a comprehensive final examination that corresponds to a course, approved by the superintendent of real estate and professional licensing, that consists of at least thirty hours of instruction, quizzes, and learning aids. The superintendent shall not approve a course under this division that does not address the following topics in both the instruction and the examination:

(i) Concepts and principles of mass appraisal as they relate to the assessment of real property for the purposes of ad valorem taxation;

(ii) Methods of data collection and data management relative to parcels of real property, including modern alternative data collection methods and currently utilized computer-assisted mass appraisal systems;

(iii) Assessment sales-ratio study including various measures of central tendency, the various measures of dispersion of data about the mean, median, and dollar-weighted mean, and the advantages and disadvantages of various analysis techniques;

(iv) Traditional approaches of property valuation, including the cost approach, the sales comparison approach, and the income approach, as they are implemented in a mass appraisal project;

(v) Methods and systems for model building and model calibration as related to mass appraisal of real property;

(vi) Methods of production management and project analysis

such as Gantt charts, program evaluation and review technique (PERT) charts, frequency distribution charts, line graphs, bar charts, and scatter diagrams, as they are utilized in the mass appraisal area.

(b) Has completed at least seven hours of continuing education courses in real property or mass appraisal during the two-year period immediately succeeding the year in which the person passed the examination required in division (A)(2)(a) of this section, and during each two-year period thereafter.

(B)(1) The county auditor, in acting as the assessor of all real property in the auditor's county for taxation purposes in accordance with section 5713.01 of the Revised Code, shall involve at least one qualified project manager in each mass appraisal project that originates more than two years after the effective date of the enactment of this section by H.B. 487 of the 129th general assembly, September 10, 2012.

(2) The tax commissioner, beginning two years after the effective date of the enactment of this section by H.B. 487 of the 129th general assembly, September 10, 2012, shall not approve any contract entered into by the auditor under division (E) of section 5713.01 of the Revised Code with a person to do all or any part of the work necessary to the performance of the auditor's duties as assessor unless that person designates an officer or employee of that person, with the appropriate credentials, to act as a qualified project manager.

(3) The tax commissioner, beginning two years after the effective date of the enactment of this section by H.B. 487 of the 129th general assembly, September 10, 2012, shall not include any person that has not designated an officer or employee, with the appropriate credentials, to act as a

qualified project manager on a list generated by the commissioner for either of the following purposes:

(a) To assist county auditors in selecting a person to do all or any part of the work necessary to the performance of the auditor's duties as assessor of all real property under section 5713.01 of the Revised Code;

(b) To assist the commissioner in the consideration of whether to approve or disapprove the auditor's application requesting authority to employ an appraisal firm or individual appraiser.

(C) The superintendent of real estate and professional licensing shall adopt ~~reasonable~~ rules in accordance with Chapter 119. of the Revised Code ~~necessary for the implementation of this section, including rules~~ establishing both of the following:

(1) The form and manner by which persons may apply to the superintendent to offer a thirty-hour course or continuing education course as described in division (A)(2) of this section;

(2) Standards to be used by the superintendent in approving a thirty-hour course or continuing education course described in division (A)(2) of this section.

Sec. 5715.29. The tax commissioner shall ~~prescribe such general and uniform rules and~~ issue such orders and instructions, not inconsistent with law, as ~~he~~ the commissioner deems necessary~~,~~ as to the exercise of the powers and the discharge of the duties of all officers which relate to the assessment of property and the levy and collection of taxes. The commissioner shall cause ~~the rules prescribed by him to be~~

~~observed,~~ the orders and instructions issued ~~by him~~ under this section to be obeyed~~,~~ and the forms prescribed ~~by him~~ under this section to be observed and used.

Sec. 5725.33. (A) Except as otherwise provided in this section, terms used in this section have the same meaning as section 45D of the Internal Revenue Code, any related proposed, temporary, or final regulations promulgated under the Internal Revenue Code, any rules or guidance of the internal revenue service or the United States department of the treasury, and any related rules or guidance issued by the community development financial institutions fund of the United States department of the treasury, as such law, regulations, rules, and guidance exist on October 16, 2009.

As used in this section:

(1) "Adjusted purchase price" means the amount paid for the portion of a qualified equity investment approved or certified by the director of development ~~services~~ for a qualified community development entity ~~in accordance with rules adopted under division (E) of this section~~.

(2) "Applicable percentage" means zero per cent for each of the first two credit allowance dates, seven per cent for the third credit allowance date, and eight per cent for the four following credit allowance dates.

(3) "Credit allowance date" means the date, on or after January 1, 2010, a qualified equity investment is made and each of the six anniversary dates thereafter. For qualified equity investments made after October 16, 2009, but before January 1, 2010, the initial credit allowance date is January 1, 2010, and each of the six anniversary dates thereafter is on the first day

of January of each year.

(4) "Qualified community development entity" includes only entities:

(a) That have entered into an allocation agreement with the community development financial institutions fund of the United States department of the treasury with respect to credits authorized by section 45D of the Internal Revenue Code;

(b) Whose service area includes any portion of this state; and

(c) That will designate an equity investment in such entities as a qualified equity investment for purposes of both section 45D of the Internal Revenue Code and this section.

(5) "Qualified equity investment" is limited to an equity investment in a qualified community development entity that:

(a) Is acquired after October 16, 2009, at its original issuance solely in exchange for cash;

(b) Has at least eighty-five per cent of its cash purchase price used by the qualified community development entity to make qualified low-income community investments in qualified active low-income community businesses in this state, provided that in the seventh year after a qualified equity investment is made, only seventy-five per cent of such cash purchase price must be used by the qualified community development entity to make qualified low-income community investments in those businesses; and

(c) Is designated by the issuer as a qualified equity investment.

"Qualified equity investment" includes any equity

investment that would, but for division (A)(5)(a) of this section, be a qualified equity investment in the hands of the taxpayer if such investment was a qualified equity investment in the hands of a prior holder.

(B) There is hereby allowed a nonrefundable credit against the tax imposed by section 5725.18 of the Revised Code for an insurance company holding a qualified equity investment on the credit allowance date occurring in the calendar year for which the tax is due. The credit shall equal the applicable percentage of the adjusted purchase price, subject to divisions (B)(1) and (2) of this section:

(1) For the purpose of calculating the amount of qualified low-income community investments held by a qualified community development entity, an investment shall be considered held by a qualified community development entity even if the investment has been sold or repaid, provided that, at any time before the seventh anniversary of the issuance of the qualified equity investment, the qualified community development entity reinvests an amount equal to the capital returned to or received or recovered by the qualified community development entity from the original investment, exclusive of any profits realized and costs incurred in the sale or repayment, in another qualified low-income community investment in this state within twelve months of the receipt of such capital. If the qualified low-income community investment is sold or repaid after the sixth anniversary of the issuance of the qualified equity investment, the qualified low-income community investment shall be considered held by the qualified community development entity through the seventh anniversary of the qualified equity investment's issuance.

(2) The qualified low-income community investment made in this state shall equal the sum of the qualified low-income community investments in each qualified active low-income community business in this state, not to exceed two million five hundred sixty-four thousand dollars, in which the qualified community development entity invests, including such investments in any such businesses in this state related to that qualified active low-income community business through majority ownership or control.

The credit shall be claimed in the order prescribed by section 5725.98 of the Revised Code. If the amount of the credit exceeds the amount of tax otherwise due after deducting all other credits in that order, the excess may be carried forward and applied to the tax due for not more than four ensuing years.

By claiming a tax credit under this section, an insurance company waives its rights under section 5725.222 of the Revised Code with respect to the time limitation for the assessment of taxes as it relates to credits claimed that later become subject to recapture under division (E) of this section.

(C) The aggregate amount of credit allocations made by the director of development ~~services~~ under this section and sections 5726.54, 5729.16, and 5733.58 of the Revised Code each fiscal year shall not exceed ten million dollars.

(D) If any amount of the federal tax credit allowed for a qualified equity investment for which a credit was received under this section is recaptured under section 45D of the Internal Revenue Code, or if the director of development ~~services~~ determines that an investment for which a tax credit is claimed under this section is not a qualified equity investment or that the proceeds of an investment for which a tax credit is

claimed under this section are used to make qualified low-income community investments other than in a qualified active low-income community business in this state, all or a portion of the credit received on account of that investment shall be paid by the insurance company that received the credit to the superintendent of insurance. The amount to be recovered shall be determined by the director of development ~~services~~ pursuant to rules adopted under division (E) of this section. The director shall certify any amount due under this division to the superintendent of insurance, and the superintendent shall notify the treasurer of state of the amount due. Upon notification, the treasurer shall invoice the insurance company for the amount due. The amount due is payable not later than thirty days after the date the treasurer invoices the insurance company. The amount due shall be considered to be tax due under section 5725.18 of the Revised Code, and may be collected by assessment without regard to the time limitations imposed under section 5725.222 of the Revised Code for the assessment of taxes by the superintendent. All amounts collected under this division shall be credited as revenue from the tax levied under section 5725.18 of the Revised Code.

(E) The tax credits authorized under this section and sections 5726.54, 5729.16, and 5733.58 of the Revised Code shall be administered by the department of development ~~services agency~~. The director of development ~~services~~, in consultation with the tax commissioner and the superintendent of insurance, pursuant to Chapter 119. of the Revised Code, shall adopt rules ~~for the administration of this section and sections 5726.54, 5729.16, and 5733.58 of the Revised Code. The rules shall provide~~ providing for determining the recovery of credits under division (D) of this section and under sections 5726.54,

5729.16, and 5733.58 of the Revised Code, including prorating the amount of the credit to be recovered on any reasonable basis, the manner in which credits may be allocated among claimants, and the amount of any application or other fees to be charged in connection with a recovery.

(F) The director of development ~~services~~ is authorized to charge reasonable application and other fees in connection with the administration of tax credits authorized by this section and sections 5726.54, 5729.16, and 5733.58 of the Revised Code. Any such fees collected shall be credited to the tax incentives operating fund created in section 122.174 of the Revised Code.

(G) Tax credits earned or allocated to a pass-through entity, as that term is defined in section 5733.04 of the Revised Code, under section 5725.33, 5726.54, 5729.16, or 5733.58 of the Revised Code may be allocated to persons having a direct or indirect ownership interest in the pass-through entity for such persons' direct use in accordance with the provisions of any mutual agreement between such persons.

Sec. 5725.36. (A) Terms used in this section have the same meanings as in section 175.16 of the Revised Code.

(B) There is allowed a nonrefundable tax credit against the tax imposed by section 5725.18 of the Revised Code for a domestic insurance company that is allocated a credit issued by the executive director of the Ohio housing finance agency under section 175.16 of the Revised Code. The credit equals the amount allocated to such company for the calendar year and reported by the designated reporter on the form prescribed by division ~~(I)~~ (H) of section 175.16 of the Revised Code.

The credit authorized in this section shall be claimed in

the order required under section 5725.98 of the Revised Code. If the amount of a credit exceeds the tax otherwise due under section 5725.18 of the Revised Code after deducting all other credits preceding the credit in the order prescribed in section 5725.98 of the Revised Code, the excess may be carried forward for not more than five ensuing calendar years. The amount of the excess credit claimed in any such year shall be deducted from the balance carried forward to the next calendar year.

No credit shall be claimed under this section to the extent the credit was claimed under section 5726.58, 5729.19, or 5747.83 of the Revised Code.

Sec. 5726.10. The tax commissioner shall enforce and administer this chapter. In addition to any other powers conferred upon the commissioner by law, the commissioner may do ~~any~~ both of the following:

(A) Prescribe all forms required to be filed pursuant to this chapter;

(B) ~~Promulgate such rules and regulations as the commissioner finds necessary to carry out this chapter;~~

~~(C)~~ Appoint and employ such personnel as are necessary to carry out the duties imposed upon the commissioner by this chapter.

Sec. 5726.31. As used in this section, "debt to this state" means unpaid taxes due the state, unpaid workers' compensation premiums due under section 4123.35 of the Revised Code, unpaid unemployment compensation contributions due under section 4141.25 of the Revised Code, unpaid unemployment compensation payments in lieu of contributions due under section 4141.241 of the Revised Code, unpaid claims certified under

section 131.02 or 131.021 of the Revised Code, unpaid fees payable to the state or to the clerk of courts pursuant to section 4505.06 of the Revised Code or any unpaid charge, penalty, or interest arising from any of the foregoing.

If a person entitled to a refund under section 5726.30 of the Revised Code owes any debt to this state, the amount refundable may be applied in satisfaction of the debt. If the amount refundable is less than the amount of the debt, it may be applied in partial satisfaction of the debt. If the amount refundable is greater than the amount of the debt, the amount remaining after satisfaction of the debt shall be refunded. If the taxpayer has more than one such debt, any debt subject to section 5739.33 or division (G) of section 5747.07 of the Revised Code shall be satisfied first.

Except as provided in section 131.021 of the Revised Code, this section applies only to debts that have become final. For the purposes of this section, a debt becomes final when, under the applicable law, any time provided for petition for reassessment, request for reconsideration, or other appeal of the legality or validity of the amount giving rise to the debt expires without an appeal having been filed in the manner provided by law.

The tax commissioner may charge each respective agency of the state for the commissioner's cost in applying refunds to debts due to the state and may charge the attorney general for the commissioner's cost in applying refunds to certified claims. ~~The commissioner may promulgate rules to implement this section.~~

The commissioner may, with the consent of the reporting person for a taxpayer, provide for the crediting of the amount of any refund due to the taxpayer under this chapter for a tax

year against the tax due for any succeeding tax year.

Sec. 5726.58. (A) Terms used in this section have the same meanings as in section 175.16 of the Revised Code.

(B) A taxpayer may claim a nonrefundable tax credit against the tax imposed under section 5726.02 of the Revised Code for each person included in the annual report of the taxpayer that is allocated a credit issued by the executive director of the Ohio housing finance agency under section 175.16 of the Revised Code. The credit equals the amount allocated to such person for the taxable year and reported by the designated reporter on the form prescribed by division ~~(I)~~(H) of section 175.16 of the Revised Code.

The credit authorized in this section shall be claimed in the order required under section 5726.98 of the Revised Code. If the amount of a credit exceeds the tax otherwise due under section 5726.02 of the Revised Code after deducting all other credits preceding the credit in the order prescribed in section 5726.98 of the Revised Code, the excess may be carried forward for not more than five ensuing tax years. The amount of the excess credit claimed in any such year shall be deducted from the balance carried forward to the next tax year.

No credit shall be claimed under this section to the extent the credit was claimed under section 5725.36, 5729.19, or 5747.83 of the Revised Code.

Sec. 5727.88. The tax commissioner shall administer sections 5727.80 to 5727.95 of the Revised Code~~ and may adopt such rules as are necessary to administer those sections~~. Upon request of the tax commissioner, the public utilities commission shall assist the tax commissioner by providing information

regarding any natural gas distribution company or electric distribution company that is subject to regulation by the commission.

Sec. 5728.06. (A) For the following purposes, an excise tax is hereby imposed on the use of motor fuel to operate on the public highways of this state a commercial car with three or more axles, regardless of weight, operated alone or as part of a commercial tandem, a commercial car with two axles having a gross vehicle weight or registered gross vehicle weight exceeding twenty-six thousand pounds operated alone or as part of a commercial tandem, or a commercial tractor operated alone or as part of a commercial tractor combination or commercial tandem: to provide revenue for maintaining the state highway system, to widen existing surfaces on such highways, to resurface such highways, to enable the counties of the state properly to plan for, maintain, and repair their roads, to enable the municipal corporations to plan, construct, reconstruct, repave, widen, maintain, repair, clear, and clean public highways, roads, and streets; to pay that portion of the construction cost of a highway project that a county, township, or municipal corporation normally would be required to pay, but that the director of transportation, pursuant to division (B) of section 5531.08 of the Revised Code, determines instead will be paid from moneys in the highway operating fund; to maintain and repair bridges and viaducts; to purchase, erect, and maintain street and traffic signs and markers; to purchase, erect, and maintain traffic lights and signals; to pay the costs apportioned to the public under section 4907.47 of the Revised Code; and to supplement revenue already available for such purposes, to distribute equitably among those persons using the privilege of driving motor vehicles upon such highways and

streets the cost of maintaining and repairing the same, and to pay the interest, principal, and charges on bonds and other obligations issued pursuant to Section 2i of Article VIII, Ohio Constitution, and sections 5528.30 and 5528.31 of the Revised Code. The tax is imposed in the same amount as the motor fuel tax imposed under Chapter 5735. of the Revised Code. Payment of the fuel use tax shall be made by the purchase within Ohio of such gallons of motor fuel, for which the tax imposed under Chapter 5735. of the Revised Code has been paid, as is equivalent to the gallons consumed while operating such a motor vehicle on the public highways of this state, or by direct remittance to the treasurer of state with the fuel use tax return filed pursuant to section 5728.08 of the Revised Code.

Any person subject to the tax imposed under this section who purchases motor fuel in this state for use in another state in excess of the amount consumed while operating such motor vehicle on the public highways of this state shall be allowed a credit against the tax imposed by this section or a refund equal to the motor fuel tax paid to this state on such excess. No such credit or refund shall be allowed for taxes paid to any state that imposes a tax on motor fuel purchased or obtained in this state and used on the highways of such other state but does not allow a similar credit or refund for the tax paid to this state on motor fuel purchased or acquired in the other state and used on the public highways of this state.

The tax commissioner is authorized to determine whether such credits or refunds are available~~ and to prescribe such rules as are required for the purpose of administering this chapter~~.

(B) Within sixty days after the last day of each month,

the tax commissioner shall determine the amount of motor fuel tax allowed as a credit against the tax imposed by this section. The commissioner shall certify the amount to the director of budget and management and the treasurer of state, who shall credit the amount in accordance with section 5728.08 of the Revised Code from current revenue described under division (A)(1) of section 5735.05 of the Revised Code.

(C) The owner of each commercial car and commercial tractor subject to sections 5728.01 to 5728.14 of the Revised Code is liable for the payment of the full amount of the taxes imposed by this section.

An owner who is a person regularly engaged, for compensation, in the business of leasing or renting motor vehicles without furnishing drivers may designate that the lessee of a motor vehicle leased for a period of thirty days or more shall report and pay the tax incurred during the duration of the lease. An owner who is an independent contractor that furnishes both the driver and motor vehicle, may designate that the person so furnished with the driver and motor vehicle for a period of thirty days or more shall report and pay the tax incurred during that period. An independent contractor that is not an owner, but that furnishes both the driver and motor vehicle and that has been designated by the owner of the motor vehicle to report and pay the tax, may designate that the person so furnished with driver and motor vehicle for a period of thirty days or more shall report and pay the tax incurred during that period.

Sec. 5729.19. (A) Terms used in this section have the same meanings as in section 175.16 of the Revised Code.

(B) There is allowed a nonrefundable tax credit against

the tax imposed by section 5729.03 or 5729.06 of the Revised Code for a foreign insurance company that is allocated a credit issued by the executive director of the Ohio housing finance agency under section 175.16 of the Revised Code. The credit equals the amount allocated to such company for the calendar year and reported by the designated reporter on the form prescribed by division ~~(I)~~(H) of section 175.16 of the Revised Code.

The credit authorized in this section shall be claimed in the order required under section 5729.98 of the Revised Code. If the amount of a credit exceeds the tax otherwise due under section 5729.03 or 5729.06 of the Revised Code after deducting all other credits preceding the credit in the order prescribed in section 5725.98 of the Revised Code, the excess may be carried forward for not more than five ensuing calendar years. The amount of the excess credit claimed in any such year shall be deducted from the balance carried forward to the next calendar year.

No credit shall be claimed under this section to the extent the credit was claimed under section 5725.36, 5726.58, or 5747.83 of the Revised Code.

A foreign insurance company shall not be required to pay any additional tax levied under section 5729.06 of the Revised Code as a result of claiming the tax credit authorized by this section.

Sec. 5731.011. (A) As used in this section:

(1) "Adjusted value" means:

(a) In the case of the gross estate, the value of the gross estate as determined pursuant to section 5731.01 of the

Revised Code and without regard to this section, reduced by any amounts allowable as a deduction under division (A)(4) of section 5731.16 of the Revised Code;

(b) In the case of any real or personal property, the value of the property as determined pursuant to section 5731.01 of the Revised Code and without regard to this section, reduced by any amounts allowable as a deduction in respect to such property under division (A)(4) of section 5731.16 of the Revised Code.

