

AN ACT

To amend sections 2743.55, 4141.01, 4141.05, 4141.06, 4141.07, 4141.09, 4141.16, 4141.17, 4141.20, 4141.21, 4141.22, 4141.24, 4141.241, 4141.25, 4141.26, 4141.28, 4141.29, 4141.291, 4141.301, 4141.312, 4141.33, 4141.35, 4141.43, and 4582.31 and to repeal sections 4141.043 and 4141.251 of the Revised Code to make changes in the determination of benefits by the Administrator of the Bureau of Employment Services, to make changes in the appeals process for unemployment compensation claims, to clarify when an employer receives an experience-rated unemployment tax rate, to change the notice requirements for employers, to modify the provisions regarding seasonal employment, to permit the Bureau to charge the mutualized account when there is no other account to which benefits may be charged, to specify that all information maintained by the Administrator is confidential, to authorize the acceptance of reports required from employers and unemployment claims from claimants by electronic means, to delete the calendar year 1990 costs of automation surcharge on all employers, to provide that the Bureau receives legal process in child support enforcement matters rather than the Department of Human Services, to include limited liability companies in the definition of "employer," to change the definition of independent contractor, to make conforming changes in response to changes in the Federal Unemployment Tax Act, to make other changes in the Unemployment Compensation Law, to permit specified

port authorities to apply to the appropriate authority of the United States to make modifications relative to foreign trade zones, and to declare an emergency.

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

SECTION 1. That sections 2743.55, 4141.01, 4141.05, 4141.06, 4141.07, 4141.09, 4141.16, 4141.17, 4141.20, 4141.21, 4141.22, 4141.24, 4141.241, 4141.25, 4141.26, 4141.28, 4141.29, 4141.291, 4141.301, 4141.312, 4141.33, 4141.35, 4141.43, and 4582.31 of the Revised Code be amended to read as follows:

Sec. 2743.55. (A) A single commissioner or a panel of court of claims commissioners shall hear and determine all matters relating to claims for an award of reparations. A claim for an award of reparations shall not be heard and determined until the expiration of the time allowed for the claimant to respond to the attorney general's finding of fact and recommendation for the claim. A single commissioner or a panel of commissioners may order law enforcement officers to provide them with copies of any information or data gathered in the investigation of the criminally injurious conduct that is the basis of any claim to enable the commissioners to determine whether, and the extent to which, a claimant qualifies for an award of reparations.

Any reference in sections 2743.51 to 2743.72 of the Revised Code to action by more than a single commissioner means action by a panel of commissioners. A panel shall consist of three commissioners who may only proceed upon a majority vote.

(B) The court of claims commissioners shall sit in Franklin county. A single commissioner or any panel of commissioners, pursuant to rules adopted by the chief justice of the supreme court, may sit and hear claims for an award of reparations at any other location in the state.

(C) Each claim for an award of reparations shall be heard by a single commissioner. The commissioner may determine the claim and make an award administratively without a hearing. If a claimant or the attorney general objects to the determination or award made by a single commissioner and files an objection with the clerk within thirty days after journalization of the order of the commissioner, the claim shall be heard by a panel of three commissioners who shall make an award or deny the claim upon a majority vote.

~~(D) If a claimant files a claim for an award of reparations based upon unemployment benefits loss and if the eligibility of the claimant for~~

~~unemployment benefits is the subject of a request for reconsideration or an appeal that has not been finally determined pursuant to division (Q) of section 4141.28 of the Revised Code, a single commissioner or a panel of court of claims commissioners that is hearing the claimant's claim for an award of reparations shall not make a determination of that claim, until after the claimant's eligibility for unemployment benefits pursuant to Chapter 4141. of the Revised Code has been finally determined pursuant to division (Q) of section 4141.28 of the Revised Code.~~

(E) The supreme court may promulgate rules to implement sections 2743.51 to 2743.72 of the Revised Code, which may include rules for the allowance of attorney's fees, the procedure for hearing claims by a single commissioner or by a panel of court of claims commissioners, and the procedure for hearing appeals from decisions of the court of claims commissioners.