(2) "Member of the decedent's family" means, with respect to any decedent, only ~~his~~ the decedent's ancestor or lineal descendant, a lineal descendant of any of ~~his~~ the decedent's grandparents, ~~his~~ the decedent's spouse, the spouse of any such descendant, or a ~~step-child~~ stepchild or foster child of the decedent.

(3) "Qualified farm property" means real property that is located in this state, that is included in the gross estate of the decedent under this chapter, and that was acquired by, or passed to, a qualified heir, but only if both of the following apply:

(a) Fifty per cent or more of the adjusted value of the gross estate consists of the adjusted value of real or personal property which, on the date of the decedent's death, was being used for a qualified use;

(b) Twenty-five per cent or more of the adjusted value of the gross estate consists of the adjusted value of real property which, on the date of the decedent's death, was being used for a qualified use.

(4) "Qualified heir" means a member of the decedent's

family who acquired qualified farm property, or to whom such property passed. If a qualified heir disposes of any interest in qualified farm property to any member of the decedent's family, that member shall thereafter be treated as the qualified heir with respect to the interest.

(5) "Qualified use" means the devotion of real property exclusively to agricultural use as described in the definition of "land devoted exclusively to agricultural use" contained in division (A) of section 5713.30 of the Revised Code, whether or not an application has been filed by the decedent or a qualified heir pursuant to section 5713.31 of the Revised Code.

(B)(1) For purposes of determining the value of property included in the gross estate, the value of qualified farm property is, subject to division (D) of this section, whichever of the following the person filing the estate tax return elects:

(a) Its fair market value, as determined pursuant to division (B) of section 5731.01 of the Revised Code;

(b) Its value for its actual qualified use, on the date of the decedent's death or on an alternate valuation date prescribed by division (D) of section 5731.01 of the Revised Code;

(c) Its value for its actual qualified use, as determined under section 5713.31 of the Revised Code.

(2) The election shall be made on or before the date by which the return is required to be filed, determined with regard to any extension of time granted pursuant to law for filing the return.

(C)(1) For purposes of this section, the existence of a qualified use may be established, but is not required to be

established, by the filing of an application pursuant to section 5713.31 of the Revised Code and its approval by the county auditor.

(2) This section applies to any interest in qualified farm property that is held in a partnership, corporation, or trust, if the interest would qualify under this section if it were held directly by the decedent.

(D) If the person filing the estate tax return elects pursuant to division (B)(1)(b) or (c) of this section, to have qualified farm property valued at its value for its actual qualified use, and if the difference between the fair market value of the property as determined pursuant to division (B) of section 5731.01 of the Revised Code and the value for its actual qualified use under division (B)(1)(b) or (c) of this section, whichever was elected, exceeds five hundred thousand dollars, the property shall be valued at the amount that is five hundred thousand dollars less than the fair market value.

(E) If an election is made, pursuant to division (B)(1)(b) or (c) of this section, to have qualified farm property valued at its value for its actual qualified use, and if, within four years after the date of the decedent's death and before the death of the qualified heir, the qualified heir disposes of any interest in the property to a person other than a member of the decedent's family, or ceases to use any part of the property for a qualified use, a recapture tax shall be imposed. The recapture tax shall be equivalent to the estate tax savings realized in the decedent's estate by valuating the interest disposed of, or the part of the property that has ceased to be used for a qualified use, at its value for its actual qualified use, instead of at its fair market value pursuant to division (B) of

section 5731.01 of the Revised Code. The recapture tax, plus interest computed at the rate per annum determined under section 5703.47 of the Revised Code, from nine months after the date of the decedent's death, is due and payable on the day that is nine months after the date of the disposition or cessation of use, and shall be paid by the qualified heir who disposed of the interest or ceased use of the part of the property for a qualified use.

(F) The tax commissioner shall prescribe ~~rules and~~ forms to implement this section. The commissioner may adopt rules ~~may require~~requiring, for purposes of division (E) of this section, that a qualified heir file an annual report with the commissioner, establishing that the qualified farm property has not been disposed of to a person other than a member of the decedent's family and that no part of it has ceased to be used for a qualified use.

Sec. 5733.07. The tax commissioner shall enforce and administer this chapter. In addition to any other powers conferred upon ~~him~~ the commissioner by law, the commissioner may:

(A) Prescribe all forms required to be filed pursuant to this chapter;

(B) ~~Promulgate such rules and regulations as he finds necessary to carry out this chapter;~~

~~(C)~~ Appoint and employ such personnel as are necessary to carry out the duties imposed upon ~~him~~ the commissioner by this chapter.

Sec. 5733.121. If a corporation entitled to a refund under section 5733.11 or 5733.12 of the Revised Code is indebted to

this state for any tax, workers' compensation premium due under section 4123.35 of the Revised Code, unemployment compensation contribution due under section 4141.25 of the Revised Code, unemployment compensation payment in lieu of contribution under section 4141.241 of the Revised Code, certified claim under section 131.02 or 131.021 of the Revised Code, or fee that is paid to the state or to the clerk of courts pursuant to section 4505.06 of the Revised Code, or any charge, penalty, or interest arising from such a tax, workers' compensation premium, unemployment compensation contribution, unemployment compensation payment in lieu of contribution under section 4141.241 of the Revised Code, certified claim, or fee, the amount refundable may be applied in satisfaction of the debt. If the amount refundable is less than the amount of the debt, it may be applied in partial satisfaction of the debt. If the amount refundable is greater than the amount of the debt, the amount remaining after satisfaction of the debt shall be refunded. If the corporation has more than one such debt, any debt subject to section 5739.33 or division (G) of section 5747.07 of the Revised Code shall be satisfied first. Except as provided in section 131.021 of the Revised Code, this section applies only to debts that have become final.

The tax commissioner may charge each respective agency of the state for the commissioner's cost in applying refunds to debts due to the state and may charge the attorney general for the commissioner's cost in applying refunds to certified claims. ~~The commissioner may promulgate rules to implement this section.~~

The tax commissioner may, with the consent of the taxpayer, provide for the crediting, against tax due for any tax year, of the amount of any refund due the taxpayer under this chapter for a preceding tax year.

Sec. 5733.42. (A) As used in this section:

(1) "Eligible training program" means a program to provide job skills to eligible employees who are unable effectively to function on the job due to skill deficiencies or who would otherwise be displaced because of their skill deficiencies or inability to use new technology, or to provide job skills to eligible employees that enable them to perform other job duties for the taxpayer. Eligible training programs do not include executive, management, or personal enrichment training programs, or training programs intended exclusively for personal career development.

(2) "Eligible employee" means an individual who is employed in this state by a taxpayer and has been so employed by the same taxpayer for at least one hundred eighty consecutive days before the day an application for the credit is filed under this section. "Eligible employee" does not include any employee for which a credit is claimed pursuant to division (A)(5) of section 5709.65 of the Revised Code for all or any part of the same year, an employee who is not a full-time employee, or executive or managerial personnel, except for the immediate supervisors of nonexecutive, nonmanagerial personnel.

(3) "Eligible training costs" means:

(a) Direct instructional costs, such as instructor salaries, materials and supplies, textbooks and manuals, videotapes, and other instructional media and training equipment used exclusively for the purpose of training eligible employees;

(b) Wages paid to eligible employees for time devoted exclusively to an eligible training program during normal paid working hours.

(4) "Full-time employee" means an individual who is employed for consideration for at least thirty-five hours per week, or who renders any other standard of service generally accepted by custom or specified by contract as full-time employment.

(5) "Partnership" includes a limited liability company formed under former Chapter 1705. ~~or~~ of the Revised Code as that chapter existed prior to February 11, 2022, Chapter 1706. of the Revised Code, or ~~under~~ the laws of another state, provided that the company is not classified for federal income tax purposes as an association taxable as a corporation.

(B) There is hereby allowed a nonrefundable credit against the tax imposed by section 5733.06 of the Revised Code for taxpayers for which a tax credit certificate is issued under division (C) of this section. The credit may be claimed for tax years 2004, 2005, 2006, 2007, and 2008. The amount of the credit for tax year 2004 shall equal one-half of the average of the eligible training costs paid or incurred by the taxpayer during calendar years 1999, 2000, and 2001, not to exceed one thousand dollars for each eligible employee on account of whom eligible training costs were paid or incurred by the taxpayer during those calendar years. The amount of the credit for tax year 2005 shall equal one-half of the average of the eligible training costs paid or incurred by the taxpayer during calendar years 2002, 2003, and 2004, not to exceed one thousand dollars for each eligible employee on account of whom eligible training costs were paid or incurred by the taxpayer during those calendar years. The amount of the credit for tax year 2006 shall equal one-half of the average of the eligible training costs paid or incurred by the taxpayer during calendar years 2003, 2004, and 2005, not to exceed one thousand dollars for each

eligible employee on account of whom eligible training costs were paid or incurred by the taxpayer during those calendar years. The amount of the credit for tax year 2007 shall equal one-half of the average of the eligible training costs paid or incurred by the taxpayer during calendar years 2004, 2005, and 2006, not to exceed one thousand dollars for each eligible employee on account of whom eligible training costs were paid or incurred by the taxpayer during those calendar years. The amount of the credit for tax year 2008 shall equal one-half of the average of the eligible training costs paid or incurred by the taxpayer during calendar years 2005, 2006, and 2007, not to exceed one thousand dollars for each eligible employee on account of whom eligible training costs were paid or incurred by the taxpayer during those calendar years.

The credit claimed by a taxpayer each tax year shall not exceed one hundred thousand dollars.

(C) A taxpayer who proposes to conduct an eligible training program may apply to the director of job and family services for a tax credit certificate under this section. The taxpayer may apply for such a certificate for tax years 2004, 2005, 2006, 2007, and 2008 subject to division (L) of this section. The director shall prescribe the form of the application, which shall require a detailed description of the proposed training program. The director may require applicants to remit an application fee with each application filed with the director. The fee shall not exceed the reasonable and necessary expenses incurred by the director in receiving, reviewing, and approving such applications and issuing tax credit certificates. Proceeds from fees shall be used solely for the purpose of receiving, reviewing, and approving such applications and issuing such certificates.

After receipt of an application, the director shall authorize a credit under this section by issuing a tax credit certificate, in the form prescribed by the director, if the director determines all of the following:

(1) The proposed training program is an eligible training program under this section;

(2) The proposed training program is economically sound and will benefit the people of this state by improving workforce skills and strengthening the economy of this state;

(3) Receiving the tax credit is a major factor in the taxpayer's decision to go forward with the training program;

(4) Authorization of the credit is consistent with division (H) of this section.

The credit also is allowed for a taxpayer that is a partner in a partnership that pays or incurs eligible training costs. Such a taxpayer shall determine the taxpayer's credit amount in the manner prescribed by division (K) of this section.

(D) If the director of job and family services denies an application for a tax credit certificate, the director shall send notice of the denial and the reason for denial to the applicant by certified mail, return receipt requested. If the director determines that an authorized training program, as actually conducted, fails to meet the requirements of this section or to comply with any condition set forth in the authorization, the director may reduce the amount of the tax credit previously granted. If the director reduces a tax credit, the director shall send notice of the reduction and the reason for the reduction to the taxpayer by certified mail, return receipt requested, and shall certify the reduction to the tax

commissioner or, in the case of the reduction of a credit claimed by an insurance company, the superintendent of insurance. The tax commissioner or superintendent of insurance shall reduce the credit that may be claimed by the taxpayer accordingly. Within sixty days after receiving a notice of denial or notice of reduction of the tax credit, an applicant or taxpayer may request, in writing, a hearing before the director to review the denial or reduction. Within sixty days after receiving a request that is filed within the prescribed time, the director shall hold such a hearing at a location to be determined by the director. Within thirty days after the hearing is adjourned, the director shall issue a redetermination affirming, reversing, or modifying the denial or reduction of the tax credit and send notice of the redetermination to the applicant or taxpayer by certified mail, return receipt requested, and shall issue a notice of the redetermination to the tax commissioner or superintendent of insurance. If an applicant or taxpayer is aggrieved by the director's redetermination, the applicant or taxpayer may appeal the redetermination to the board of tax appeals in the manner prescribed by section 5717.02 of the Revised Code.

(E) A taxpayer to which a tax credit certificate is issued shall retain records indicating the eligible training costs it pays or incurs for the eligible training program for which the certificate is issued for four years following the end of the tax year for which the credit is claimed. Such records shall be open to inspection by the director of job and family services upon the director's request during business hours.

Financial statements and other information submitted by an applicant to the director of job and family services for a tax credit under this section, and any information taken for any

purpose from such statements or information, are not public records subject to section 149.43 of the Revised Code. However, the director of job and family services, the tax commissioner, or superintendent of insurance may make use of the statements and other information for purposes of issuing public reports or in connection with court proceedings concerning tax credits allowed under this section and sections 5725.31 and 5729.07 of the Revised Code.

(F) The director of job and family services, in accordance with Chapter 119. of the Revised Code, shall adopt rules ~~necessary to implement this section and sections 5725.31 and 5729.07 of the Revised Code. The rules shall be adopted~~ , after consultation with the tax commissioner and the superintendent of insurance~~. The rules shall require~~ , requiring that if a taxpayer to which a tax credit certificate is issued under ~~any of those sections~~ section 5725.31 or 5729.07 of the Revised Code permanently relocates or transfers employees trained under the tax credit certificate to another state or country within two years of receiving the certificate, the taxpayer shall repay the total amount of the tax credit received by the taxpayer for any employees permanently relocated or transferred. At the time the director gives public notice under division (A) of section 119.03 of the Revised Code of the adoption of the rules, the director shall submit copies of the proposed rules to the chairpersons and ranking minority members of the standing committees in the senate and the house of representatives to which legislation on economic development matters are customarily referred.

(G) On or before the thirtieth day of September of 2001, 2003, 2004, 2005, 2006, 2007, and 2008 the director of job and family services shall submit a report to the governor, the

president of the senate, and the speaker of the house of representatives on the tax credit program under this section and sections 5725.31 and 5729.07 of the Revised Code. The report shall include information on the number of training programs that were authorized under those sections during the preceding calendar year, a description of each authorized training program, the dollar amounts of the credits granted, and an estimate of the impact of the credits on the economy of this state.

(H) The aggregate amount of credits authorized under this section and sections 5725.31 and 5729.07 of the Revised Code shall not exceed twenty million dollars per calendar year. No more than ten million dollars in credits per calendar year shall be authorized for persons engaged primarily in manufacturing. No less than five million dollars in credits per calendar year shall be set aside for persons engaged primarily in activities other than manufacturing and having fewer than five hundred employees. Subject to such limits, the director of job and family services shall adopt a rule under ~~division (F) of this section~~ Chapter 119. of the Revised Code that establishes criteria and procedures for distribution of the credits.

(I) A nonrefundable credit allowed under this section shall be claimed in the order required under section 5733.98 of the Revised Code.

(J) The taxpayer may carry forward any credit amount in excess of its tax due after allowing for any other credits that precede the credit under this section in the order required under section 5733.98 of the Revised Code. The excess credit may be carried forward for three years following the tax year for which it is first claimed under this section.

(K) A taxpayer that is a partner in a partnership on the last day of the third calendar year of the three-year period during which the partnership pays or incurs eligible training costs may claim a credit under this section for the tax year immediately following that calendar year. The amount of a partner's credit equals the partner's interest in the partnership on the last day of such calendar year multiplied by the credit available to the partnership as computed by the partnership.

(L) The director of job and family services shall not authorize any credits under this section and sections 5725.31 and 5729.07 of the Revised Code for eligible training costs paid or incurred after December 31, 2007.

Sec. 5735.05. (A) There is hereby levied a motor fuel excise tax on each motor fuel dealer, measured by gross gallons, upon the receipt of motor fuel within this state.

The tax is levied at the rates prescribed by divisions (E) and (F) of this section.

The revenue derived from twenty-eight cents per gallon of such tax rates shall be distributed under divisions (A), (B), (C), and (D) of section 5735.051 of the Revised Code to fund the following purposes in the following amounts:

(1) Seventeen twenty-eighths of the revenue shall be used solely to provide revenue for maintaining the state highway system; to widen existing surfaces on such highways; to resurface such highways; to pay that portion of the construction cost of a highway project which a county, township, or municipal corporation normally would be required to pay, but which the director of transportation, pursuant to division (B) of section

5531.08 of the Revised Code, determines instead will be paid from moneys in the highway operating fund; to enable the counties of the state properly to plan, maintain, and repair their roads and to pay principal, interest, and charges on bonds and other obligations issued pursuant to Chapter 133. of the Revised Code or incurred pursuant to section 5531.09 of the Revised Code for highway improvements; to enable the municipal corporations to plan, construct, reconstruct, repave, widen, maintain, repair, clear, and clean public highways, roads, and streets, and to pay the principal, interest, and charges on bonds and other obligations issued pursuant to Chapter 133. of the Revised Code or incurred pursuant to section 5531.09 of the Revised Code for highway improvements; to enable the Ohio turnpike and infrastructure commission to construct, reconstruct, maintain, and repair turnpike projects; to maintain and repair bridges and viaducts; to purchase, erect, and maintain street and traffic signs and markers; to purchase, erect, and maintain traffic lights and signals; to pay the costs apportioned to the public under sections 4907.47 and 4907.471 of the Revised Code and to supplement revenue already available for such purposes; to pay the costs incurred by the public utilities commission in administering sections 4907.47 to 4907.476 of the Revised Code; to distribute equitably among those persons using the privilege of driving motor vehicles upon such highways and streets the cost of maintaining and repairing them; to pay the interest, principal, and charges on highway capital improvements bonds and other obligations issued pursuant to Section 2m of Article VIII, Ohio Constitution, and section 151.06 of the Revised Code; to pay the interest, principal, and charges on highway obligations issued pursuant to Section 2i of Article VIII, Ohio Constitution, and sections 5528.30 and 5528.31 of the Revised Code; to pay the interest, principal, and charges on

major new state infrastructure bonds and other obligations of the state issued pursuant to Section 13 of Article VIII, Ohio Constitution, and section 5531.10 of the Revised Code; to provide revenue for the purposes of sections 1547.71 to 1547.77 of the Revised Code; and to pay the expenses of the department of taxation incident to the administration of the motor fuel laws.

(2) Two twenty-eighths of the revenue shall be used solely to pay the expenses of administering and enforcing the state law relating to the registration and operation of motor vehicles; to supply the state's share of the cost of planning, constructing, widening, and reconstructing the state highways; to supply the state's share of the cost of eliminating railway grade crossings upon such highways; to pay that portion of the construction cost of a highway project that a county, township, or municipal corporation normally would be required to pay, but that the director of transportation, pursuant to division (B) of section 5531.08 of the Revised Code, determines instead will be paid from moneys in the highway operating fund; to enable counties and townships to properly plan, construct, widen, reconstruct, and maintain their public highways, roads, and streets; to enable counties to pay principal, interest, and charges on bonds and other obligations issued pursuant to Chapter 133. of the Revised Code or incurred pursuant to section 5531.09 of the Revised Code for highway improvements; to enable municipal corporations to plan, construct, reconstruct, repave, widen, maintain, repair, clear, and clean public highways, roads, and streets; to enable municipal corporations to pay the principal, interest, and charges on bonds and other obligations issued pursuant to Chapter 133. of the Revised Code or incurred pursuant to section 5531.09 of the Revised Code for highway

improvements; to maintain and repair bridges and viaducts; to purchase, erect, and maintain street and traffic signs and markers; to purchase, erect, and maintain traffic lights and signals; to pay the costs apportioned to the public under section 4907.47 of the Revised Code; to provide revenue for the purposes of sections 1547.71 to 1547.77 of the Revised Code and to supplement revenue already available for such purposes; to pay the expenses of the department of taxation incident to the administration of the motor fuel laws and to supplement revenue already available for such purposes; to pay the interest, principal, and charges on bonds and other obligations issued pursuant to Section 2g of Article VIII, Ohio Constitution, and sections 5528.10 and 5528.11 of the Revised Code; and to pay the interest, principal, and charges on highway obligations issued pursuant to Section 2i of Article VIII, Ohio Constitution, and sections 5528.30 and 5528.31 of the Revised Code.