Sec. 4141.01. As used in this chapter, unless the context otherwise requires:

(A)(1) "Employer" means the state, its instrumentalities, its political subdivisions and their instrumentalities, and any individual or type of organization including any partnership, limited liability company, association, trust, estate, joint-stock company, insurance company, or corporation, whether domestic or foreign, or the receiver, trustee in bankruptcy, trustee, or the successor thereof, or the legal representative of a deceased person who subsequent to December 31, 1971, or in the case of political subdivisions or their instrumentalities, subsequent to December 31, 1973:

(a) Had in employment at least one individual, or in the case of a nonprofit organization, subsequent to December 31, 1973, had not less than four individuals in employment for some portion of a day in each of twenty different calendar weeks, in either the current or the preceding calendar year whether or not the same individual was in employment in each such day; or

(b) Except for a nonprofit organization, had paid for service in employment wages of fifteen hundred dollars or more in any calendar quarter in either the current or preceding calendar year; or

(c) Had paid, subsequent to December 31, 1977, for employment in domestic service in a local college club, or local chapter of a college fraternity or sorority, cash remuneration of one thousand dollars or more in any calendar quarter in the current calendar year or the preceding calendar year, or had paid subsequent to December 31, 1977, for employment in domestic service in a private home cash remuneration of one thousand dollars in any calendar quarter in the current calendar year or the preceding

calendar year:

(i) For the purposes of divisions (A)(1)(a) and (b) of this section, there shall not be taken into account any wages paid to, or employment of, an individual performing domestic service as described in this division.

(ii) An employer under this division shall not be an employer with respect to wages paid for any services other than domestic service unless the employer is also found to be an employer under division (A)(1)(a), (b), or (d) of this section.

(d) As a farm operator or a crew leader subsequent to December 31, 1977, had in employment individuals in agricultural labor; and

(i) During any calendar quarter in the current calendar year or the preceding calendar year, paid cash remuneration of twenty thousand dollars or more for the agricultural labor; or

(ii) Had at least ten individuals in employment in agricultural labor, not including ~~such labor when performed before January 1, 1980, by an alien~~ agricultural workers who are aliens admitted to the United States to perform agricultural labor pursuant to sections 214(e) and 101(a)(15)(H) of the "Immigration and Nationality Act," 66 Stat. 163, 8 U.S.C.A. 1101(a)(15)(H)(ii)(a), for some portion of a day in each of the twenty different calendar weeks, in either the current or preceding calendar year whether or not the same individual was in employment in each day; or

(e) Is not otherwise an employer as defined under division (A)(1)(a) or (b) of this section; and

(i) For which, within either the current or preceding calendar year, service, except for domestic service in a private home not covered under division (A)(1)(c) of this section, is or was performed with respect to which such employer is liable for any federal tax against which credit may be taken for contributions required to be paid into a state unemployment fund;

(ii) Which, as a condition for approval of this chapter for full tax credit against the tax imposed by the "Federal Unemployment Tax Act," 84 Stat. 713, 26 U.S.C.A. 3301 to 3311, is required, pursuant to such act to be an employer under this chapter; or

(iii) Who became an employer by election under division (A)(4) or (5) of this section and for the duration of such election; or

(f) In the case of the state, its instrumentalities, its political subdivisions, and their instrumentalities, had in employment, as defined in division (B)(2)(a) of this section, at least one individual;

(g) For the purposes of division (A)(1)(a) of this section, if any week includes both the thirty-first day of December and the first day of January, the days of that week before the first day of January shall be considered one

calendar week and the days beginning the first day of January another week.

(2) Each individual employed to perform or to assist in performing the work of any agent or employee of an employer is employed by such employer for all the purposes of this chapter, whether such individual was hired or paid directly by such employer or by such agent or employee, provided the employer had actual or constructive knowledge of the work. All individuals performing services for an employer of any person in this state who maintains two or more establishments within this state are employed by a single employer for the purposes of this chapter.

(3) An employer subject to this chapter within any calendar year is subject to this chapter during the whole of such year and during the next succeeding calendar year.

(4) An employer not otherwise subject to this chapter who files with the administrator of the bureau of employment services a written election to become an employer subject to this chapter for not less than two calendar years shall, with the written approval of such election by the administrator, become an employer subject to this chapter to the same extent as all other employers as of the date stated in such approval, and shall cease to be subject to this chapter as of the first day of January of any calendar year subsequent to such two calendar years only if at least thirty days prior to such first day of January the employer has filed with the administrator a written notice to that effect.

(5) Any employer for whom services that do not constitute employment are performed may file with the administrator a written election that all such services performed by individuals in the employer's employ in one or more distinct establishments or places of business shall be deemed to constitute employment for all the purposes of this chapter, for not less than two calendar years. Upon written approval of the election by the administrator, such services shall be deemed to constitute employment subject to this chapter from and after the date stated in such approval. Such services shall cease to be employment subject to this chapter as of the first day of January of any calendar year subsequent to such two calendar years only if at least thirty days prior to such first day of January such employer has filed with the administrator a written notice to that effect.

(B)(1) "Employment" means:

~~(a) Service~~ Service performed by an individual for wages remuneration under any contract of hire, written or oral, express or implied, including service performed in interstate commerce and service performed by an officer of a corporation, without regard to whether such service is executive, managerial, or manual in nature, and without regard to whether such officer

is a stockholder or a member of the board of directors of the corporation;

~~(b) Services performed by an individual for remuneration,~~ unless it is shown to the satisfaction of the administrator that such individual:

~~(i) Has~~ has been and will continue to be free from ~~control or direction or control~~ over the performance of such service, both under a contract of service and in fact;

~~(ii) That such service is outside the usual course of the business for which service is performed; and~~

~~(iii) That such individual is customarily engaged in an independently established trade, occupation, profession, or business. The administrator shall adopt rules to define "direction or control."~~

(2) "Employment" includes:

(a) Service performed after December 31, 1977, by an individual in the employ of the state or any of its instrumentalities, or any political subdivision thereof or any of its instrumentalities or any instrumentality of more than one of the foregoing or any instrumentality of any of the foregoing and one or more other states or political subdivisions and without regard to divisions (A)(1)(a) and (b) of this section, provided that such service is excluded from employment as defined in the "Federal Unemployment Tax Act," 53 Stat. 183, 26 U.S.C.A. 3301, 3306(c)(7) and is not excluded under division (B)(3) of this section; or the services of employees covered by voluntary election, as provided under divisions (A)(4) and (5) of this section;

(b) Service performed after December 31, 1971, by an individual in the employ of a religious, charitable, educational, or other organization which is excluded from the term "employment" as defined in the "Federal Unemployment Tax Act," 84 Stat. 713, 26 U.S.C.A. 3301 to 3311, solely by reason of section 26 U.S.C.A. 3306(c)(8) of that act and is not excluded under division (B)(3) of this section;

(c) Domestic service performed after December 31, 1977, for an employer, as provided in division (A)(1)(c) of this section;

(d) Agricultural labor performed after December 31, 1977, for a farm operator or a crew leader, as provided in division (A)(1)(d) of this section;

(e) Service not covered under division (B)(1)~~(b)~~ of this section which is performed after December 31, 1971:

(i) As an agent-driver or commission-driver engaged in distributing meat products, vegetable products, fruit products, bakery products, beverages other than milk, laundry, or dry-cleaning services, for the individual's employer or principal;

(ii) As a traveling or city salesperson, other than as an agent-driver or

mmission-driver, engaged on a full-time basis in the solicitation on behalf of and in the transmission to the salesperson's employer or principal except for sideline sales activities on behalf of some other person of orders from wholesalers, retailers, contractors, or operators of hotels, restaurants, or other similar establishments for merchandise for resale, or supplies for use in their business operations, provided that for the purposes of this division (B)(2)(e)(ii) of this section, the services shall be deemed employment if the contract of service contemplates that substantially all of the services are to be performed personally by the individual and that the individual does not have a substantial investment in facilities used in connection with the performance of the services other than in facilities for transportation, and the services are not in the nature of a single transaction that is not a part of a continuing relationship with the person for whom the services are performed.