(3) Eight twenty-eighths of the revenue shall be used solely to supply the state's share of the cost of constructing, widening, maintaining, and reconstructing the state highways; to maintain and repair bridges and viaducts; to purchase, erect, and maintain street and traffic signs and markers; to purchase, erect, and maintain traffic lights and signals; to pay the expense of administering and enforcing the state law relative to the registration and operation of motor vehicles; to make road improvements associated with retaining or attracting business for this state; to pay that portion of the construction cost of a highway project that a county, township, or municipal corporation normally would be required to pay, but that the director of transportation, pursuant to division (B) of section 5531.08 of the Revised Code, determines instead will be paid from moneys in the highway operating fund; to provide revenue

for the purposes of sections 1547.71 to 1547.77 of the Revised Code and to supplement revenue already available for such purposes; to pay the expenses of the department of taxation incident to the administration of the motor fuel laws and to supplement revenue already available for such purposes; to pay the interest, principal, and charges on highway obligations issued pursuant to Section 2i of Article VIII, Ohio Constitution, and sections 5528.30 and 5528.31 of the Revised Code; to enable counties and townships to properly plan, construct, widen, reconstruct, and maintain their public highways, roads, and streets; to enable counties to pay principal, interest, and charges on bonds and other obligations issued pursuant to Chapter 133. of the Revised Code or incurred pursuant to section 5531.09 of the Revised Code for highway improvements; to enable municipal corporations to plan, construct, reconstruct, repave, widen, maintain, repair, clear, and clean public highways, roads, and streets; to enable municipal corporations to pay the principal, interest, and charges on bonds and other obligations issued pursuant to Chapter 133. of the Revised Code or incurred pursuant to section 5531.09 of the Revised Code for highway improvements; and to pay the costs apportioned to the public under section 4907.47 of the Revised Code.

(4) One twenty-eighth of the revenue shall be used solely to pay the state's share of the cost of constructing and reconstructing highways and eliminating railway grade crossings on the major thoroughfares of the state highway system and urban extensions thereof; to pay that portion of the construction cost of a highway project that a county, township, or municipal corporation normally would be required to pay, but that the director of transportation, pursuant to division (B) of section

5531.08 of the Revised Code, determines instead will be paid from moneys in the highway operating fund; to pay the interest, principal, and charges on bonds and other obligations issued pursuant to Section 2g of Article VIII, Ohio Constitution, and sections 5528.10 and 5528.11 of the Revised Code; to pay the interest, principal, and charges on highway obligations issued pursuant to Section 2i of Article VIII, Ohio Constitution, and sections 5528.30 and 5528.31 of the Revised Code; to provide revenues for the purposes of sections 1547.71 to 1547.77 of the Revised Code; and to pay the expenses of the department of taxation incident to the administration of the motor fuel laws.

(B) The revenue derived from any portion of the tax rates that exceeds twenty-eight cents per gallon of motor fuel shall be distributed under division (E) of section 5735.051 of the Revised Code to fund the purposes described in divisions (A) and (D) of this section, as provided in divisions (A) and (B) of section 5735.27 of the Revised Code.

(C) The tax imposed by this section does not apply to the following transactions:

(1) The sale of dyed diesel fuel by a licensed motor fuel dealer from a location other than a retail service station provided the licensed motor fuel dealer places on the face of the delivery document or invoice, or both if both are used, a conspicuous notice stating that the fuel is dyed and is not for taxable use, and that taxable use of that fuel is subject to a penalty. The tax commissioner, by rule, may provide that any notice conforming to rules or regulations issued by the United States department of the treasury or the Internal Revenue Service is sufficient notice for the purposes of division (C)(1) of this section.

(2) The sale of K-1 kerosene to a retail service station, except when placed directly in the fuel supply tank of a motor vehicle. Such sale shall be rebuttably presumed to not be distributed or sold for use or used to generate power for the operation of motor vehicles upon the public highways or upon the waters within the boundaries of this state.

(3) The sale of motor fuel by a licensed motor fuel dealer to another licensed motor fuel dealer;

(4) The exportation of motor fuel by a licensed motor fuel dealer from this state to any other state or foreign country;

(5) The sale of motor fuel to the United States government or any of its agencies, except such tax as is permitted by it, where such sale is evidenced by an exemption certificate, in a form approved by the tax commissioner, executed by the United States government or an agency thereof certifying that the motor fuel therein identified has been purchased for the exclusive use of the United States government or its agency;

(6) The sale of motor fuel that is in the process of transportation in foreign or interstate commerce, except insofar as it may be taxable under the Constitution and statutes of the United States, and except as may be agreed upon in writing by the dealer and the commissioner;

(7) The sale of motor fuel when sold exclusively for use in the operation of aircraft, where such sale is evidenced by an exemption certificate prescribed by the commissioner and executed by the purchaser certifying that the motor fuel purchased has been purchased for exclusive use in the operation of aircraft;

(8) The sale for exportation of motor fuel by a licensed

motor fuel dealer to a licensed exporter described in division (DD)(1) of section 5735.01 of the Revised Code;

(9) The sale for exportation of motor fuel by a licensed motor fuel dealer to a licensed exporter described in division (DD)(2) of section 5735.01 of the Revised Code, provided that the destination state motor fuel tax has been paid or will be accrued and paid by the licensed motor fuel dealer.

(10) The sale to a consumer of diesel fuel, by a motor fuel dealer for delivery from a bulk lot vehicle, for consumption in operating a vessel when the use of such fuel in a vessel would otherwise qualify for a refund under section 5735.14 of the Revised Code.

Division (C)(1) of this section does not apply to the sale or distribution of dyed diesel fuel used to operate a motor vehicle on the public highways or upon water within the boundaries of this state by persons permitted under regulations of the United States department of the treasury or of the Internal Revenue Service to so use dyed diesel fuel.

(D) The use of any revenue from the tax levied under this section shall be used for construction, maintenance, and repair of roads and bridges, the operational costs of applicable state agencies, or used to match other revenue for these purposes.

(E) Except as otherwise provided by division (F) of this section, the rates of tax imposed by this section on each gallon of motor fuel on and after July 1, 2019, shall be as follows:

(1) Thirty-eight and one-half cents on each gallon of gasoline;

(2) Forty-seven cents on each gallon of motor fuel other than gasoline.

(F) The tax on each gallon equivalent of compressed natural gas shall be:

(1) Ten cents on and after July 1, 2019, and before July 1, 2020;

(2) Twenty cents on and after July 1, 2020, and before July 1, 2021;

(3) Thirty cents on and after July 1, 2021, and before July 1, 2022;

(4) Forty cents on and after July 1, 2022, and before July 1, 2023;

(5) Forty-seven cents on and after July 1, 2023.

~~(G) The tax commissioner may adopt rules as necessary to administer this section.~~

Sec. 5735.062. (A) If the tax commissioner so requires, the dealer shall remit each monthly tax payment electronically as prescribed by division (B) of this section.

The commissioner shall notify each dealer required to remit taxes electronically of the dealer's obligation to do so. Failure by the commissioner to notify a dealer subject to this section to remit taxes electronically does not relieve the dealer of its obligation to remit taxes electronically.

(B) Dealers required by division (A) of this section to remit payments electronically shall remit such payments through the Ohio business gateway, as defined in section 718.01 of the Revised Code, or in another manner as prescribed by the commissioner. Required payments shall be remitted on or before the dates specified under section 5735.06 of the Revised Code. The payment of taxes electronically does not affect a dealer's

obligation to file the monthly return as required under section 5735.06 of the Revised Code.

A dealer required by this section to remit taxes electronically may apply to the commissioner to be excused from that requirement. The commissioner may excuse the dealer from the electronic remittance requirement for good cause shown for the period of time requested by the dealer or for a portion of that period.

(C) If a dealer required by this section to remit taxes electronically fails to do so, the commissioner may impose a penalty on the dealer not to exceed one of the following:

(1) For the first return period the dealer fails to remit taxes electronically, the greater of twenty-five dollars or five per cent of the amount of the payment required to be remitted;

(2) For the second or any subsequent return period the dealer fails to remit taxes electronically, the greater of fifty dollars or ten per cent of the amount of the payment required to be remitted.

The penalty imposed under division (C) of this section is in addition to any other penalty imposed under this chapter and shall be considered as revenue arising from the taxes imposed under this chapter. A penalty may be collected by assessment in the manner prescribed by section 5735.12 of the Revised Code. The commissioner may abate all or a portion of a penalty.

~~(D) The commissioner may adopt rules necessary to administer this section.~~

Sec. 5736.03. (A) No person shall avoid the tax imposed by this chapter by receiving motor fuel outside of this state and transferring the motor fuel into this state within one year. Any

such person shall be considered to have received the fuel in this state and shall include, in the calculation of calculated gross receipts, the number of gallons of motor fuel the person transfers into this state within one year after the person receives the property outside of this state.

(B) Any person that knowingly receives motor fuel from a supplier that is not licensed as required by section 5736.06 of the Revised Code shall include in the calculation of the person's calculated gross receipts the number of gallons of motor fuel the person received in this state or transported into this state from the unlicensed supplier.

~~(C) The tax commissioner may adopt rules necessary to administer this section.~~

Sec. 5739.05. (A)(1) The tax commissioner shall enforce and administer sections 5739.01 to 5739.31 of the Revised Code, which are hereby declared to be sections which the commissioner is required to administer within the meaning of sections 5703.17 to 5703.37, 5703.39, 5703.41, and 5703.45 of the Revised Code. ~~The commissioner may adopt and promulgate, in accordance with sections 119.01 to 119.13 of the Revised Code, such rules as the commissioner deems necessary to administer sections 5739.01 to 5739.31 of the Revised Code.~~

(2) On or before the first day of May of each year, the commissioner shall make available to vendors a notice explaining the three-day exemption period required under division (B)(55) of section 5739.02 of the Revised Code.

(B) Upon application, the commissioner may authorize a vendor to pay on a predetermined basis the tax levied by or pursuant to section 5739.02, 5739.021, 5739.023, or 5739.026 of

the Revised Code upon sales of things produced or distributed or services provided by such vendor, and the commissioner may waive the collection of the tax from the consumer. The commissioner shall not grant such authority unless the commissioner finds that the granting of the authority would improve compliance and increase the efficiency of the administration of the tax. The person to whom such authority is granted shall post a notice, if required by the commissioner, at the location where the product is offered for sale that the tax is included in the selling price. ~~The commissioner may adopt rules to administer this division.~~

(C) Upon application, the commissioner may authorize a vendor to remit, on the basis of a prearranged agreement under this division, the tax levied by section 5739.02 or pursuant to section 5739.021, 5739.023, or 5739.026 of the Revised Code. The proportions and ratios in a prearranged agreement shall be determined either by a test check conducted by the commissioner under terms and conditions agreed to by the commissioner and the vendor or by any other method agreed upon by the vendor and the commissioner. If the parties are unable to agree to the terms and conditions of the test check or other method, the application shall be denied.

If used, the test check shall determine the proportion that taxable retail sales bear to all of the vendor's retail sales and the ratio which the tax required to be collected under sections 5739.02, 5739.021, 5739.023, and 5739.026 of the Revised Code bears to the receipts from the vendor's taxable retail sales.

The vendor's liability for remitting the tax shall be based solely upon the proportions and ratios established in the

agreement until such time that the vendor or the commissioner believes that the nature of the vendor's business has so changed as to make the agreement no longer representative. The commissioner may give notice to the vendor at any time that the authorization is revoked or the vendor may notify the commissioner that the vendor no longer elects to report under the authorization. Such notice shall be delivered to the other party in the manner provided in section 5703.37 of the Revised Code. The revocation or cancellation is effective the last day of the month in which the vendor or the commissioner receives the notice.

Sec. 5739.121. (A) As used in this section:

(1) "Bad debt" means any debt that has become worthless or uncollectible in the time period between a vendor's preceding return and the present return, has been uncollected for at least six months, and that may be claimed as a deduction pursuant to the "Internal Revenue Code of 1954," 68A Stat. 50, 26 U.S.C. 166, as amended, and regulations adopted pursuant thereto, or that could be claimed as such a deduction if the vendor kept accounts on an accrual basis. "Bad debt" does not include any interest or sales tax on the purchase price, uncollectible amounts on property that remains in the possession of the vendor until the full purchase price is paid, expenses incurred in attempting to collect any account receivable or for any portion of the debt recovered, and repossessed property.

(2) "Lender" means a person or an affiliate, assignee, or transferee of a person that owns a private label credit account, or an interest in a private label credit account receivable, provided that interest was any of the following:

(a) Transferred from a third party;

(b) Purchased directly from a vendor that remitted tax imposed under this chapter or from an affiliate of the vendor;

(c) Originated according to a written agreement between the person and a vendor that remitted tax imposed under this chapter or an affiliate of the vendor.

(3) "Private label credit account" means a credit account that carries, refers to, or is branded with the name of a vendor and for which the lender, when establishing the consumer's credit limit, complied with all applicable Ohio and federal laws that are intended to protect consumers, including all of the following:

(a) The "Credit Card Accountability Responsibility and Disclosure Act of 2009," 15 U.S.C. 1601 et seq.;

(b) The "Equal Credit Opportunity Act," 15 U.S.C. 1691 et seq.;

(c) The "Fair Credit Reporting Act," 15 U.S.C. 1681.

(4) "Accounts or receivables bad debt" means the unpaid balance on private label credit accounts or private label credit account receivables that are bad debt and are charged off as uncollectible on the books of a lender on or after July 1, 2023, and against which a deduction has not previously been taken under this section. For the purposes of division (A)(4) of this section only, "bad debt" shall be determined without regard to when the debt has become worthless or uncollectible relative to the period between a vendor's returns, and the deductibility of the debt for federal income tax purposes shall be determined with respect to the lender instead of the vendor.

(5) "Affiliate" means any person that is a member of an affiliated group or that would be a member of an affiliated

group if the person was a corporation.

(6) "Affiliated group" has the same meaning as in section 1504 of the Internal Revenue Code.

(B) In computing taxable receipts for purposes of this chapter, a vendor may deduct the amount of bad debts. Except as provided in division (F) of this section, the amount deducted must be charged off as uncollectible on the books of the vendor. A deduction may be claimed only with respect to bad debts on which the taxes pursuant to sections 5739.10 and 5739.12 of the Revised Code were paid in a preceding tax period. If the vendor's business consists of taxable and nontaxable transactions, the deduction shall equal the full amount of the debt if the debt is documented as a taxable transaction in the vendor's records. If no such documentation is available, the maximum deduction on any bad debt shall equal the amount of the bad debt multiplied by the quotient obtained by dividing the sales taxed pursuant to this chapter during the preceding calendar year by all sales during the preceding calendar year, whether taxed or not. If a consumer or other person pays all or part of a bad debt with respect to which a vendor claimed a deduction under this section, the vendor shall be liable for the amount of taxes deducted in connection with that portion of the debt for which payment is received and shall remit such taxes in the vendor's next payment to the tax commissioner.

(C) Any claim for a bad debt deduction under this section shall be supported by such evidence as the tax commissioner by rule requires. The commissioner shall review any change in the rate of taxation applicable to any taxable sales by a vendor claiming a deduction pursuant to this section and adopt rules for altering the deduction in the event of such a change in

order to ensure that the deduction on any bad debt does not result in the vendor claiming the deduction recovering any more or less than the taxes imposed on the sale that constitutes the bad debt.

(D) In any reporting period in which the amount of bad debt other than the accounts or receivables bad debt exceeds the amount of taxable sales for the period, the vendor may file a refund claim for any tax collected on the bad debt in excess of the tax reported on the return. The refund claim shall be filed in the manner provided in section 5739.07 of the Revised Code, except that the claim may be filed within four years of the due date of the return on which the bad debt first could have been claimed.

(E) When the filing responsibilities of a vendor have been assumed by a certified service provider, the certified service provider shall claim the bad debt allowance provided by this section on behalf of the vendor. The certified service provider shall credit or refund to the vendor the full amount of any bad debt allowance or refund.

(F)(1) A vendor may deduct on a return accounts or receivables bad debt.

A vendor taking a deduction under division (F)(1) of this section shall include all credit sale transactions outstanding in the account or receivable at the time the account or receivable is charged off as uncollectible on the books of a lender in calculating the deduction, regardless of the date on which the credit sale transaction occurs.

(2) The deduction authorized under division (F)(1) of this section may be taken by the vendor only on the basis of accounts

or receivables bad debt from purchases from the vendor whose name is carried, referred to, or branded on the private label credit account or from purchases from any of the vendor's affiliates or franchisees.

(3) A vendor taking a deduction under division (F)(1) of this section shall maintain books, records, or other documents verifying the accounts or receivables bad debt, which shall be open to inspection by the commissioner upon request.

(4) If the lender collects in whole or part any accounts or receivables bad debt on the basis of which the vendor took a deduction under division (F) of this section, the vendor shall include the amount collected in the vendor's first return filed after the collection and pay tax on the portion of that amount with respect to which the vendor took the deduction.

(5) If the total amount of accounts or receivables bad debt for a month exceeds a vendor's taxable sales for that month, the vendor may carry forward and deduct the excess on succeeding tax returns until the total amount of accounts or receivables bad debt has been deducted.

(6) Unless otherwise agreed to by the lender and vendor, the economic benefit of the deduction permitted under division (F)(1) of this section shall inure to the benefit of the party that suffered the economic burden of the accounts or receivables bad debt.

~~(G) The tax commissioner may adopt rules necessary to administer this section.~~

Sec. 5739.36. (A) For the purpose of tracking the growth and overall economic impact of the travel and tourism industry in this state, the tax commissioner shall prepare a report

summarizing the amount of tax revenue collected during each semiannual period ending on the last day of June or December, annually. The commissioner shall prepare the report by industry classification using business activity codes. The report shall include the combined total statewide collections from the taxes levied under sections 5739.02, 5739.021, 5739.023, 5739.026, 5741.02, 5741.021, 5741.022, and 5741.023 of the Revised Code as reported by taxpayers with respect to collections during the semiannual period. The report shall reflect all industries included in the industrial classification system used by the commissioner the activities of which relate in any way to travel and tourism, including, but not limited to, industries such as bars and restaurants; hotels, motels, and other lodging establishments; and other industries related to travel and tourism. The first report shall be for the semiannual period ending December 31, 2005.

(B) The tax commissioner shall file a copy of the report required under this section with the governor, the president of the senate, the speaker of the house of representatives, and the legislative service commission. The reports shall be filed on or before the first day of May or November, annually, that immediately follows the semiannual period to which the report relates. A copy of the commissioner's most recent report shall be made available to the public through the department of taxation's official internet web site.

~~(C) The commissioner shall adopt rules that are necessary to administer this section.~~

Sec. 5741.06. The tax commissioner shall enforce and administer sections 5741.01 to 5741.22 of the Revised Code, which are hereby declared to be laws which ~~he~~ the commissioner

is required to administer within the meaning of sections 5703.17 to 5703.39 and 5703.45 of the Revised Code. The commissioner may ~~adopt and promulgate such rules as he deems necessary to administer sections 5741.01 to 5741.22 of the Revised Code, and may~~ authorize a seller to prepay the tax levied by or pursuant to section 5741.02, 5741.021, 5741.022, or 5741.023 of the Revised Code upon storage, use, or consumption of things produced or distributed by such seller, and ~~he~~ the commissioner may waive the collection of the tax from the consumer; but no such authority shall be granted or exercised, except upon application to the commissioner and unless ~~he~~ the commissioner finds, that the conditions of the applicant's business are such as to render impracticable the collection of the tax by the seller in the manner otherwise provided by such sections; nor shall the authority so granted be exercised, nor the seller actually selling such products be exempted from sections 5741.01 to 5741.22 of the Revised Code, by virtue of such an authorization, unless the person to whom such authority is granted prints plainly upon the product sold, or offered for sale, a statement to the effect that the tax has been paid in advance, or otherwise conveys said information to the consumer by written notice. The commissioner may require security to ~~his~~ the commissioner's satisfaction to be filed with ~~him~~ the commissioner, in such amount as ~~he~~ the commissioner determines to be sufficient to secure the prepayment under the provisions of this section of the taxes levied by or pursuant to section 5741.02, 5741.021, 5741.022, or 5741.023 of the Revised Code in the manner desired.

Sec. 5741.071. (A) A marketplace seller may request and shall obtain a waiver from the tax commissioner for a marketplace facilitator not to be treated as a seller pursuant

to division (E) of section 5741.01 of the Revised Code with respect to a specific marketplace seller if the following conditions are met:

(1) The marketplace seller certifies it has annual gross receipts within the United States, including the gross receipts of any affiliate, as defined in section 122.15 of the Revised Code, of at least one billion dollars;

(2) The marketplace seller or its affiliate, as defined in section 122.15 of the Revised Code, is publicly traded on at least one major stock exchange;

(3) The marketplace seller is current on all taxes, fees, and charges administered by the department of taxation that are not subject to a bona fide dispute;

(4) The marketplace seller has not, within the past twelve months, requested that a waiver related to the marketplace facilitator at issue be canceled nor has the waiver been revoked by the commissioner; and

(5) The marketplace seller has not violated division (B) of section 5739.30 of the Revised Code.

(B) A marketplace seller shall request a waiver on the form prescribed by the commissioner. A request for a waiver shall contain a signed declaration from the marketplace facilitator acquiescing to the request for a waiver. A waiver request that is not ruled upon by the commissioner within thirty days of the date it was filed is deemed granted. A waiver that is granted by the commissioner or deemed to be granted is effective on and after the first day of the first month that begins at least thirty days after the commissioner grants the waiver or the waiver is deemed granted. The waiver is valid

until the first day of the first month that begins at least sixty days after it is revoked by the commissioner or cancelled by the marketplace seller.

(C)(1) If a waiver is granted by the commissioner, the commissioner shall notify the marketplace seller and the seller shall be considered the vendor pursuant to division (C) of section 5739.01 of the Revised Code or a seller pursuant to division (E) of section 5741.01 of the Revised Code, as applicable.

(2) A marketplace seller is required to notify the marketplace facilitator of the status of the waiver of the marketplace seller. However, if a waiver is denied by the commissioner, a copy of the denial shall be provided to the marketplace facilitator.

(3) A marketplace seller that has been issued a waiver under this section may cancel the waiver by sending notice to the commissioner and to the marketplace facilitator identified in the waiver application. The commissioner may revoke a waiver if the commissioner determines that any of the conditions described in divisions (A)(1) to (5) of this section are no longer met by the marketplace seller. The commissioner shall notify the marketplace seller and the marketplace facilitator upon revoking a waiver.

(D) Notwithstanding section 5703.21 of the Revised Code, the commissioner may divulge information related to the status of the waiver sought by or granted to the marketplace seller for a particular marketplace facilitator to either the impacted marketplace seller or marketplace facilitator.

~~(E) The commissioner may promulgate rules the commissioner~~

~~deems necessary to administer this section.~~

Sec. 5741.072. (A) If all of the following conditions are met, a delivery network company that facilitates delivery network services may request a waiver from the requirement in division (E) of section 5741.01 of the Revised Code that a marketplace facilitator be treated as the seller of goods sold by marketplace sellers through the marketplace facilitator:

(1) The delivery network company is current on all taxes, fees, and charges administered by the department of taxation that are not subject to a bona fide dispute.

(2) The delivery network company has not, within the twelve months preceding the request for waiver, requested that a previously granted waiver be canceled or had a previously granted waiver revoked by the commissioner.

(3) The delivery network company has not violated division (B) of section 5739.30 of the Revised Code.

A waiver granted under this section does not affect the delivery network company's status as the seller of its delivery network services.

(B) A delivery network company that requests a waiver pursuant to this section shall make the request to the tax commissioner on a form prescribed by the commissioner. A waiver that is not affirmatively granted or denied by the commissioner within thirty days of the date it was filed with the commissioner is automatically granted. A waiver that is granted by the commissioner or granted automatically is effective on and after the first day of the first month that begins at least thirty days after the commissioner grants the waiver or the waiver is automatically granted. The waiver is valid until the

first day of the first month that begins at least sixty days after it is revoked by the commissioner or canceled by the delivery network company.

(C)(1) When a waiver is granted pursuant to division (B) of this section, the commissioner shall notify the delivery network company, which shall then notify each local merchant operating on the delivery network company's physical or electronic marketplace that the local merchant shall be considered a vendor pursuant to division (C) of section 5739.01 of the Revised Code or a seller pursuant to division (E) of section 5741.01 of the Revised Code, as applicable, with respect to the local products sold by the seller through the delivery network company's physical or electronic marketplace.

(2) A delivery network company that has been granted a waiver under this section may cancel the waiver by sending notice to the commissioner. The commissioner may revoke a waiver if the commissioner determines that any of the conditions described in divisions (A)(1) to (3) of this section are no longer met by the delivery network company. The commissioner shall notify the delivery network company upon revoking a waiver. A delivery network for which a waiver has been canceled or revoked shall promptly notify each local merchant operating on the delivery network company's physical or electronic marketplace that its waiver has been canceled or revoked.

(D) Notwithstanding section 5703.21 of the Revised Code, the commissioner may divulge information related to the status of a waiver granted to a delivery network company if requested by a local merchant operating on the delivery network company's physical or electronic marketplace.

~~(E) The commissioner may adopt any rules necessary to~~

~~administer this section.~~

Sec. 5743.15. (A) Except as otherwise provided in this division, no person shall engage in this state in the wholesale or retail business of trafficking in cigarettes or in the business of a manufacturer or importer of cigarettes without having a license to conduct each such activity issued by a county auditor under division (B) of this section or the tax commissioner under divisions (C) and (F) of this section. On dissolution of a partnership by death, the surviving partner may operate under the license of the partnership until expiration of the license, and the heirs or legal representatives of deceased persons, and receivers and trustees in bankruptcy appointed by any competent authority, may operate under the license of the person succeeded in possession by such heir, representative, receiver, or trustee in bankruptcy if the partner or successor notifies the issuer of the license of the dissolution or succession within thirty days after the dissolution or succession.

(B)(1) Each applicant for a license to engage in the retail business of trafficking in cigarettes under this section, annually, on or before the first day of June, shall make and deliver to the county auditor of the county in which the applicant desires to engage in the retail business of trafficking in cigarettes, upon a blank form furnished by such auditor for that purpose, a statement showing the name of the applicant, each physical place in the county where the applicant's business is conducted, the nature of the business, and any other information the tax commissioner requires in the form of statement prescribed by the commissioner. If the applicant is a firm, partnership, or association other than a corporation, the application shall state the name and address of

each of its members. If the applicant is a corporation, the application shall state the name and address of each of its officers. At the time of making the application required by this section, every person desiring to engage in the retail business of trafficking in cigarettes shall pay an application fee in the sum of one hundred twenty-five dollars for each physical place where the person proposes to carry on such business. Each place of business shall be deemed such space, under lease or license to, or under the control of, or under the supervision of the applicant, as is contained in one or more contiguous, adjacent, or adjoining buildings constituting an industrial plant or a place of business operated by, or under the control of, one person, or under one roof and connected by doors, halls, stairways, or elevators, which space may contain any number of points at which cigarettes are offered for sale, provided that each additional point at which cigarettes are offered for sale shall be listed in the application.

(2) Upon receipt of the application and exhibition of the county treasurer's receipt showing the payment of the application fee, the county auditor shall issue to the applicant a license for each place of business designated in the application, authorizing the applicant to engage in such business at such place for one year commencing on the first day of June. The form of the license shall be prescribed by the commissioner. A duplicate license may be obtained from the county auditor upon payment of a five-dollar fee if the original license is lost, destroyed, or defaced. When an application is filed after the first day of June, the application fee required to be paid shall be proportioned in amount to the remainder of the license year, except that it shall not be less than twenty-five dollars in any one year.

(3) The holder of a retail dealer's cigarette license may transfer the license to a place of business within the same county other than that designated on the license on condition that the licensee's ownership interest and business structure remain unchanged, and that the licensee applies to the county auditor therefor, upon forms approved by the commissioner and the payment of a fee of five dollars into the county treasury.

(C)(1) Each applicant for a license to engage in the wholesale business of trafficking in cigarettes under this section, annually, on or before the first day of June, shall make and deliver to the tax commissioner, upon a blank form furnished by the commissioner for that purpose, a statement showing the name of the applicant, physical street address where the applicant's business is conducted, the nature of the business, and any other information required by the commissioner. If the applicant is a firm, partnership, or association other than a corporation, the applicant shall state the name and address of each of its members. If the applicant is a corporation, the applicant shall state the name and address of each of its officers. At the time of making the application required by this section, every person desiring to engage in the wholesale business of trafficking in cigarettes shall pay an application fee of one thousand dollars for each physical place where the person proposes to carry on such business. Each place of business shall be deemed such space, under lease or license to, or under the control of, or under the supervision of the applicant, as is contained in one or more contiguous, adjacent, or adjoining buildings constituting an industrial plant or a place of business operated by, or under the control of, one person, or under one roof and connected by doors, halls, stairways, or elevators. A duplicate license may be obtained

from the commissioner upon payment of a twenty-five-dollar fee if the original license is lost, destroyed, or defaced.

(2) Upon receipt of the application and payment of any application fee required by this section, the commissioner shall verify that the applicant is not in violation of any provision of Chapter 1346. or Title LVII of the Revised Code. The commissioner shall also verify that the applicant has filed any returns, submitted any information, and paid any outstanding taxes, charges, or fees as required for any tax, charge, or fee administered by the commissioner, to the extent that the commissioner is aware of the returns, information, or payments at the time of the application. Upon approval, the commissioner shall issue to the applicant a license for each physical place of business designated in the application authorizing the applicant to engage in business at that location for one year commencing on the first day of June. For licenses issued after the first day of June, the application fee shall be reduced proportionately by the remainder of the twelve-month period for which the license is issued, except that the application fee required to be paid under this section shall be not less than two hundred dollars in any one year.

(3) The holder of a wholesale dealer cigarette license may transfer the license to a place of business other than that designated on the license on condition that the licensee's ownership or business structure remains unchanged, and that the licensee applies to the commissioner for such a transfer upon a form promulgated by the commissioner and pays a fee of twenty-five dollars, which shall be deposited into the cigarette tax enforcement fund created in division (E) of this section.

(D)(1) The wholesale cigarette license application fees

collected under this section shall be paid into the cigarette tax enforcement fund.

(2) The retail cigarette license application fees collected under this section shall be distributed as follows:

(a) Thirty per cent shall be paid upon the warrant of the county auditor into the treasury of the municipal corporation or township in which the places of business for which the tax revenue was received are located;

(b) Ten per cent shall be credited to the general fund of the county;

(c) Sixty per cent shall be paid into the cigarette tax enforcement fund.

(3) The remainder of the revenues and fines collected under this section and the penal laws relating to cigarettes shall be distributed as follows:

(a) Three-fourths shall be paid upon the warrant of the county auditor into the treasury of the municipal corporation or township in which the place of business, on account of which the revenues and fines were received, is located;

(b) One-fourth shall be credited to the general fund of the county.

(E) There is hereby created within the state treasury the cigarette tax enforcement fund for the purpose of providing funds to assist in paying the costs of enforcing sections 1333.11 to 1333.21 and Chapter 5743. of the Revised Code.

The portion of cigarette license application fees received by a county auditor during the annual application period that ends on the first day of June and that is required to be

deposited in the cigarette tax enforcement fund shall be sent to the tax commissioner by the thirtieth day of June each year accompanied by the form prescribed by the tax commissioner. The portion of cigarette license application fees received by each county auditor after the first day of June and that is required to be deposited in the cigarette tax enforcement fund shall be sent to the commissioner by the last day of the month following the month in which such fees were collected.

(F)(1) Every person who desires to engage in the business of a manufacturer or importer of cigarettes shall, annually, on or before the first day of June, make and deliver to the tax commissioner, upon a blank form furnished by the commissioner for that purpose, a statement showing the name of the applicant, the nature of the applicant's business, and any other information required by the commissioner. If the applicant is a firm, partnership, or association other than a corporation, the applicant shall state the name and address of each of its members. If the applicant is a corporation, the applicant shall state the name and address of each of its officers.

(2) Upon receipt of the application required under this section, the commissioner shall verify that the applicant is not in violation of any provision of Chapter 1346. of the Revised Code. The commissioner shall also verify that the applicant has filed any returns, submitted any information, and paid any outstanding taxes, charges, or fees as required for any tax, charge, or fee administered by the commissioner, to the extent that the commissioner is aware of the returns, information, taxes, charges, or fees at the time of the application. Upon approval, the commissioner shall issue to the applicant a license authorizing the applicant to engage in the business of manufacturer or importer, whichever the case may be, for one

year commencing on the first day of June.

(3) The issuing of a license under division (F)(1) of this section to a manufacturer does not excuse a manufacturer from the certification process required under section 1346.05 of the Revised Code. A manufacturer who is issued a license under division (F)(1) of this section and who is not listed on the directory required under section 1346.05 of the Revised Code shall not be permitted to sell cigarettes in this state other than to a licensed cigarette wholesaler for sale outside this state. Such a manufacturer shall provide documentation to the commissioner evidencing that the cigarettes are legal for sale in another state.

~~(G) The tax commissioner may adopt rules necessary to administer this section.~~

Sec. 5743.51. (A) To provide revenue for the general revenue fund of the state, an excise tax on tobacco products and vapor products is hereby levied at one of the following rates:

(1) For tobacco products other than little cigars or premium cigars, seventeen per cent of the wholesale price of the tobacco product received by a distributor or sold by a manufacturer to a retail dealer located in this state.

(2) Thirty-seven per cent of the wholesale price of little cigars received by a distributor or sold by a manufacturer to a retail dealer located in this state.

(3) For premium cigars received by a distributor or sold by a manufacturer to a retail dealer located in this state, the lesser of seventeen per cent of the wholesale price of such premium cigars or the maximum tax amount per each such premium cigar.

(4) For vapor products, one cent multiplied by the vapor volume of vapor products the first time the products are received by a vapor distributor in this state.

Each distributor or vapor distributor who brings tobacco products or vapor products, or causes tobacco products or vapor products to be brought, into this state for distribution within this state, or any out-of-state distributor or vapor distributor who sells tobacco products or vapor products to wholesale or retail dealers located in this state for resale by those wholesale or retail dealers is liable for the tax imposed by this section. Only one sale of the same article shall be used in computing the amount of the tax due. If a vapor product is repackaged, reconstituted, diluted, or reprocessed, the subsequent sale of that vapor product shall be considered another sale of the same article for purposes of computing the amount of tax due.

(B) The treasurer of state shall place to the credit of the tax refund fund created by section 5703.052 of the Revised Code, out of the receipts from the tax levied by this section, amounts equal to the refunds certified by the tax commissioner pursuant to section 5743.53 of the Revised Code. The balance of the taxes collected under this section shall be paid into the general revenue fund.

(C) The commissioner may adopt rules ~~as are necessary to assist in the enforcement and administration of sections 5743.51 to 5743.66 of the Revised Code, including rules~~ providing for the remission of penalties imposed.

(D) A manufacturer is not liable for payment of the tax imposed by this section for sales of tobacco products or vapor products to a retail dealer that has filed a signed statement

with the manufacturer in which the retail dealer agrees to pay and be liable for the tax, as long as the manufacturer has provided a copy of the statement to the tax commissioner.

Sec. 5745.15. (A) Each taxpayer shall make its records, documents, returns, and reports open to inspection by the tax commissioner during normal business hours, and shall preserve those records, documents, returns, and reports for a period of three years after the date the return or report, or return or report to which such a record or document pertains, was required to be filed or actually was filed, whichever is later. The tax commissioner may consent in writing to the destruction of such records, documents, returns, or reports within that three-year period.

(B) The tax commissioner shall administer and enforce this chapter. In addition to any other powers conferred by law on the tax commissioner, the tax commissioner may prescribe all forms required to be filed under those sections~~, adopt rules that, in the opinion of the tax commissioner, are necessary to carry out those sections,~~ and appoint and employ such personnel as may be necessary to carry out the tax commissioner's duties under those sections.

Sec. 5747.026. (A) For taxable years beginning on or after January 1, 2002, each member of the national guard and each member of a reserve component of the armed forces of the United States called to active duty pursuant to an executive order issued by the president of the United States or an act of the congress of the United States may apply to the tax commissioner for both an extension for filing of the return and an extension of time for payment of taxes required under this chapter and under Chapter 5748. of the Revised Code during the period of the

member's duty service and for sixty days thereafter. The application shall be filed on or before the sixtieth day after the member's duty terminates. An applicant shall provide such evidence as the tax commissioner considers necessary to demonstrate eligibility for the extension.

(B)(1) If the tax commissioner ascertains that an applicant is qualified for an extension under this section, the tax commissioner shall enter into a contract with the applicant for the payment of the tax in installments that begin on the sixty-first day after the applicant's active duty terminates. Except as provided in division (B)(3) of this section, the tax commissioner may prescribe such contract terms as the tax commissioner considers appropriate. If the amount owed is two thousand four hundred dollars or less, the contract shall be for not longer than twelve months. If the amount owed is more than two thousand four hundred dollars, the contract shall be for not longer than twenty-four months.

(2) If the tax commissioner ascertains that an applicant is qualified for an extension under this section, the applicant shall neither be required to file any return, report, or other tax document nor be required to pay any tax otherwise due under this chapter and Chapter 5748. of the Revised Code before the sixty-first day after the applicant's active duty terminates.

(3) Taxes paid pursuant to a contract entered into under division (B)(1) of this section are not delinquent. The tax commissioner shall not require any payments of penalties, interest penalties, or interest in connection with those taxes for the extension period.

(C)(1) Nothing in this division denies to any person described in this division the application of divisions (A) and

(B) of this section.

(2)(a) A qualifying taxpayer who is eligible for an extension under the Internal Revenue Code shall receive both an extension of time in which to file any return, report, or other tax document described in this chapter and an extension of time in which to make any payment of taxes required under this chapter and Chapter 5748. of the Revised Code. The length of any extension granted under division (C)(2)(a) of this section shall be equal to the length of the corresponding extension that the taxpayer receives under the Internal Revenue Code. As used in this section, "qualifying taxpayer" means a member of the national guard, or a member of the reserve component of the armed forces of the United States, who is called to active duty pursuant to either an executive order issued by the president of the United States or an act of the congress of the United States.

(b) Taxes whose payment is extended in accordance with division (C)(2)(a) of this section are not delinquent during the extension period. The tax commissioner shall not require any payment of penalties, interest penalties, or interest in connection with those taxes for the extension period. The tax commissioner shall not include any period of extension granted under division (C)(2)(a) of this section in calculating the penalty, interest penalty, or interest due on any unpaid tax.

(D) For each taxable year to which division (A), (B), or (C) of this section applies to a taxpayer, the provisions of divisions (B)(2) and (3) or (C) of this section, as applicable, apply to the spouse of that taxpayer if the filing status of the spouse and the taxpayer is married filing jointly for that year.

(E) The tax commissioner may adopt rules ~~necessary to~~

~~administer this section, including rules~~ establishing the following:

(1) Forms and procedures by which applicants may apply for extensions;

(2) Criteria for eligibility;

(3) A schedule for repayment of deferred taxes.

Sec. 5747.063. The requirements imposed under this section are in addition to the municipal income tax withholding requirements under section 718.031 of the Revised Code. As used in this section, "sports gaming proprietor" and "sports gaming facility" have the same meanings as in section 3775.01 of the Revised Code.

(A)(1) Subject to division (F) of this section, if a person's winnings from casino gaming or from sports gaming are an amount for which reporting to the internal revenue service of the amount is required by section 6041 of the Internal Revenue Code, as amended, a casino operator or sports gaming proprietor shall deduct and withhold Ohio income tax from the person's winnings at a rate of three and one-eighth per cent for calendar year 2025, after ~~the effective date of this amendment~~September 30, 2025, and two and three-quarters per cent for calendar year 2026 and thereafter of the amount won. A person's amount of winnings from casino gaming shall be determined each time the person exchanges amounts won in tokens, chips, casino credit, or other prepaid representations of value for cash or a cash equivalent. The casino operator or sports gaming proprietor shall issue, to a person from whose winnings an amount has been deducted and withheld, a receipt for the amount deducted and withheld, and also shall obtain from the person additional

information that will be necessary for the casino operator or sports gaming proprietor to prepare the returns required by this section.

(2) If a person's winnings from casino gaming or sports gaming require reporting to the internal revenue service under division (A)(1) of this section, the casino operator or sports gaming proprietor also shall require the person to state in writing, under penalty of falsification, whether the person is in default under a support order.

(B) Amounts deducted and withheld by a casino operator or sports gaming proprietor are held in trust for the benefit of the state.