(f) An individual's entire service performed within or both within and without the state if:

(i) The service is localized in this state.

(ii) The service is not localized in any state, but some of the service is performed in this state and either the base of operations, or if there is no base of operations then the place from which such service is directed or controlled, is in this state or the base of operations or place from which such service is directed or controlled is not in any state in which some part of the service is performed but the individual's residence is in this state.

(g) Service not covered under division (B)(2)(f)(ii) of this section and performed entirely without this state, with respect to no part of which contributions are required and paid under an unemployment compensation law of any other state, the Virgin Islands, Canada, or of the United States, if the individual performing such service is a resident of this state and the administrator of the bureau of employment services approves the election of the employer for whom such services are performed; or, if the individual is not a resident of this state but the place from which the service is directed or controlled is in this state, the entire services of such individual shall be deemed to be employment subject to this chapter, provided service is deemed to be localized within this state if the service is performed entirely within this state or if the service is performed both within and without this state but the service performed without this state is incidental to the individual's service within the state, for example, is temporary or transitory in nature or consists of isolated transactions;

(h) Service of an individual who is a citizen of the United States, performed outside the United States except in Canada after December 31,

1971, or the Virgin Islands, after December 31, 1971, and before the first day of January of the year following that in which the United States secretary of labor approves the Virgin Islands law for the first time, in the employ of an American employer, other than service which is "employment" under divisions (B)(2)(f) and (g) of this section or similar provisions of another state's law, if:

(i) The employer's principal place of business in the United States is located in this state;

(ii) The employer has no place of business in the United States, but the employer is an individual who is a resident of this state; or the employer is a corporation which is organized under the laws of this state, or the employer is a partnership or a trust and the number of partners or trustees who are residents of this state is greater than the number who are residents of any other state; or

(iii) None of the criteria of divisions (B)(2)(f)(i) and (ii) of this section is met but the employer has elected coverage in this state or the employer having failed to elect coverage in any state, the individual has filed a claim for benefits, based on such service, under this chapter.

(i) For the purposes of division (B)(2)(h) of this section, the term "American employer" means an employer who is an individual who is a resident of the United States; or a partnership, if two-thirds or more of the partners are residents of the United States; or a trust, if all of the trustees are residents of the United States; or a corporation organized under the laws of the United States or of any state, provided the term "United States" includes the states, the District of Columbia, the Commonwealth of Puerto Rico, and the Virgin Islands.

(j) Notwithstanding any other provisions of divisions (B)(1) and (2) of this section, service, except for domestic service in a private home not covered under division (A)(1)(c) of this section, with respect to which a tax is required to be paid under any federal law imposing a tax against which credit may be taken for contributions required to be paid into a state unemployment fund, or service, except for domestic service in a private home not covered under division (A)(1)(c) of this section, which, as a condition for full tax credit against the tax imposed by the "Federal Unemployment Tax Act," 84 Stat. 713, 26 U.S.C.A. 3301 to 3311, is required to be covered under this chapter.

(k) Construction services performed by any individual under a construction contract, as defined in section 4141.39 of the Revised Code, if the administrator determines that the employer for whom services are performed has the right to direct or control the performance of the services

and that the individuals who perform the services receive remuneration for the services performed. The administrator shall presume that the employer for whom services are performed has the right to direct or control the performance of the services if ten or more of the following criteria apply:

(i) The employer directs or controls the manner or method by which instructions are given to the individual performing services;

(ii) The employer requires particular training for the individual performing services;

(iii) Services performed by the individual are integrated into the regular functioning of the employer;

(iv) The employer requires that services be provided by a particular individual;

(v) The employer hires, supervises, or pays the wages of the individual performing services;

(vi) A continuing relationship between the employer and the individual performing services exists which contemplates continuing or recurring work, even if not full-time work;

(vii) The employer requires the individual to perform services during established hours;

(viii) The employer requires that the individual performing services be devoted on a full-time basis to the business of the employer;

(ix) The employer requires the individual to perform services on the employer's premises;

(x) The employer requires the individual performing services to follow the order of work established by the employer;

(xi) The employer requires the individual performing services to make oral or written reports of progress;