(1) On or before the tenth day of each month, the casino operator or sports gaming proprietor shall file a return electronically with the tax commissioner identifying the persons from whose winnings amounts were deducted and withheld, the amount of each such deduction and withholding during the preceding calendar month, the amount of the winnings from which each such amount was withheld, the type of casino gaming or sports gaming that resulted in such winnings, and any other information required by the tax commissioner. With the return, the casino operator or sports gaming proprietor shall remit electronically to the commissioner all the amounts deducted and withheld during the preceding month.

(2)(a) A casino operator or sports gaming proprietor shall maintain a record of each written statement provided under division (A)(2) of this section in which a person admits to being in default under a support order. The casino operator or sports gaming proprietor shall make these records available to the director of job and family services upon request.

(b) A casino operator or sports gaming proprietor shall maintain copies of receipts issued under division (A)(1) of this section and of written statements provided under division (A)(2) of this section and shall make these copies available to the tax commissioner upon request.

(c) A casino operator or sports gaming proprietor shall maintain the information described in divisions (B)(2)(a) and (b) of this section in accordance with section 5747.17 of the Revised Code and any rules adopted pursuant thereto.

(3) Annually, on or before the thirty-first day of January, a casino operator or sports gaming proprietor shall file an annual return electronically with the tax commissioner indicating the total amount deducted and withheld during the preceding calendar year. The casino operator or sports gaming proprietor shall remit electronically with the annual return any amount that was deducted and withheld and that was not previously remitted. If the identity of a person and the amount deducted and withheld with respect to that person were omitted on a monthly return, that information shall be indicated on the annual return.

(4)(a) A casino operator or sports gaming proprietor who fails to file a return and remit the amounts deducted and withheld is personally liable for the amount deducted and withheld and not remitted. The commissioner may impose a penalty up to one thousand dollars if a return is filed late, if amounts deducted and withheld are remitted late, if a return is not filed, or if amounts deducted and withheld are not remitted. Interest accrues on past due amounts deducted and withheld at the rate prescribed in section 5703.47 of the Revised Code. The commissioner may collect past due amounts deducted and withheld

and penalties and interest thereon by assessment under section 5747.13 of the Revised Code as if they were income taxes collected by an employer.

(b) If a casino operator or sports gaming proprietor sells the casino facility or sports gaming facility, or otherwise quits the casino or sports gaming business, the amounts deducted and withheld and any penalties and interest thereon are immediately due and payable. The successor shall withhold an amount of the purchase money that is sufficient to cover the amounts deducted and withheld and penalties and interest thereon until the predecessor casino operator or sports gaming proprietor produces either a receipt from the commissioner showing that the amounts deducted and withheld and penalties and interest thereon have been paid or a certificate from the commissioner indicating that no amounts deducted and withheld or penalties and interest thereon are due. If the successor fails to withhold purchase money, the successor is personally liable for payment of the amounts deducted and withheld and penalties and interest thereon, up to the amount of the purchase money.

(C) Annually, on or before the thirty-first day of January, a casino operator or sports gaming proprietor shall issue an information return to each person with respect to whom an amount has been deducted and withheld during the preceding calendar year. The information return shall show the total amount deducted from the person's winnings by the casino operator or sports gaming proprietor during the preceding calendar year.

(D) Amounts deducted and withheld shall be allowed as a credit against payment of the tax imposed by section 5747.02 of the Revised Code and shall be treated as taxes paid for purposes

of section 5747.09 of the Revised Code. This division applies only to the person for whom the amount is deducted and withheld.

(E) The failure of a casino operator or sports gaming proprietor to deduct and withhold the required amount from a person's winnings does not relieve the person from liability for the tax imposed by section 5747.02 of the Revised Code with respect to those winnings. And compliance with this section does not relieve a casino operator or sports gaming proprietor or a person who has winnings from casino gaming or sports gaming from compliance with relevant provisions of federal tax laws.

(F) A sports gaming proprietor that offers lottery sports gaming through a terminal described in division (B)(3) of section 3770.24 of the Revised Code shall not withhold amounts under this section from winnings from wagers placed through that terminal. The state lottery commission shall withhold amounts from those winnings under section 5747.062 of the Revised Code.

(G) The commissioner shall prescribe the form of the receipt and returns required by this section. The director of job and family services shall prescribe the form of the statement required by this section.

~~(H) The commissioner may adopt rules that are necessary to administer this section.~~

Sec. 5747.064. The requirements imposed under this section are in addition to the municipal income tax withholding requirements under section 718.031 of the Revised Code.

(A) As used in this section, "video lottery sales agent" has the same meaning as in section 3770.10 of the Revised Code.

(B) If a person's prize award from a video lottery terminal is an amount for which reporting to the internal

revenue service of the amount is required by section 6041 of the Internal Revenue Code, as amended, the video lottery sales agent shall deduct and withhold Ohio income tax from the person's prize award at a rate of three and one-eighth per cent for calendar year 2025, after ~~the effective date of this amendment~~September 30, 2025, and two and three-quarters per cent for calendar year 2026 and thereafter of the amount won. The video lottery sales agent shall issue, to a person from whose prize award an amount has been deducted or withheld, a receipt for the amount deducted and withheld, and also shall obtain from the person additional information that will be necessary for the video lottery sales agent to prepare the returns required by this section.

(C) Amounts deducted and withheld by a video lottery sales agent are held in trust for the benefit of the state.

(1) On or before the tenth day of each month, the video lottery sales agent shall file a return electronically with the tax commissioner identifying the persons from whose prize awards amounts were deducted and withheld, the amount of each such deduction and withholding during the preceding month, the amount of the prize award from which each such amount was withheld, and any other information required by the commissioner. With the return, the video lottery sales agent shall remit electronically to the commissioner all the amounts deducted and withheld during the preceding month.

(2) A video lottery sales agent shall maintain a record of all receipts issued under division (B) of this section and shall make those records available to the commissioner upon request. Such records shall be maintained in accordance with section 5747.17 of the Revised Code and any rules adopted pursuant

thereto.

(3) Annually, on or before the thirty-first day of January, a video lottery sales agent shall file an annual return electronically with the tax commissioner indicating the total amount deducted and withheld during the preceding calendar year. The video lottery sales agent shall remit electronically with the annual return any amount that was deducted and withheld and that was not previously remitted. If the identity of a person and the amount deducted and withheld with respect to that person were omitted on a monthly return, that information shall be indicated on the annual return.

(4)(a) A video lottery sales agent who fails to file a return and remit the amounts deducted and withheld is personally liable for the amount deducted and withheld and not remitted. The commissioner may impose a penalty of up to one thousand dollars if a return is filed late, if amounts deducted and withheld are remitted late, if a return is not filed, or if amounts deducted and withheld are not remitted. Interest accrues on past due amounts deducted and withheld at the rate prescribed in section 5703.47 of the Revised Code. The commissioner may collect past due amounts deducted and withheld and penalties and interest thereon by assessment under section 5747.13 of the Revised Code as if they were income taxes collected by an employer.

(b) If a video lottery sales agent ceases to operate video lottery terminals, the amounts deducted and withheld and any penalties and interest thereon are immediately due and payable. A successor of the video lottery sales agent that purchases the video lottery terminals from the agent shall withhold an amount of the purchase money that is sufficient to cover the amounts

deducted and withheld and penalties and interest thereon until the predecessor video lottery sales agent produces either a receipt from the tax commissioner showing that the amounts deducted and withheld and penalties and interest thereon have been paid or a certificate from the commissioner indicating that no amounts deducted and withheld or penalties and interest thereon are due. If the successor fails to withhold purchase money, the successor is personally liable for payment of the amounts deducted and withheld and penalties and interest thereon, up to the amount of the purchase money.

(D) Annually, on or before the thirty-first day of January, a video lottery sales agent shall issue an information return to each person with respect to whom an amount has been deducted and withheld during the preceding calendar year. The information return shall show the total amount deducted from the person's prize award by the video lottery sales agent during the preceding year.

(E) Amounts deducted and withheld shall be allowed as a credit against payment of the tax imposed by section 5747.02 of the Revised Code and shall be treated as taxes paid for purposes of section 5747.09 of the Revised Code. This division applies only to the person for whom the amount is deducted and withheld.

(F) The failure of a video lottery sales agent to deduct and withhold the required amount from a person's prize award does not relieve the person from liability for the tax imposed by section 5747.02 of the Revised Code with respect to that income. Compliance with this section does not relieve a video lottery sales agent or a person who has a prize award from compliance with relevant provisions of federal tax laws.

(G) The commissioner shall prescribe the form of the

receipt and returns required by this section ~~and may promulgate any rules necessary to administer the section~~.

Sec. 5747.065. (A) If a taxpayer has elected under section 4141.321 of the Revised Code to have the director of job and family services deduct and withhold state income tax from the unemployment compensation benefits payable to the taxpayer, the director shall deduct and withhold such tax at the rate or rates that the director shall prescribe in consultation with the tax commissioner.

(B)(1) On or before the tenth day of each month, the director of job and family services shall file a return electronically with the tax commissioner, in the form prescribed by the commissioner. With the return, the director shall remit electronically to the commissioner all the amounts deducted and withheld under this section during the preceding month.

(2) On or before the thirty-first day of January of each year, beginning in 2026, the director shall electronically file an annual return with the commissioner, in the form prescribed by the commissioner, indicating the total amount deducted and withheld under this section during the preceding calendar year. At the time of filing that return, the director shall remit any amount deducted and withheld during the preceding calendar year that was not previously remitted.

(3) Annually, on or before the thirty-first day of January, the director shall issue an information return to each taxpayer with respect to whom an amount has been deducted and withheld under this section during the preceding calendar year. The information return shall show the total amount deducted from the taxpayer's unemployment compensation benefits during the preceding calendar year and any other information the tax

commissioner requires. If the director is required under the Internal Revenue Code to report federal income tax deducted and withheld from unemployment compensation benefits, then the director may report the information required under this section on that report, as authorized by the Internal Revenue Code.

(4) Annually, on or before the thirty-first day of January, beginning in 2026, the director shall provide to the commissioner a copy of each information return issued under division (B)(3) of this section for the preceding calendar year. The commissioner may require that the copies be transmitted electronically.

(C) Failure of the director to deduct and withhold the required amounts from unemployment compensation benefits or to remit amounts withheld as required by this section does not relieve a taxpayer from liability for the tax imposed by section 5747.02 of the Revised Code.

~~(D) The director of job and family services may adopt rules as necessary to administer this section.~~

Sec. 5747.12. (A) If a person entitled to a refund under section 5747.11 or 5747.13 of the Revised Code is indebted for any of the following, the amount refundable may be applied in satisfaction of the debt:

(1) To this state for any tax, workers' compensation premium due under section 4123.35 of the Revised Code, or unemployment compensation contribution due under section 4141.25 of the Revised Code;

(2) To the state or a political subdivision for a certified claim under section 131.02 or 131.021 of the Revised Code or a finding for recovery included in a certified report

that has been filed with the attorney general pursuant to sections 117.28 and 117.30 of the Revised Code;

(3) For a fee that is paid to the state or to the clerk of courts pursuant to section 4505.06 of the Revised Code;

(4) For any charge, penalty, collection cost, or interest arising from a debt listed in divisions (A)(1) to (3) of this section.

(B) If the amount refundable is less than the amount of the debt owed under division (A) of this section, it may be applied in partial satisfaction of the debt. If the amount refundable is greater than the amount of that debt, the amount remaining after satisfaction of the debt shall be refunded. If the person has more than one debt listed in division (A) of this section, any debt subject to section 5739.33 or division (G) of section 5747.07 of the Revised Code or arising under section 5747.063 or 5747.064 of the Revised Code shall be satisfied first.

(C) Except as provided in section 131.021 of the Revised Code, this section applies only to debts that have become final.

(D) The tax commissioner may charge each respective agency of the state for the commissioner's cost in applying refunds to debts due to the state and may charge the attorney general for the commissioner's cost in applying refunds to certified claims.

(E) The commissioner may ~~promulgate~~ adopt rules ~~to implement this section. The rules may~~ to address~~, among other things,~~ situations such as those where persons may jointly be entitled to a refund but do not jointly owe a debt or certified claim.

(F) The commissioner may, with the consent of the

taxpayer, provide for the crediting, against tax imposed under this chapter or Chapter 5748. of the Revised Code and due for any taxable year, of the amount of any refund due the taxpayer under this chapter or Chapter 5748. of the Revised Code, as appropriate, for a preceding taxable year.

Sec. 5747.121. (A) In accordance with sections 3123.821 to ~~3123.823~~ 3123.822 of the Revised Code, the tax commissioner shall cooperate with the department of job and family services in establishing and then implementing procedures for the collection of overdue child support from refunds of paid state income taxes under this chapter that are payable to obligors. The tax commissioner shall deposit money collected from such refunds into the child support intercept fund.

(B) At the request of the department of job and family services in connection with the collection of overdue child support from a refund of paid state income taxes pursuant to sections 3123.821 to ~~3123.823~~ 3123.822 of the Revised Code and division (A) of this section, the tax commissioner shall release to the department the home address and social security number of any obligor whose overdue child support may be collected from a refund of paid state income taxes pursuant to sections 3123.821 to ~~3123.823~~ 3123.822 of the Revised Code and division (A) of this section.

(C) In the case of persons filing a joint income tax return, the amount of the refund available for the collection of overdue child support shall be based on the proportion of the refund due to the obligor only. Any obligor's spouse who objects to the amount of the refund to be used for the collection of overdue child support may file a complaint with the tax commissioner within twenty-one days after receiving notice of

the collection. The commissioner shall afford a complainant an opportunity to be heard. The burden of proving an error by the commissioner in determining the amount of a refund to be used for the collection of overdue child support shall be on the complainant.

(D) There is hereby created in the state treasury the child support intercept fund, which shall consist of moneys paid into it by the tax commissioner under division (A) of this section. Moneys in the fund shall be disbursed pursuant to vouchers approved by the director of job and family services for use by the division of child support to meet the requirements of section 666 of Title IV-D of the "Social Security Act," 98 Stat. 1306 (1975), 42 U.S.C. 666, as amended, and any rules promulgated under Title IV-D. Moneys appropriated from the fund are not intended to replace other moneys appropriated for this purpose.

(E) As used in this section, "obligor" has the same meaning as in section 3123.82 of the Revised Code.

Sec. 5747.123. (A) As used in this section:

(1) "Obligee" and "obligor" have the same meanings as in section 3119.01 of the Revised Code;

(2) "Overpaid child support" has the same meaning as in section 3123.82 of the Revised Code.

(B) In accordance with sections 3123.821 to ~~3123.823~~ 3123.822 of the Revised Code, the tax commissioner shall cooperate with the department of job and family services in establishing and implementing procedures for the collection of overpaid child support from refunds of paid state income taxes under this chapter that are payable to obligees. The tax

commissioner shall collect the refunds and send the amounts to the department of job and family services for distribution to obligors who made the overpayment.

(C) In the case of persons filing a joint income tax return, the amount of the refund available for the collection of overpaid child support shall be based on the proportion of the refund due the obligee only. An obligee's spouse who objects to the amount of the refund to be used for the collection of overpaid child support may file a complaint with the tax commissioner within twenty-one days after receiving notice of the collection. The commissioner shall afford a complainant an opportunity to be heard. The burden of proving an error by the commissioner in determining the amount of the refund to be used for the collection of overpaid child support shall be on the complainant.

Sec. 5747.18. The tax commissioner shall enforce and administer this chapter. In addition to any other powers conferred upon the commissioner by law, the commissioner may:

(A) Prescribe all forms required to be filed pursuant to this chapter;

(B) ~~Adopt such rules as the commissioner finds necessary to carry out this chapter;~~

~~(C)~~ Appoint and employ such personnel as are necessary to carry out the duties imposed upon the commissioner by this chapter.

Any information gained as the result of returns, investigations, hearings, or verifications required or authorized by this chapter is confidential, and no person shall disclose such information, except for official purposes, or as

provided by section 3125.43, 4123.271, 4123.591, 4141.163, 4141.28, 4507.023, 5101.182, or 5703.21 of the Revised Code, or in accordance with a proper judicial order. The tax commissioner may furnish the internal revenue service with copies of returns or reports filed and may furnish the officer of a municipal corporation charged with the duty of enforcing a tax subject to Chapter 718. of the Revised Code with the names, addresses, and identification numbers of taxpayers who may be subject to such tax. A municipal corporation shall use this information for tax collection purposes only. This section does not prohibit the publication of statistics in a form which does not disclose information with respect to individual taxpayers.

Sec. 5747.38. (A) As used in this section and section 5747.39 of the Revised Code and in other sections of Chapter 5747. of the Revised Code in the context of the tax imposed under this section:

(1) "Electing pass-through entity" means a qualifying pass-through entity that elects to be subject to the tax levied under this section for a taxable year pursuant to division (C) of this section.

(2) "Owner" means a person that is a partner, member, shareholder, or investor in an electing pass-through entity for any portion of the taxable year.

(3) "Income" means the sum of owners' distributive shares of the income, gain, expense, or loss of an electing pass-through entity for the taxable year, as reported for federal income tax purposes.

(4) "Qualifying taxable income" means the sum of the following:

(a) The portion of an electing pass-through entity's income that is business income, subject to the applicable adjustments in divisions (A)(2) to (7) of section 5733.40 of the Revised Code, multiplied by the fraction described in division (B)(1) of that section;

(b) The portion of the electing pass-through entity's income that is nonbusiness income allocated to this state under section 5747.20 of the Revised Code.(B) For the same purposes for which the tax is levied under section 5747.02 of the Revised Code, a tax is hereby levied on each electing pass-through entity on the entity's qualifying taxable income for the taxable year, at the following rates:

(1) For an electing pass-through entity's taxable year that begins in 2022, five per cent;

(2) For an electing pass-through entity's taxable year that begins in 2023 and in any year thereafter, the rate equal to the tax rate imposed on taxable business income under division (A)(4)(a) of section 5747.02 of the Revised Code applicable to that taxable year.

(C) A pass-through entity that is not a disregarded entity, as defined in section 5733.01 of the Revised Code, may elect to be subject to the tax levied under this section by filing with the tax commissioner a form prescribed by the commissioner making such election on or before the deadline to file the return under section 5747.42 of the Revised Code for the taxable year. Such election applies only to the taxable year for which the election is made and is, once made, irrevocable for that year.

(D) Except as otherwise provided in this division, the tax

levied under this section shall be calculated without regard to any deductions or credits otherwise permitted to be claimed by an owner of the electing pass-through entity in computing the owner's aggregate tax liability under section 5747.02 of the Revised Code. In calculating its tax due under this section, an electing pass-through entity may claim the refundable credits authorized under section 5747.059 or 5747.39 of the Revised Code or division (I) of section 5747.08 of the Revised Code if that credit is available to one or more of the entity's owners as if the entity were the owner or owners.

(E) The tax levied under this section is intended to comply with the provisions of internal revenue service notice 2020-75 in which such tax paid by an electing pass-through entity is deductible to the entity for federal income tax purposes.

(F) The tax commissioner shall adopt rules ~~to administer the tax levied under this section. Such rules shall include a description of~~ describing how the adjustments to income under divisions (A)(36) and (S)(15) of section 5747.01 of the Revised Code and the credit under section 5747.39 of the Revised Code apply to direct or indirect owners of an electing pass-through entity based on various ownership structures. Any rule adopted under this section is not a regulatory restriction for the purpose of section 121.95 of the Revised Code.

Sec. 5747.73. (A) As used in this section, "scholarship granting organization" means an entity that is certified as such by the attorney general under division (C) of this section.

(B) There is hereby allowed a nonrefundable credit against a taxpayer's aggregate tax liability under section 5747.02 of the Revised Code for a taxpayer that donates cash to scholarship

granting organizations during the taxable year or on or before the due date, unextended under division (G) of section 5747.08 of the Revised Code, for filing the tax return for the taxable year as described in that division. A credit may not be claimed for two taxable years on the basis of the same contribution. The credit shall equal the amount of cash donations made by the taxpayer and, if filing a joint return, the taxpayer's spouse, except that the credit shall not exceed, for any taxable year, one thousand five hundred dollars for spouses filing a joint return or seven hundred fifty dollars for all other taxpayers. If a taxpayer files a joint return, the credit amount attributable to donations made by each spouse shall not exceed seven hundred fifty dollars. The credit shall be claimed in the order required under section 5747.98 of the Revised Code.

If the taxpayer is a direct or indirect investor in a pass-through entity that donates cash to scholarship granting organizations during the taxable year, the taxpayer may claim its proportionate or distributive share of the credit allowed under this section, except that the share that may be claimed by all such investors may not exceed seven hundred fifty dollars for any taxable year.