(xii) The employer makes payment to the individual for services on a regular basis, such as hourly, weekly, or monthly;

(xiii) The employer pays expenses for the individual performing services;

(xiv) The employer furnishes the tools and materials for use by the individual to perform services;

(xv) The individual performing services has not invested in the facilities used to perform services;

(xvi) The individual performing services does not realize a profit or suffer a loss as a result of the performance of the services;

(xvii) The individual performing services is not performing services for more than two employers simultaneously;

(xviii) The individual performing services does not make the services

available to the general public;

(xix) The employer has a right to discharge the individual performing services;

(xx) The individual performing services has the right to end the individual's relationship with the employer without incurring liability pursuant to an employment contract or agreement.

(3) "Employment" does not include the following services if they are found not subject to the "Federal Unemployment Tax Act," 84 Stat. 713 (1970), 26 U.S.C.A. 3301 to 3311, and if the services are not required to be included under division (B)(2)(j) of this section:

(a) Service performed after December 31, 1977, in agricultural labor, except as provided in division (A)(1)(d) of this section;

(b) Domestic service performed after December 31, 1977, in a private home, local college club, or local chapter of a college fraternity or sorority except as provided in division (A)(1)(c) of this section;

(c) Service performed after December 31, 1977, for this state or a political subdivision as described in division (B)(2) (a) of this section when performed:

(i) As a publicly elected official;

(ii) As a member of a legislative body, or a member of the judiciary;

(iii) As a military member of the Ohio national guard;

(iv) As an employee, not in the classified service as defined in section 124.11 of the Revised Code, serving on a temporary basis in case of fire, storm, snow, earthquake, flood, or similar emergency;

(v) In a position which, under or pursuant to law, is designated as a major nontenured policymaking or advisory position, not in the classified service of the state, or a policymaking or advisory position the performance of the duties of which ordinarily does not require more than eight hours per week.

(d) In the employ of any governmental unit or instrumentality of the United States;

(e) Service performed after December 31, 1971:

(i) Service in the employ of an educational institution or institution of higher education, including those operated by the state or a political subdivision, if such service is performed by a student who is enrolled and is regularly attending classes at the educational institution or institution of higher education; or

(ii) By an individual who is enrolled at a nonprofit or public educational institution which normally maintains a regular faculty and curriculum and normally has a regularly organized body of students in attendance at the

place where its educational activities are carried on as a student in a full-time program, taken for credit at the institution, which combines academic instruction with work experience, if the service is an integral part of the program, and the institution has so certified to the employer, provided that this subdivision shall not apply to service performed in a program established for or on behalf of an employer or group of employers;

(f) Service performed by an individual in the employ of the individual's son, daughter, or spouse and service performed by a child under the age of eighteen in the employ of the child's father or mother;

(g) Service performed for one or more principals by an individual who is compensated on a commission basis, who in the performance of the work is master of the individual's own time and efforts, and whose remuneration is wholly dependent on the amount of effort the individual chooses to expend, and which service is not subject to the "Federal Unemployment Tax Act," 53 Stat. 183 (1939), 26 U.S.C.A. 3301 to 3311. Service performed after December 31, 1971:

(i) By an individual for an employer as an insurance agent or as an insurance solicitor, if all this service is performed for remuneration solely by way of commission;

(ii) As a home worker performing work, according to specifications furnished by the employer for whom the services are performed, on materials or goods furnished by such employer which are required to be returned to the employer or to a person designated for that purpose.

(h) Service performed after December 31, 1971:

(i) In the employ of a church or convention or association of churches, or in an organization which is operated primarily for religious purposes and which is operated, supervised, controlled, or principally supported by a church or convention or association of churches;

(ii) By a duly ordained, commissioned, or licensed minister of a church in the exercise of the individual's ministry or by a member of a religious order in the exercise of duties required by such order; or

(iii) In a facility conducted for the purpose of carrying out a program of rehabilitation for individuals whose earning capacity is impaired by age or physical or mental deficiency or injury, or providing remunerative work for individuals who because of their impaired physical or mental capacity cannot be readily absorbed in the competitive labor market, by an individual receiving such rehabilitation or remunerative work;