The credit authorized by this section is not allowed unless the taxpayer claiming the credit provides to the tax commissioner, in the form and manner required by the commissioner, a copy of a receipt or other document issued by the scholarship granting organization acknowledging the taxpayer's contribution to the organization and the amount of the contribution. The commissioner may require a taxpayer to furnish any other information necessary to support a claim for the credit. No credit shall be allowed unless a copy of such document or other required information is provided.

(C) An entity may apply to the attorney general, on forms and in the manner prescribed by the attorney general, to be certified so that contributions to the entity qualify for the tax credit authorized under this section. The attorney general shall certify an entity as a scholarship granting organization if the entity submits information and documentation, to the attorney general's satisfaction, establishing that the entity satisfies the following:

(1) It is a religious or nonreligious nonprofit organization exempt from federal taxation under section 501(a) of the Internal Revenue Code as an organization described in section 501(c)(3) of the Internal Revenue Code.

(2) It primarily awards academic scholarships for primary and secondary school students.

(3) It prioritizes awarding its scholarships to low-income primary and secondary school students.

The attorney general shall notify the applicant of the attorney general's determination within thirty days after the attorney general receives the application. The attorney general shall maintain a list of all scholarship granting organizations. As soon as is practicable after compiling or updating this list, the attorney general shall furnish the list to the tax commissioner, who shall post the list or updated list to the department of taxation's web site.

The attorney general shall adopt rules necessary to determine eligibility for ~~and administer~~ the credit authorized under this section.

Sec. 5747.83. (A) Terms used in this section have the same meanings as in section 175.16 of the Revised Code.

(B) There is hereby allowed a nonrefundable credit against a taxpayer's aggregate tax liability under section 5747.02 of the Revised Code for a taxpayer that is allocated a credit issued by the executive director of the Ohio housing finance agency under section 175.16 of the Revised Code. The credit equals the amount allocated to such taxpayer for the taxable year that begins in the calendar year for which the designated reporter files the form prescribed by division ~~(I)~~ (H) of section 175.16 of the Revised Code.

The credit shall be claimed in the order required under section 5747.98 of the Revised Code. If the credit exceeds the taxpayer's aggregate tax due under section 5747.02 of the Revised Code for that taxable year after allowing for credits that precede the credit under this section in that order, such excess shall be allowed as a credit in each of the ensuing five taxable years, but the amount of any excess credit allowed in any such taxable year shall be deducted from the balance carried forward to the ensuing taxable year.

No credit shall be claimed under this section to the extent the credit was claimed under section 5725.36, 5726.58, or 5729.19 of the Revised Code.

Sec. 5747.85. (A) As used in this section:

(1) "Homeownership savings account" and "program period" have the same meanings as in section 135.70 of the Revised Code.

(2) "Account owner" means "eligible participant" as defined by section 135.70 of the Revised Code.

(3) "Contributor" means the account owner or a parent, spouse, sibling, stepparent, or grandparent of the account owner who deposits funds into the homeownership savings account.

(4) "Lifetime contribution limit" means twenty-five thousand dollars of contributions per contributor per homeownership savings account. If an account owner opens one or more additional homeownership savings accounts, a contributor's lifetime contribution limit for the additional accounts shall be reduced by any contributions previously made by the contributor to an account owned by that account owner.

(5) "Eligible expenses" means unreimbursed expenses paid by the account owner for home purchase costs for the account owner's primary residence and account fees imposed on the account owner.

(6) "Primary residence" means a homestead located in this state that is or will be the account owner's principal place of residence at the time the eligible expenses are incurred and for which the account owner receives or will receive a reduction in real property taxes or manufactured home taxes under division (B)(2) of section 323.152 of the Revised Code.

(7) "Homestead" means a homestead, as defined in section 323.151 of the Revised Code, or a manufactured or mobile home that is owned and occupied as a home by an individual whose domicile is in this state and upon which the manufactured home tax is assessed pursuant to division (D)(2) of section 4503.06 of the Revised Code.

(8) "Home purchase costs" means "eligible home costs" as defined in section 135.70 of the Revised Code.

(9) "Employer contribution" means the amount an employer contributes to a homeownership savings account.

(B) In computing Ohio adjusted gross income, a deduction from federal adjusted gross income is allowed to a contributor

for amounts contributed to a homeownership savings account to the extent that the amounts contributed have not already been deducted in computing the contributor's federal or Ohio adjusted gross income for the taxable year. The deduction shall equal the amount of contributions made by the taxpayer and, if filing a joint return, the taxpayer's spouse, except that the deduction shall not exceed, for any taxable year, ten thousand dollars for spouses filing a joint return or five thousand dollars for all other taxpayers for each homeownership savings account to which contributions are made. If a taxpayer files a joint return, the deduction amount attributable to contributions made by each spouse shall not exceed five thousand dollars for each homeownership savings account to which contributions are made. A contributor is not entitled to a deduction under this section to the extent the deduction causes the contributor to exceed the lifetime contribution limit. No deduction is allowed under this section for the transfer of funds from one homeownership savings account to another homeownership savings account.

(C) In computing Ohio adjusted gross income, a deduction from federal adjusted gross income is allowed to an account owner for the following items:

(1) Interest earned on a homeownership savings account to the extent the interest has not been otherwise deducted or excluded in computing an account owner's federal or Ohio adjusted gross income.

(2) Employer contributions made by an employer to an account owner's homeownership savings account to the extent the employer contributions have not been otherwise deducted or excluded in computing an account owner's federal or Ohio adjusted gross income.

(D) The tax commissioner may request that a taxpayer claiming a deduction calculated under division (B) or (C) of this section furnish information necessary to support the claim for the deduction under this section, and no deduction shall be allowed unless the requested information is provided.

(E) No deduction is permitted under division (B) or (C) of this section for contributions made or interest earned after the conclusion of a homeownership savings account's program period.

~~(F) The commissioner may adopt rules necessary to administer this section.~~

Sec. 5749.14. The tax commissioner shall enforce and administer this chapter and applicable provisions of section 1509.50 of the Revised Code. In addition to any other powers conferred upon the commissioner by law, the commissioner may:

(A) Prescribe all forms required to be filed pursuant to this chapter;

(B) ~~Promulgate such rules as the commissioner finds necessary to carry out this chapter and applicable provisions of section 1509.50 of the Revised Code;~~

~~(C)~~ Appoint and employ such personnel as may be necessary to carry out the duties imposed upon the commissioner by this chapter.

Sec. 5751.013. (A) Except as provided in division (B) of this section:

(1) A person shall include as taxable gross receipts the value of property the person transfers into this state for the person's own use within one year after the person receives the property outside this state; and

(2) In the case of a consolidated elected taxpayer group or a combined taxpayer group, the taxpayer shall include as taxable gross receipts the value of property that any of the taxpayer's members transferred into this state for the use of any of the taxpayer's members within one year after the taxpayer receives the property outside this state.

(B) Property brought into this state within one year after it is received outside this state by a person or group described in division (A)(1) or (2) of this section shall not be included as taxable gross receipts as required under those divisions if the tax commissioner ascertains that the property's receipt outside this state by the person or group followed by its transfer into this state within one year was not intended in whole or in part to avoid in whole or in part the tax imposed under this chapter.

~~(C) The tax commissioner may adopt rules necessary to administer this section.~~

Sec. 5751.07. (A) Any person required to file returns under this chapter shall remit each tax payment, and, if required by the tax commissioner, file the tax return or the annual report, electronically. The commissioner may require taxpayers to use the Ohio business gateway as defined in section 718.01 of the Revised Code to file returns and remit the tax, or may provide another means for taxpayers to file and remit the tax electronically.

(B) A person required by this section to remit taxes or file returns electronically may apply to the tax commissioner, on the form prescribed by the commissioner, to be excused from that requirement. The commissioner may excuse a person from the requirements of this division for good cause.

(C)(1) If a person required to remit taxes or file a return electronically under this section fails to do so, the commissioner may impose a penalty not to exceed the following:

(a) For either of the first two tax periods the person so fails, the greater of twenty-five dollars or five per cent of the amount of the payment that was required to be remitted;

(b) For the third and any subsequent tax periods the person so fails, the greater of fifty dollars or ten per cent of the amount of the payment that was required to be remitted.

(2) The penalty imposed under division (C)(1) of this section is in addition to any other penalty imposed under this chapter and shall be considered as revenue arising from the tax imposed under this chapter. A penalty may be collected by assessment in the manner prescribed by section 5751.09 of the Revised Code. The tax commissioner may abate all or a portion of such a penalty.

~~(D) The tax commissioner may adopt rules necessary to administer this section.~~

Sec. 5753.09. The tax commissioner shall administer and enforce this chapter. In addition to any other powers conferred upon the tax commissioner by law, the tax commissioner may:

(A) Prescribe all forms that are required to be filed under this chapter;

(B) ~~Adopt rules that are necessary and proper to carry out this chapter; and~~

~~(C)~~ Appoint professional, technical, and clerical employees as are necessary to carry out the tax commissioner's duties under this chapter.

Sec. 5902.05. (A) There is hereby created in the state treasury the military injury relief fund, which shall consist of money contributed to it under sections 4503.535 and 5747.113 of the Revised Code and of contributions made directly to it. Any person or entity may contribute directly to the fund in addition to or independently of the income tax refund contribution system established in section 5747.113 of the Revised Code.

(B) Upon application, the director of veterans services shall grant money in the fund to individuals injured while in active service as a member of the armed forces of the United States while serving after October 7, 2001, and to individuals diagnosed with post-traumatic stress disorder while serving, or after having served, after October 7, 2001.

(C) An individual who receives a grant under this section is precluded from receiving additional grants under this section during the same state fiscal year but is not precluded from being considered for or receiving other assistance offered by the department of veterans services.

(D) The director shall adopt rules under Chapter 119. of the Revised Code establishing:

(1) Forms and procedures by which individuals may apply for a grant under this section;

(2) Criteria for reviewing, evaluating, and approving or denying grant applications;

(3) Criteria for determining the amount of grants awarded under this section;

(4) Definitions and standards applicable to determining whether an individual meets the requirements established in division (B) of this section;

(5) The process for appealing eligibility determinations~~; and~~

~~(6) Any other rules necessary to administer the grant program established in this section~~.

(E) An eligibility determination, a grant approval, or a grant denial made under this section may not be appealed under Chapter 119. or any other provision of the Revised Code.

Sec. 5911.011. (A) As director of state armories, the adjutant general may acquire, design, construct, expand, rehabilitate, and convert grounds, armories, airfields, and other facilities for the purposes of developing, training, and operating units of the Ohio national guard and for the safekeeping of arms, clothing, equipment, and other state or federal military property issued to the Ohio national guard, or state property issued to the Ohio military reserve or the Ohio naval militia.

(B) In acquiring grounds, armories, airfields, and other facilities for the purposes described in division (A) of this section, the adjutant general may lease property for any term up to ninety-nine years, subject to the availability of state funds or federal funds obtained under an agreement by which the United States contributes to the cost of leasing the grounds, armory, airfield, or other facility, or the adjutant general may build suitable buildings, airfields, and facilities for those purposes.

(C) The adjutant general may provide for the leasing, management, care, and maintenance of those grounds, armories, airfields, and other facilities~~ and may prescribe any rules for the management and guidance of the organizations and units~~

~~occupying them that are necessary. When promulgating those rules, the adjutant general need not comply with Chapter 111. or 119. of the Revised Code~~.

Sec. 5919.23. The commander in chief may, upon the declaration of war, or upon the breaking out of insurrection, or upon the imminence of either, increase the Ohio national guard and the Ohio military reserve by the creation of such additional units as ~~he deems~~deemed necessary; and ~~he~~the commander in chief may proceed ~~in such manner as rules prescribe~~ for the drafting into the organized militia of all such portions of the militia of the state as ~~he deems~~deemed necessary in any such emergency.

Sec. 5922.04. Sections ~~5922.02~~ 5922.03 to 5922.08 of the Revised Code do not authorize the Ohio cyber reserve, or any part thereof, to be called or ordered into the military service of the United States. The reserve may become a civilian component of the Ohio national guard.

Sec. 5922.05. No person shall be accepted into the Ohio cyber reserve who is not a United States national or a lawful permanent resident, or who has been expelled or dishonorably discharged from the armed forces as defined in section 5903.01 of the Revised Code. Applicants shall be subject to an appropriate background check, in accordance with rules adopted by the governor and adjutant general in accordance with Chapter 119. of the Revised Code, before admittance into the reserve.

Notwithstanding any other provision of the Revised Code, no person shall be disqualified from acceptance into the Ohio cyber reserve on the basis that the person is an employee of the state or a political subdivision of the state, or an employee or proprietor of a private entity that conducts business with the state or a political subdivision of the state.

Sec. 5922.07. The governor may accept the resignation of any Ohio cyber reserve member at any time. Reserve members serve at the pleasure of the governor and may be removed from the reserve ~~in accordance with rules adopted under section 5922.02 of the Revised Code~~.

The governor may require reimbursement for training, equipment, and uniforms if an Ohio cyber reserve member does not serve the full term of the member's membership agreement and the inability to serve out the term of the membership agreement was not due to disability or a similar disabling medical condition.

Sec. 6109.04. (A) The director of environmental protection shall administer and enforce this chapter and rules adopted under it.

(B) The director shall adopt, amend, and rescind such rules in accordance with Chapter 119. of the Revised Code as may be necessary or desirable to ~~do both of the following:~~

~~(1) Govern public water systems in order to protect the public health;~~

~~(2) Govern public water systems to protect the public welfare, including rules governing~~ govern contaminants in water that may adversely affect the suitability of the water for its intended uses ~~or that may otherwise adversely affect the public health or welfare~~.

(C) The director may do any or all of the following:

(1) Adopt, amend, and rescind such rules in accordance with Chapter 119. of the Revised Code as may be necessary or desirable to do any or ~~all~~ either of the following:

(a) Govern the granting of variances and exemptions from

rules adopted under this chapter, subject to requirements of the Safe Drinking Water Act;

(b) Govern the certification of operators of public water systems, including establishment of qualifications according to a classification of public water systems and of provisions for examination, grounds for revocation, renewal of certification, and other provisions necessary or desirable for assurance of proper operation of water systems~~;~~

~~(c) Carry out the powers and duties of the director under this chapter~~.

(2) Provide a program for the general supervision of operation and maintenance of public water systems;

(3) Maintain an inventory of public water systems;

(4) Adopt and implement a program for conducting sanitary surveys of public water systems;

(5) Establish and maintain a system of record keeping and reporting of activities of the environmental protection agency under this chapter;

(6) Establish and maintain a program for the certification of laboratories conducting analyses of drinking water;

(7) Issue, modify, and revoke orders as necessary to carry out the director's powers and duties under this chapter and primary enforcement responsibility for public water systems under the "Safe Drinking Water Act." Orders issued under this chapter are subject to Chapter 119. of the Revised Code.

(D) Before adopting, amending, or rescinding a rule authorized by this chapter, the director shall do all of the following:

(1) Mail notice to each statewide organization that the director determines represents persons who would be affected by the proposed rule, amendment, or rescission at least thirty-five days before any public hearing thereon;

(2) Mail a copy of each proposed rule, amendment, or rescission to any person who requests a copy, within five days after receipt of the request;

(3) Consult with appropriate state and local government agencies or their representatives, including statewide organizations of local government officials, industrial representatives, and other interested persons.

Although the director is expected to discharge these duties diligently, failure to mail any such notice or copy or to consult with any person does not invalidate any proceeding or action of the director.

(E) The director shall issue a certification as an operator of a public water system in accordance with Chapter 4796. of the Revised Code to an applicant if either of the following applies:

(1) The applicant holds a certification or license in another state.

(2) The applicant has satisfactory work experience, a government certification, or a private certification as described in that chapter as an operator of a public water system in a state that does not issue that certification or license.

Sec. 6109.072. (A) No person shall install a public water system well without an approved well siting application issued by the director of environmental protection in accordance with

this chapter and any rules adopted under it.

(B) In addition to meeting the siting requirements established under section 6109.04 of the Revised Code and the rules adopted under it, a person that submits a well siting application for a public water system well shall include all of the following in the application:

(1) For a new public water system or an existing public water system that proposes an increase in the withdrawal of waters of the state, an evaluation of alternatives for the provision of drinking water, including the potential for tie-in to a regional water system;

(2) For a new public water system or an existing public water system that proposes an increase in the withdrawal of waters of the state, asset management program information in accordance with section 6109.24 of the Revised Code and the rules adopted under it;

(3) For an existing public water system, a description of the asset management program impacts of installing the well, including impacts to any existing asset management program and the potential for tie-in to a regional water system;

(4) For a public water system well that has the capacity to withdraw waters of the state in an amount requiring registration pursuant to section 1521.16 of the Revised Code, a general plan, subject to approval of the director, that includes both of the following:

(a) The information required to be submitted under section 6109.07 of the Revised Code and the rules adopted under it;

(b) Verification of registration pursuant to section 1521.16 of the Revised Code.

(5) For a public water system well that has new or increased capacities for withdrawal or consumptive use that require a permit issued under either section 1521.29 or 1522.12 of the Revised Code, a permit approved by the chief of the division of water resources in the department of natural resources pursuant to section 1521.29 or 1522.12 of the Revised Code.

(C) Divisions (B)(2) and (3) of this section do not apply to a transient noncommunity water system.

(D) If the director approves a well siting application for an applicant that meets the requirements of division (B)(5) of this section, the applicant then shall submit to the director a copy of any certification, continuing monitoring, or other data or reports required by the chief of the division of water resources pursuant to a permit issued under either section 1521.29 or 1522.12 of the Revised Code and any revised ground water model required by the chief.

(E) The director may require the well site applicant to include, in the application, additional information, including but not limited to hydrologic information, in a form prescribed by the director for any public water system that is not required to obtain a permit under either section 1521.23 or 1522.12 of the Revised Code.

~~(F) The director may adopt rules in accordance with Chapter 119. of the Revised Code as is necessary for the implementation of this section.~~

Sec. 6109.121. (A) The director of environmental protection shall adopt rules in accordance with Chapter 119. of the Revised Code that do all of the following:

(1) Require the owner or operator of a community or nontransient noncommunity water system to conduct sampling of the system for lead and copper;

(2) Establish a schedule for lead and copper sampling applicable to the owner or operator of a community or nontransient noncommunity water system that, at a minimum, does both of the following:

(a) Allows the director, in establishing the schedule, to consider the following factors when determining if a community or nontransient noncommunity water system must conduct sampling at least once annually:

(i) The age of the water system;

(ii) Whether corrosion control requirements are met;

(iii) ~~Any other relevant risk factors, as determined by the director, including aging~~ Aging infrastructure likely to contain lead service lines.

(b) Requires the owner or operator of a system where such risk factors are identified to conduct sampling at least once annually until the risk factors are mitigated in accordance with rules.

(3) Require the owner or operator of a community or nontransient noncommunity water system to provide collected samples to a certified laboratory for analysis;

(4) Authorize the director to require additional sampling for pH level and other water quality parameters to determine if corrosion control requirements are met;

(5) Authorize the director to establish corrosion control requirements for community and nontransient noncommunity water

systems;

(6) Require the owner or operator of a community or nontransient noncommunity water system to conduct a new or updated corrosion control treatment study and submit a new or updated corrosion control treatment plan not later than eighteen months after any of the following events:

(a) The system changes or adds a source from which water is obtained.

(b) The system makes a substantial change in water treatment.

(c) The system operates outside of acceptable ranges for lead, copper, pH, or other corrosion indicators, as determined by the director.

(d) Any other event determined by the director to have the potential to impact the water quality or corrosiveness of water in the system.

(7) Authorize the director to waive the requirement to conduct a new or updated corrosion control study established in rules adopted under division (A)(6) of this section in appropriate circumstances;

(8) When the owner or operator of a community or nontransient noncommunity water system is required to complete a corrosion control treatment study and submit a plan in accordance with rules adopted under division (A)(6) of this section, require the owner or operator to complete the study and submit the plan to the director for approval even if sampling results conducted subsequent to the initiation of the study and plan do not exceed the lead action level established in rules adopted under this chapter;

(9) When the owner or operator of a community or nontransient noncommunity water system is required to complete a corrosion control treatment study and submit a plan in accordance with rules adopted under division (A)(6) of this section, require the owner or operator to submit to the director an interim status report of actions taken to implement the corrosion control study six months and twelve months from the date of initiation of the corrosion control study requirement;

(10) Establish a lead threshold for individual taps;

(11) Establish and revise content for public education materials;

(12) Authorize the director to develop procedures and requirements to document that notices were provided by the owner or operator of a community or nontransient noncommunity water system as required under the rules adopted under division (A)(15) of this section;

(13) Authorize the director to assess administrative penalties in accordance with section 6109.23 of the Revised Code for violations of the notice requirements established in rules adopted under divisions (A)(15)(b) and (c)(i) of this section;

(14) Require a laboratory that receives a lead or copper tap water sample from a community or nontransient noncommunity water system to do both of the following:

(a) Complete a lead or copper analysis of the sample, as applicable, not later than thirty business days after the receipt of the sample;

(b) Not later than the end of the next business day following the day the analysis of the sample is completed, report the results of the analysis and all identifying

information about where the sample was collected to the community or nontransient noncommunity water system and the director.

(15) Require the owner or operator of a community or nontransient noncommunity water system to do all of the following, as applicable, with regard to laboratory results received under rules adopted under division (A)(14) of this section:

(a) If the laboratory results show that a sample from an individual tap is below the applicable lead threshold as established in rules adopted under this chapter, provide notice of the results of each individual tap sample to the owner and persons served at the residence or other structure where the tap was sampled within a time period specified in rules that is not more than thirty business days after the receipt of the laboratory results;

(b) If the results show that a sample from an individual tap is above the applicable lead threshold as established under rules adopted under this chapter, provide notice of the results of each individual tap sample to the owner and persons served at the residence or other structure where the tap was sampled within a time period specified in rules that is not more than two business days after the receipt of the laboratory results, and do all of the following, as applicable:

(i) For the owner or operator of a nontransient noncommunity water system, immediately remove from service all fixtures identified as contributing to elevated lead levels;

(ii) For the owner or operator of a community water system, include in the system's annual consumer confidence

report the lead or copper laboratory results, an explanation of the associated health risks, what actions consumers of the system can take to reduce health risks, and the actions the system is taking to reduce public exposure;

(iii) Not later than two business days after the receipt of the laboratory results, provide information on the availability of health screening and blood lead level testing to the owner and persons served at the residence or other structure where the sample was collected and provide notice of the laboratory results to the applicable local board of health.

(c) If the laboratory results show that the community or nontransient noncommunity water system exceeds the lead action level established in rules adopted under this chapter, do all of the following, as applicable:

(i) Not later than two business days after the receipt of the laboratory results, provide notice to all of the system's water consumers that the system exceeds the lead action level. The owner or operator shall provide the notice in a form specified by the director.

(ii) Not later than five business days after the receipt of the laboratory results by the owner or operator of a community water system, provide information on the availability of tap water testing for lead to all consumers served by the system who are known or likely to have lead service lines, lead pipes, or lead solder as identified in the map required to be completed by rules adopted under division (A)(18) of this section;

(iii) Not later than thirty business days after the receipt of the laboratory results, make an analysis of

laboratory results available to all consumers served by the system, comply with public education requirements established in rules adopted under this chapter that apply when a public water system exceeds the lead action level, and provide information to consumers served by the system about the availability of health screenings and blood lead level testing in the area served by the water system;

(iv) Subject to rules adopted under division (A)(7) of this section, perform a corrosion control treatment study and submit a corrosion control treatment plan to the director not later than eighteen months after the date on which laboratory results were received by the owner or operator indicating that the system exceeded the lead action level.

(16) Require that not later than five business days after the receipt of the laboratory results, the owner or operator shall certify to the director that the owner or operator has complied with the requirements of rules adopted under divisions (A)(15)(b), (A)(15)(c)(i), and (A)(15)(c)(ii) of this section, as applicable.

(17) Require that if the owner or operator of a community or nontransient noncommunity water system fails to provide the notices required under rules adopted under division (A)(15)(b) or (c)(i) of this section, the director shall provide those notices beginning ten business days from the date that the director receives laboratory results under the rules adopted under division (A)(14) of this section.

(18) Require the owner or operator of a community or nontransient noncommunity water system to submit a map to the director showing areas of the system that are known or are likely to contain lead service lines and identifying

characteristics of buildings served by the system that may contain lead piping, solder, or fixtures. The rules shall, at a minimum, require the owner or operator to do all of the following:

(a) Submit a copy of the applicable map to the department of health and the department of job and family services;

(b) Submit a report to the director containing at least the applicable map and a list of sampling locations that are tier I sites used to collect samples as required by rules adopted under this chapter, including contact information for the owner and occupant of each sampling site;

(c) Update and resubmit the information required by divisions (A)(18)(a) and (b) of this section according to a schedule determined by the director, but not less frequently than required under the Safe Drinking Water Act.

(B) The director shall post information on the environmental protection agency's web site about sources of funding that are available to assist communities with lead service line identification and replacement and schools with fountain and water-service fixture replacement.

(C) As required by the director, an owner or operator of a nontransient noncommunity water system that is a school or child care center shall collect additional tap water samples in buildings identified in the map required to be completed by rules adopted under division (A)(18) of this section.

(D) As used in this section:

(1) "Child care center" has the same meaning as in section 5104.01 of the Revised Code.

(2) "School" means a school operated by the board of education of a city, local, exempted village, or joint vocational school district, the governing board of an educational service center, the governing authority of a community school established under Chapter 3314. of the Revised Code, the governing body of a science, technology, engineering, and mathematics school established under Chapter 3326. of the Revised Code, the board of trustees of a college-preparatory boarding school established under Chapter 3328. of the Revised Code, or the governing authority of a chartered or nonchartered nonpublic school.

(3) "Local board of health" means the applicable board of health of a city or general health district or the authority having the duties of a board of health under section 3709.05 of the Revised Code.

Sec. 6111.035. (A) The director of environmental protection, consistent with the Federal Water Pollution Control Act and the regulations adopted thereunder, without application therefor, may issue, modify, revoke, or terminate a general permit under this chapter for both of the following:

(1) Discharge of stormwater; the discharge of liquids, sediments, solids, or water-borne mining related waste, such as, but not limited to, acids, metallic cations, or their salts, from coal mining and reclamation operations; or treatment works whose discharge would have de minimis impact on the waters of the state receiving the discharge;

(2) Installation or modification of disposal systems or any parts thereof, including disposal systems for stormwater or for coal mining and reclamation operations.

A general permit shall apply to a class or category of discharges or disposal systems or to persons conducting similar activities, within any area of the state, including the entire state.

A general permit shall not be issued unless the director determines that the discharges authorized by the permit will have only minimal cumulative adverse effects on the environment when the discharges are considered collectively and individually and if, in the opinion of the director, the discharges, installations, or modifications authorized by the permit are more appropriately authorized by a general permit than by an individual permit.

A general permit shall be issued subject to applicable mandatory provisions and may be issued subject to any applicable permissive provision of the Federal Water Pollution Control Act and the regulations adopted thereunder.

The director, at the director's discretion, may require any person authorized to discharge or to install or modify a disposal system under a general permit to apply for and obtain an individual permit for the discharge, installation, or modification. When a particular discharge, installation, or modification is subject to an individual permit, a general permit shall not apply to that discharge, installation, or modification until the individual permit is revoked, terminated, or modified to exclude the discharge, installation, or modification.

In the case of a general permit issued by the director under this section for coal mining and reclamation operations, a person seeking coverage under such a general permit shall submit a notice of intent to be covered by the general permit and to be

subject to the terms and conditions of the general permit. The notice of intent shall be submitted in accordance with the forms and deadlines specified for the applicable general permit for which coverage is sought. If the director has not granted or denied coverage under the general permit within forty-five days after receipt of the notice of intent, the person seeking coverage shall submit written notice to the director restating the person's request for coverage under the general permit. The director shall grant or deny coverage under the general permit not later than sixty days after receipt of the notice of intent. If, not later than fifteen days after receipt of the person's written notice restating the person's request for coverage, but not earlier than sixty days after receipt of the original notice of intent for coverage under the general permit, the director fails to act on the notice of intent, the discharge that is the subject of the notice of intent is deemed to be permitted and covered by the general permit related to coal mining and reclamation operations. Nothing in this section alters or limits the authority of the director to enforce the terms and conditions of the general permit or limits the director's authority to issue or deny other required permits.

As used in this division, "coal mining and reclamation operations" has the same meaning as in section 1513.01 of the Revised Code.

(B) Notwithstanding any requirement under Chapter 119. of the Revised Code concerning the manner in which notice of a permit action is provided, the director shall not be required to provide certified mail notice to persons subject to the issuance, modification, revocation, or termination of a general permit under division (A) of this section.

Notwithstanding section 3745.07 of the Revised Code concerning the location of newspapers in which notices of permit actions are published, the director shall cause notice of the issuance, modification, revocation, or termination of a general permit to be published in the newspapers of general circulation determined by the director to provide reasonable notice to persons affected by the permit action in the geographic area covered by the general permit within the time periods prescribed by section 3745.07 of the Revised Code. Any notice under this section or section 3745.07 of the Revised Code concerning the issuance, modification, revocation, or termination of a general permit shall include a summary of the permit action and instructions on how to obtain a copy of the full text of the permit action. The director may take other appropriate measures, such as press releases and notice to trade journals, associations, and other persons known to the director to desire notification, in order to provide notice of the director's actions concerning the issuance, modification, revocation, or termination of a general permit; however, the failure to provide such notice shall not invalidate any general permit.

(C) Notwithstanding any other provision of the Revised Code, a person subject to the proposed issuance, modification, revocation, or termination of a general permit under division (A) of this section may request an adjudication hearing pursuant to section 119.07 of the Revised Code concerning the proposed action within thirty days after publication of the notice of the proposed action in newspapers of general circulation pursuant to division (B) of this section. This division shall not be interpreted to affect the authority of the director to take actions on general permits in forms other than proposed general permits.

~~(D) The director may exercise all incidental powers required to carry out this section, including, without limitation, the adoption, amendment, and rescission of rules to implement a general permit program for classes or categories of dischargers or disposal systems.~~

~~(E)~~ On and after the date on which the United States environmental protection agency approves the NPDES program submitted by the director of agriculture under section 903.08 of the Revised Code, this section does not apply to storm water from an animal feeding facility, as defined in section 903.01 of the Revised Code, or to manure, as defined in that section.

~~(F)~~(E) As used in this section, "Federal Water Pollution Control Act" means the "Federal Water Pollution Control Act Amendments of 1972," 86 Stat. 886, 33 U.S.C.A. 1251, as amended by the "Clean Water Act of 1977," 91 Stat. 1566, 33 U.S.C.A. 1251, the "Act of October 21, 1980," 94 Stat. 2360, 33 U.S.C.A. 1254, the "Municipal Wastewater Treatment Construction Grant Amendments of 1981," 95 Stat. 1623, 33 U.S.C.A. 1281, and the "Water Quality Act of 1987," 101 Stat. 7, 33 U.S.C.A. 1251.

Sec. 6111.043. (A) As used in this section and sections 6111.044 to 6111.047 of the Revised Code, "area of review" means the area of review of an injection well as determined under regulations adopted under the "Safe Drinking Water Act," 88 Stat. 1661 (1974), 42 U.S.C.A. 300(f), as amended, or under rules adopted under this section.

(B) This section and sections 6111.044 to 6111.049 of the Revised Code establish a program for regulation of the injection of sewage, industrial waste, hazardous waste, and other wastes into wells in order to control pollution of the waters of the state, to prevent contamination of underground sources of

drinking water, and to satisfy all requirements of the "Safe Drinking Water Act," 88 Stat. 1661 (1974), 42 U.S.C.A. 300(f), as amended, regarding injection wells as defined in regulations adopted under that act. This section and sections 6111.044 to 6111.049 of the Revised Code do not apply to the drilling, conversion, and operation of wells that are subject to Chapter 1509. of the Revised Code.

The director of environmental protection, in consultation with the director of natural resources, shall adopt rules in accordance with Chapter 119. of the Revised Code governing the injection of sewage, industrial waste, hazardous waste, and other wastes into wells. The rules shall ~~include~~ have provisions regarding all of the following:

(1) Applications for and issuance and renewal of injection well drilling and injection well operating permits. The term of an injection well operating permit shall be five years, except that in the case of the injection well drilling permit or renewal of an injection well operating permit, as appropriate, that is first issued on or after the effective date of this amendment for a class I injection well that is in operation on that date, the term of the permit shall be not less than four nor more than six years as determined by the director.

(2) ~~Terms and conditions of such permits;~~

~~(3)~~ Entry to conduct inspections to ascertain compliance with this section, sections 6111.044, 6111.045, and 6111.047 of the Revised Code, and rules adopted and orders and terms and conditions of permits issued thereunder;

~~(4)~~(3) Contingencies involving the mechanical integrity of class I injection wells, including requirements for the

automatic shutdown of an injection well if pressures or the temperature or specific gravity of the sewage, industrial waste, hazardous waste, or other wastes differs from prescribed allowances;

~~(5)~~(4) A requirement that a seismic reflection data survey be conducted at each injection site where a class I injection well is located or proposed to be located in order to determine the presence or absence of such geologic faults or fractures as may be identified by seismic reflection survey data within or near the area around the well where formation pressures may be increased due to the operation of the well. If, prior to the effective date of division ~~(B)(5)~~(B)(4) of this section, a seismic reflection data survey was conducted at an injection site in accordance with a work plan approved by the director or a seismic reflection data survey was conducted at an injection site and the results were approved in writing by the director, the rules adopted under that division shall not require that a new survey be conducted. If there is a change in the area of review of an injection well that is located at an injection site for which a seismic reflection data survey has been conducted, or if a new injection well is proposed to be located at such an injection site, the rules shall require that the owner or operator of the injection site reevaluate the data obtained from the survey. The rules shall require that if, after a reevaluation of the existing survey data, the director determines that the existing data are inadequate to determine the presence or absence of geologic faults or fractures within the altered area of review or to determine the presence or absence of geologic faults or fractures within the area of pressure buildup of the new well, the director may require the owner or operator to submit such additional seismic reflection

data as the director considers necessary or appropriate. All seismic reflection data surveys shall be conducted in accordance with the standards established in rules adopted by the director.

~~(6)~~ (5) A requirement that when the director has reason to believe that the operation of a class I injection well may cause seismic disturbances, a passive seismicity monitoring program be maintained at or near the injection site. The rules adopted under division ~~(B)(6)~~ (B)(5) of this section may require that a microseismicity monitoring program be maintained at an injection site when determined to be necessary or appropriate by the director. All seismicity monitoring programs shall be conducted in accordance with standards established in rules adopted by the director.

~~(7)~~ (6) Definitions of the various classes of injection wells;

~~(8)~~ (7) A determination of the areas of review of injection wells~~;~~

~~(9) Other provisions in furtherance of the goals of this section and the "Safe Drinking Water Act," 88 Stat. 1661 (1974), 42 U.S.C.A. 300(f), as amended~~. The rules adopted under this section shall be consistent with that act and the regulations adopted under it, except that the director may adopt rules under this section that are more stringent than that act and the regulations adopted under it when ~~he~~ the director determines that they are inadequate to protect human health or the environment.

(C) Unless otherwise authorized by rule of the director, no person shall drill a new well or convert an existing well for the purpose of injecting sewage, industrial waste, hazardous

waste, or other wastes, without having obtained an injection well drilling permit issued by the director of environmental protection. The original permit or a true copy thereof shall be displayed in a conspicuous and easily accessible place at the well site. An application for an injection well drilling permit shall be filed with the director upon such form as the director prescribes and shall contain ~~such information as the director requires by rule, including~~ all of the following information:

(1) The name and address of the owner and, if a corporation, the name and address of the statutory agent;

(2) In the case of an applicant for a permit to drill a class I injection well who, at the time of submitting the application, does not hold an injection well operating permit or renewal of such a permit issued under section 6111.044 of the Revised Code, a statement of all relevant expertise of the owner or, if the well is to be operated by a person other than the owner, of the operator, in the operation of class I injection wells and a listing of all class I injection wells that the owner or operator has operated and is operating; the date that each such well was first placed in service or, if the well was first placed in service before the applicant acquired the well, the date that the applicant acquired the well; and the date of issuance, identification number, and expiration date of the permits issued for each such well by the United States or the state in which the injection well is located and, for each such permit, the name and address of the federal or state agency that issued the permit;

(3) The signature of the owner or ~~his~~the owner's authorized agent. When an authorized agent signs an application, it shall be accompanied by a certified copy of ~~his~~the

appointment as such agent.

(4) The proposed well location identified by latitude and longitude, and the location of the tract on which the well is to be drilled identified by latitudes and longitudes, section or lot number, city, village, or township, as applicable, and county;

(5) Designation of the well by name and number;

(6) The name of the geological formation and the approximate depth interval to be tested or used and the proposed total depth of the well;

(7) The type of drilling, completion, and injection equipment proposed to be used;

(8) The plan for disposal of water and other waste substances resulting from or obtained or produced in connection with the drilling, conversion, or testing of the well;

(9) The chemical composition and physical properties of the substance proposed to be injected.

(D) Based upon conditions observed by the director or ~~his~~the director's authorized representative during drilling or completion of a class I injection well, the director may request the holder of an injection well drilling permit issued under section 6111.044 of the Revised Code to submit to the director such information and test results in addition to those submitted with the application as the director considers necessary to more adequately define hydrogeologic conditions at the site of the well and to protect the lowermost underground source of drinking water near the injection well. The director shall include in each injection well drilling permit issued under section 6111.044 of the Revised Code the condition that, upon receiving

such a request from the director, the permit holder promptly submit the additional information or test results to the director.

(E) Unless otherwise authorized by rule of the director, no person shall use a well for the injection of sewage, industrial waste, hazardous waste, or other wastes without first obtaining an injection well operating permit issued by the director. An application for an injection well operating permit or a renewal of such a permit shall be filed on such form as the director prescribes and shall contain the information prescribed in the applicable provisions of divisions (C)(1) to (9) of this section. In addition, an application for an injection well operating permit or renewal of such a permit for a class I injection well shall contain ~~such information as the director requires by rule, including~~ all of the following:

(1) The results of such seismic reflection data surveys, seismic monitoring, and geophysical testing surveys in and surrounding the injection area as are required pursuant to rules adopted under divisions ~~(B)(5)~~(B)(4) and ~~(6)~~(5) of this section;

(2) A plan for ensuring the annual review and testing of the integrity of the well casing and associated well features and, if the application is for a renewal, the results of all such testing since the issuance of the current permit or renewal permit. If this information has been submitted to the director previously as required by rule or applicable technical guidance, it may be included in the application by reference.

(3) A plan for monitoring the lowermost underground source of drinking water near the injection well. When determined to be necessary by the director, the application also shall include a plan for monitoring conditions of other formations within the

area of review of the well, including formation pressures, formation transmissivity, or the vertical or horizontal migration of the injected fluids. If the application is for the renewal of an injection well operating permit, it shall be accompanied by all of the results from the monitoring of the lowermost underground source of drinking water near the well, and from other formation monitoring activities, conducted during the term of the current permit or renewal that had not been submitted to the director previously in accordance with rules adopted under this section, the terms and conditions of the current permit or renewal, or applicable technical guidance.

(4) A plan for conducting a seismicity monitoring program at the injection site when such a monitoring program is required pursuant to rules adopted under division ~~(B)(6)~~ (B)(5) of this section;

(5) The results of downhole monitoring; geophysical logs; core samples, to the extent that they are available; results of laboratory tests of core samples, to the extent that they are available; results of laboratory tests of formation fluids from the injection zone; and such other data or samples as the director may require to be submitted. If any such information, test results, or samples have been submitted to the director previously upon the request of the director or as required by rule, the terms and conditions of the injection well drilling permit or injection well operating permit or renewal of that operating permit for the well, or applicable technical guidance, the information, test results, or results of the analysis or evaluation of the samples may be included in the application by reference.

(6) A determination accompanied by supporting

documentation describing all areas around the well where formation pressures are predicted by the applicant to be increased due to the operation of the well and an evaluation of whether any resulting potential exists for contamination of any underground source of drinking water or migration of substances injected into the well outside of the anticipated injection zone. The determination shall be made through the use of an hydraulic model acceptable to the director.

(7) An evaluation of all artificial penetrations through the base of any underground source of drinking water within the area of review of the well and a determination of whether the wells are completed or plugged in accordance with the applicable rules adopted under this section or section 1509.15 of the Revised Code~~;~~

~~(8) Such additional information as the director determines to be necessary to carry out his responsibilities under this section and section 6111.044 of the Revised Code~~.

(F) Unless otherwise authorized by rule of the director, each application for an injection well drilling or operating permit or renewal of an injection well operating permit shall be accompanied by a map, on a scale not smaller than four hundred feet to the inch, prepared by an Ohio registered surveyor, showing the location of the well and containing such other data as may be prescribed by the director. If the well is or is to be located within the excavations and workings of an active mine, the map also shall include the location of the mine, the name of the mine, and the name of the person operating the mine. If the well is or is to be located within the excavations of an abandoned mine, the map also shall include the location of the mine and, to the extent that the information is available, the

name of the mine and approximate dates when mining activities occurred at the mine.

(G) Each application for an injection well drilling permit, an injection well operating permit, a renewal of an injection well operating permit, or a modification of an injection well drilling or operating permit or renewal permit shall be accompanied by a nonrefundable fee prescribed by the director by rule as necessary to defray the cost of processing the application.

Sec. 6111.047. (A) For the purpose of defraying the costs to the environmental protection agency of implementing, administering, and enforcing sections 6111.043 to 6111.047 of the Revised Code pertaining to class I injection wells, a fee of one dollar per ton is hereby levied on the injection of industrial waste or other wastes into a class I injection well. The fee levied by this division does not apply to the injection into such a well of any hazardous waste identified or listed in rules adopted under section 3734.12 of the Revised Code. The maximum annual fee for wastes injected at a class I injection facility shall be twenty-five thousand dollars regardless of the number of wells being used at the facility.

The owner or operator of the class I injection facility, as a trustee for the state, shall collect the fee levied under this division and forward it to the director of environmental protection in accordance with the rules adopted under division (C) of this section. The owner or operator shall remit the fee collected under this division to the director upon the anniversary of the date of issuance of ~~his~~the owner's or operator's injection well operating permit or renewal of such a permit, as appropriate. If the class I injection facility

consists of more than one injection well, the owner or operator shall remit the fee to the director on the anniversary of the date of issuance of the injection well operating permit or renewal of such a permit for which the anniversary of the date of issuance next succeeds the first day of January. If payment is late, the owner or operator shall pay to the director a penalty of ten per cent of the amount of the fee for each month that it is late.

(B) The director shall credit the moneys received under division (A) of this section to the underground injection control fund created in section 6111.046 of the Revised Code.

(C) The director, by rules adopted in accordance with Chapter 119. of the Revised Code, shall prescribe any dates not specified in this section and procedures for collecting and forwarding the fee levied by this section. ~~The rules may prescribe other requirements for implementing and administering this section.~~

(D) No person shall fail to comply with this section or a rule adopted under it.

Sec. 6111.049. Section 6111.047 and rules adopted under division ~~(B)(5)~~ (B)(4) of section 6111.043 of the Revised Code do not apply to any nonhazardous class I injection well that disposes of naturally occurring formation fluids extracted during salt mining processes into an injection zone consisting of the Oriskany sandstone at depths of not more than one thousand five hundred feet.

Sec. 6111.32. (A) In order to ensure the regular and orderly maintenance of federal navigation channels and ports in this state, the director of environmental protection shall

endeavor to work with the United States army corps of engineers on a dredging plan that focuses on long-term planning for the disposition of dredged material consistent with the requirements established in this section.

(B) On and after July 1, 2020, no person shall deposit dredged material in the portion of Lake Erie that is within the jurisdictional boundaries of this state or in the direct tributaries of Lake Erie within this state that resulted from harbor or navigation maintenance activities unless the director has determined that the dredged material is suitable for one of the locations, purposes, or activities specified in division (C) of this section and has issued a section 401 water quality certification authorizing the deposit.

(C) The director may authorize the deposit of dredged material in the portion of Lake Erie that is within the jurisdictional boundaries of this state or in the direct tributaries of Lake Erie within this state that resulted from harbor or navigation maintenance activities for any of the following:

(1) Confined disposal facilities;

(2) Beneficial use projects;

(3) Beach nourishment projects if at least eighty per cent of the dredged material is sand;

(4) Placement in the littoral drift if at least sixty per cent of the dredged material is sand;

(5) Habitat restoration projects;

(6) Projects involving amounts of dredged material that do not exceed ten thousand cubic yards, including material

associated with dewatering operations related to dredging operations.

(D) In order to coordinate the activities and responsibilities established under this chapter and Chapter 1506. of the Revised Code, the director shall consult with the director of natural resources when approving the location in which dredged material is proposed to be deposited in the portion of Lake Erie that is within the jurisdictional boundaries of this state or in the direct tributaries of Lake Erie within this state.

(E) The director of environmental protection, in consultation with the director of natural resources, may determine that financial, environmental, regulatory, or other factors exist that result in the inability to comply with this section. After making that determination, the director of environmental protection, through the issuance of a section 401 water quality certification, may allow for open lake placement of dredged material from the Maumee river, Maumee bay federal navigation channel, and Toledo harbor.

~~(F) The director may adopt rules in accordance with Chapter 119. of the Revised Code that are necessary for the implementation of this section.~~

Sec. 6111.451. Not later than one hundred eighty days after ~~the effective date of this section~~March 29, 2007, the director of environmental protection shall adopt rules in accordance with Chapter 119. of the Revised Code specifying construction activities that do not, by themselves, constitute installing works for the treatment or disposal of sewage or other waste for which approval of plans is required under section 6111.44 or 6111.45 of the Revised Code. The activities

shall include the grading and clearing of land, on-site storage of portable parts and equipment, and the construction of foundations or buildings that are not directly related to the installation of treatment or disposal works. The rules also shall allow specified initial activities that are part of the installation of treatment or disposal works, such as the installation of electrical and other utilities for the works, prior to the approval of the plans for the works, provided that the owner or operator of the works has submitted the complete plans for the works to the director and has notified the director that this activity will be undertaken prior to the approval of the plans. Any activity that is undertaken under the rules adopted under this section shall be at the risk of the owner or operator. The rules adopted under this section, to the extent possible, shall be consistent with rules adopted under division ~~(F)(5)~~(E)(5) of section 3704.03 of the Revised Code.

Sec. 6115.51. The treasurer of a sanitary district shall, at the time of taking office, execute and deliver to the president of the board of directors of the sanitary district, a bond with good and sufficient sureties, to be approved by the board, conditioned that the treasurer shall account for and pay over as required by law, and as ordered by the board, all money received by ~~him~~the treasurer on the sale of any of such bonds or from any other source, and that ~~he~~the treasurer will only sell and deliver such bonds to the purchasers thereof under and according to the terms prescribed in this section and section 6115.50 of the Revised Code. The treasurer of the district shall promptly report all sales of bonds to the board, and the board shall issue warrants at the proper time for the payment of the principal, including mandatory sinking fund payments, and premium, if any, and the interest payments coming due on all

bonds sold, and the treasurer shall place sufficient funds at the place of payment to pay the bonds. In case proper warrants are not issued by the board as provided in this section, the treasurer of the district shall ~~of his own accord~~ place funds at the place of payment.

The successor in office of any treasurer of a sanitary district is not entitled to the bonds or the proceeds thereof until ~~he~~the successor has complied with this section. If it is deemed more expedient by the board, as to moneys derived from the sale of bonds issued or from any other source, the board may by resolution select some suitable bank or banks or other depository, which depository shall be a qualified trustee as provided in section 135.18 of the Revised Code to hold and disburse such moneys on the orders of the board as the work progresses, until such fund is exhausted or transferred to the treasurer of the district by order of the board. The funds derived from the sale of any of such bonds shall be used only for paying the cost of the works and improvements and such costs, expenses, fees, and salaries, including financing costs, as are authorized by law.

The district may secure the payment of loans authorized by this chapter in the same manner as it may secure the payment of bonds~~, and the board may make any necessary rules to provide for such payment~~. A party who has not sought a remedy against any proceeding under this chapter, until after bonds have been sold or the work constructed, cannot for any cause have an injunction against the collection of taxes or assessments for the payment of such bonds.

Such bonds are negotiable instruments under Chapter 1303. of the Revised Code, and when executed under such sections, and

when sold in the manner prescribed in this section and section 6115.50 of the Revised Code and the consideration therefor is received by the district, shall not be invalidated for any irregularity or defect in the proceedings for the issue and sale thereof, and are incontestable in the hands of bona fide purchasers or holders thereof for value. No proceedings in respect to the issuance of any such bonds shall be necessary except such as are required by this chapter.

Moneys in the funds of the district, in excess of current needs, may be invested in investments authorized under Chapter 135. of the Revised Code for the investment of interim moneys, except as otherwise provided in any resolution authorizing the issuance of its revenue bonds, in any trust agreement securing its revenue bonds, or in any other resolution authorizing the investment of its funds. Income from all such investments of moneys in any fund shall be credited to such funds as the board determines, subject to any such resolution or trust agreement, and such investments may be sold at such times as the treasurer determines.

Section 2. That existing sections 9.46, 9.79, 9.821, 101.15, 101.34, 101.78, 101.98, 102.05, 103.0511, 105.41, 107.56, 109.08, 109.36, 109.361, 109.541, 109.57, 109.68, 111.15, 111.18, 111.47, 113.21, 113.51, 113.60, 119.01, 119.03, 120.03, 120.06, 120.521, 121.36, 121.41, 121.68, 122.075, 122.076, 122.077, 122.081, 122.083, 122.086, 122.087, 122.09, 122.154, 122.16, 122.17, 122.171, 122.175, 122.177, 122.179, 122.1710, 122.18, 122.25, 122.291, 122.38, 122.4020, 122.4077, 122.631, 122.632, 122.633, 122.6511, 122.6512, 122.74, 122.851, 122.86, 122.91, 122.922, 122.924, 122.925, 122.9511, 123.01, 123.04, 123.08, 123.201, 123.21, 123.22, 124.17, 124.74, 125.14, 125.84, 125.87, 125.88, 128.63, 131.024, 131.33, 135.182,

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Revised Code are hereby repealed. 103259

Section 3. That sections 109.366, 121.50, 125.90, 135.48, 145.80, 173.434, 173.49, 191.40, 905.05, 905.61, 915.22, 925.06, 943.15, 1112.28, 1315.14, 1322.02, 1322.55, 1322.57, 1349.33, 1349.36, 1506.021, 1531.09, 1531.10, 1546.15, 1716.13, 1751.48, 1753.43, 3111.35, 3111.67, 3119.51, 3121.8911, 3123.121, 3123.823, 3307.80, 3309.80, 3328.50, 3333.137, 3333.374, 3333.87, 3701.9314, 3702.79, 3702.86, 3702.961, 3702.981, 3704.141, 3706.29, 3715.69, 3715.82, 3715.91, 3721.11, 3721.67, 3727.15, 3727.40, 3727.79, 3734.47, 3749.02, 3753.02, 3901.044, 3901.077, 3901.3813, 3901.833, 3903.93, 3905.0611, 3905.79, 3905.95, 3938.09, 3960.12, 3961.09, 3963.08, 3964.21, 3965.10, 3970.08, 4506.22, 4729.26, 4730.07, 4734.10, 4744.28, 4751.04, 4760.19, 4762.19, 5101.222, 5119.397, 5120.657, 5124.03, 5160.02, 5162.02, 5165.02, 5165.61, 5167.02, 5168.86, 5180.536, 5502.25, 5703.16, 5709.24, 5709.912, 5920.02, 5921.10, and 5922.02 of the Revised Code are hereby repealed.

Section 4. That the version of section 3313.902 of the Revised Code that is scheduled to take effect July 1, 2026, be amended to read as follows:

Sec. 3313.902. (A) As used in this section:

(1) "Competency-based educational program" means any system of academic instruction, assessment, grading, and reporting in which individuals receive credit based on demonstrations and assessments of their learning rather than the amount of time they spend studying a subject. A competency-based educational program shall encourage accelerated learning among individuals who master academic materials quickly while providing additional instructional support time for individuals who need it.

(2) "Eligible individual" means an individual who

satisfies all of the following criteria:

(a) The individual is at least eighteen years of age.

(b) The individual is officially withdrawn from school.

(c) The individual has not been awarded a high school diploma or a certificate of high school equivalence as defined in section 4109.06 of the Revised Code.

(3) "Eligible provider" means a city, local, or exempted village school district that operates a dropout prevention and recovery program, the buckeye united school district operated by the department of youth services, the Ohio central school system established under section 5145.06 of the Revised Code, or a joint vocational school district that operates an adult education program.

(4) "Ohio technical center" has the same meaning as in section 3333.94 of the Revised Code.

(B) An eligible provider may establish a competency-based educational program that complies with standards adopted by the department of education and workforce and may enroll eligible individuals in the program for up to three consecutive school years for the purpose of earning a high school diploma. The provider shall establish a career plan for each individual enrolled in the program that specifies the individual's career goals and describes how the individual will demonstrate competency or earn course credits under division (C) of this section to earn a diploma and attain the individual's career goals.

(C) Notwithstanding sections 3313.61, 3313.611, 3313.613, 3313.614, 3313.618, and 3313.619 of the Revised Code, the department shall award a high school diploma to an individual

enrolled in a program under division (B) of this section who meets either of the following conditions:

(1) The individual demonstrates competency by completing at least three of the following activities, at least one of which shall be the activity described in division (C)(1)(a) or (b) of this section:

(a) Attaining a competency score as determined under division (B)(10) of section 3301.0712 of the Revised Code on each of the Algebra I and English language arts II end-of-course examinations prescribed under division (B)(2) of that section;

(b) Attaining a workforce readiness score, as determined by the department, on the nationally recognized job skills assessment selected by the department under division (F) of section 3301.0712 of the Revised Code;

(c) Obtaining an industry-recognized credential, or group of credentials, in a single career field that meet the criteria established under section 3313.6113 of the Revised Code to qualify for a high school diploma or earning an industry-recognized credential that is aligned to a technical education program provided by an Ohio technical center;

(d) Earning a cumulative score of proficient or higher on three or more state technical assessments aligned with section 3313.903 of the Revised Code in a single career pathway;

(e) Doing either of the following:

(i) Completing a pre-apprenticeship program aligned with options established under section 3313.904 of the Revised Code in the individual's chosen career field and providing evidence of acceptance into a registered apprenticeship program in that career field;

(ii) Completing an apprenticeship registered with the apprenticeship council established under section 4139.02 of the Revised Code in the individual's chosen career field.

(f) Completing two hundred fifty hours of a work-based learning experience with evidence of positive evaluations;

(g) Obtaining an OhioMeansJobs-readiness seal under section 3313.6112 of the Revised Code.

(2) The individual demonstrates competency by completing at least two of the activities described in divisions (C)(1)(a) to (g) of this section and earns course credits distributed as follows:

(a) English language arts, four credits;

(b) Mathematics, four credits. One credit may be a career-based mathematics course aligned to the individual's career plan developed under division (B) of this section.

(c) Science, three credits;

(d) Social studies, three credits;

(e) Financial literacy, one-half credit. The one-half credit of financial literacy may be applied toward the number of mathematics or social studies credits required under division (C)(2) of this section.

(D) An eligible provider shall report each individual enrolled in a program under division (B) of this section to the department. The department annually shall certify the enrollment and attendance of each individual reported under this division and shall pay the provider up to $7,500 for each such individual per school year, as determined by the department based on the extent of the individual's successful completion of the diploma

requirements prescribed in division (C) of this section.

(E) Notwithstanding anything in this section to the contrary, an eligible provider may request that the department allow an eligible individual to enroll in a program under division (B) of this section for more than three consecutive school years due to a hardship experienced by the individual that necessitates additional time to meet the diploma requirements prescribed in division (C) of this section.

(F) An eligible individual shall not be assigned to classes or settings with individuals who are younger than eighteen years of age.

(G) Each eligible provider shall contact each individual to whom a diploma is awarded under this section to collect data on the individual's career and educational outcomes at six months, twelve months, and eighteen months after the awarding of the diploma. At each time of contact, the provider shall request information regarding whether the individual is gainfully employed, participating in an apprenticeship, enrolled in postsecondary education, or serving in the military. The provider shall report the data collected to the department in the manner determined by the department.

(H) The department ~~shall~~ may adopt rules ~~as necessary~~ to ~~administer this section. The rules may include~~ establish all of the following:

(1) Standards for competency-based educational programs;

(2) Standards for applying an individual's work or life experiences toward the requirements of division (C) of this section;

(3) Requirements for determining the amount paid to

providers under division (D) of this section;

(4) Guidelines for approving or denying a hardship request made under division (E) of this section.

Section 5. That existing section 3313.902 of the Revised Code that is scheduled to take effect July 1, 2026, is hereby repealed.

Section 6. Sections 4 and 5 of this act take effect July 1, 2026.

Section 7. The General Assembly, applying the principle stated in division (B) of section 1.52 of the Revised Code that amendments are to be harmonized if reasonably capable of simultaneous operation, finds that the following sections, presented in this act as composites of the sections as amended by the acts indicated, are the resulting versions of the sections in effect prior to the effective date of the sections as presented in this act:

Section 105.41 of the Revised Code as amended by H.B. 66 of the 133rd General Assembly and H.B. 110 of the 134th General Assembly.

Section 340.03 of the Revised Code as amended by both H.B. 96 and S.B.138 of the 136th General Assembly.

Section 340.08 of the Revised Code as amended by both H.B. 96 and S.B. 138 of the 136th General Assembly.

Section 921.26 of the Revised Code as amended by both H.B. 507 and S.B. 131 of the 134th General Assembly.

Section 924.52 of the Revised Code as amended by both H.B. 153 and H.B. 229 of the 129th General Assembly.

Section 939.02 of the Revised Code as amended by both H.B. 7 and H.B. 166 of the 133rd General Assembly.

Section 940.02 of the Revised Code as amended by both H.B. 166 and H.B. 340 of the 133rd General Assembly.

Section 1181.21 of the Revised Code as amended by both H.B. 49 and H.B. 199 of the 132nd General Assembly.

Section 1321.37 of the Revised Code as amended by both H.B. 33 of the 135th General Assembly and S.B. 131 of the 134th General Assembly.

Section 1533.11 of the Revised Code as amended by both H.B. 64 and H.B. 96 of the 136th General Assembly.

Section 1533.111 of the Revised Code as amended by both H.B. 64 and H.B. 96 of the 136th General Assembly.

Section 1533.32 of the Revised Code as amended by both H.B. 64 and H.B. 96 of the 136th General Assembly.

Section 1533.321 of the Revised Code as amended by both H.B. 64 of the 136th General Assembly and H.B. 110 of the 134th General Assembly.

Section 3734.41 of the Revised Code as amended by both S.B. 294 and S.B. 302 of the 129th General Assembly.

Section 3745.57 of the Revised Code as amended by both H.B. 96 and S.B. 147 of the 136th General Assembly.

Section 3772.03 of the Revised Code as amended by H.B. 29 of the 134th General Assembly and both H.B. 49 and H.B. 132 of the 132nd General Assembly.

Section 4301.102 of the Revised Code as amended by both S.B. 162 and S.B. 188 of the 121st General Assembly.

Section 4729.16 of the Revised Code as amended by both H.B. 558 and S.B. 288 of the 134th General Assembly.

Section 4731.19 of the Revised Code as amended by both H.B. 509 and S.B. 131 of the 134th General Assembly.

Section 4751.32 of the Revised Code as amended by both H.B. 509 and S.B. 131 of the 134th General Assembly.

Section 4763.03 of the Revised Code as amended by both H.B. 199 and H.B. 213 of the 132nd General Assembly.

Section 5104.019 of the Revised Code as amended by H.B. 33 of the 135th General Assembly and H.B. 281 of the 134th General Assembly.

Section 5119.22 of the Revised Code as amended by both H.B. 96 and S.B. 138 of the 136th General Assembly.

Section 5119.221 of the Revised Code as amended by both H.B. 96 and S.B. 138 of the 136th General Assembly.

Section 5119.25 of the Revised Code as amended by both H.B. 96 and S.B. 138 of the 136th General Assembly.

Section 5123.43 of the Revised Code as amended by both H.B. 158 and H.B. 483 of the 131st General Assembly.

Section 5126.25 of the Revised Code as amended by both H.B. 509 and S.B. 131 of the 134th General Assembly.

Section 5505.17 of the Revised Code as amended by both H.B. 49 and H.B. 362 of the 132nd General Assembly.