(i) Service performed after June 30, 1939, with respect to which unemployment compensation is payable under the "Railroad Unemployment Insurance Act," 52 Stat. 1094 (1938), 45 U.S.C. 351;

(j) Service performed by an individual in the employ of any organization exempt from income tax under section 501 of the "Internal Revenue Code of 1954," if the remuneration for such service does not exceed fifty dollars in any calendar quarter, or if such service is in connection with the collection of dues or premiums for a fraternal beneficial society, order, or association and is performed away from the home office or is ritualistic service in connection with any such society, order, or association;

(k) Casual labor not in the course of an employer's trade or business; incidental service performed by an officer, appraiser, or member of a finance committee of a bank, building and loan association, savings and loan association, or savings association when the remuneration for such incidental service exclusive of the amount paid or allotted for directors' fees does not exceed sixty dollars per calendar quarter is casual labor;

(l) Service performed in the employ of a voluntary employees' beneficial association providing for the payment of life, sickness, accident, or other benefits to the members of such association or their dependents or their designated beneficiaries, if admission to a membership in such association is limited to individuals who are officers or employees of a municipal or public corporation, of a political subdivision of the state, or of the United States and no part of the net earnings of such association inures, other than through such payments, to the benefit of any private shareholder or individual;

(m) Service performed by an individual in the employ of a foreign government, including service as a consular or other officer or employee or of a nondiplomatic representative;

(n) Service performed in the employ of an instrumentality wholly owned by a foreign government if the service is of a character similar to that performed in foreign countries by employees of the United States or of an instrumentality thereof and if the administrator finds that the secretary of state of the United States has certified to the secretary of the treasury of the United States that the foreign government, with respect to whose instrumentality exemption is claimed, grants an equivalent exemption with respect to similar service performed in the foreign country by employees of the United States and of instrumentalities thereof;

(o) Service with respect to which unemployment compensation is payable under an unemployment compensation system established by an act of congress;

(p) Service performed as a student nurse in the employ of a hospital or a nurses' training school by an individual who is enrolled and is regularly

attending classes in a nurses' training school chartered or approved pursuant to state law, and service performed as an intern in the employ of a hospital by an individual who has completed a four years' course in a medical school chartered or approved pursuant to state law;

(q) Service performed by an individual under the age of eighteen in the delivery or distribution of newspapers or shopping news, not including delivery or distribution to any point for subsequent delivery or distribution;

(r) Service performed in the employ of the United States or an instrumentality of the United States immune under the constitution of the United States from the contributions imposed by this chapter, except that to the extent that congress permits states to require any instrumentalities of the United States to make payments into an unemployment fund under a state unemployment compensation act, this chapter shall be applicable to such instrumentalities and to services performed for such instrumentalities in the same manner, to the same extent, and on the same terms as to all other employers, individuals, and services, provided that if this state is not certified for any year by the proper agency of the United States under section 3304 of the "Internal Revenue Code of 1954," the payments required of such instrumentalities with respect to such year shall be refunded by the administrator from the fund in the same manner and within the same period as is provided in division (E) of section 4141.09 of the Revised Code with respect to contributions erroneously collected;

(s) Service performed by an individual as a member of a band or orchestra, provided such service does not represent the principal occupation of such individual, and which service is not subject to or required to be covered 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. Service performed after December 31, 1971, for a nonprofit organization, this state or its instrumentalities, or a political subdivision or its instrumentalities, as part of an unemployment work-relief or work-training program assisted or financed in whole or in part by any federal agency or an agency of a state or political subdivision thereof, by an individual receiving the work-relief or work-training.

(t) Service performed in the employ of a day camp whose camping season does not exceed twelve weeks in any calendar year, and which service is not subject to the "Federal Unemployment Tax Act," 53 Stat. 183 (1939), 26 U.S.C.A. 3301 to 3311. Service performed after December 31, 1971:

(i) In the employ of a hospital, if the service is performed by a patient of the hospital, as defined in division (W) of this section;

(ii) For a prison or other correctional institution by an inmate of the prison or correctional institution;

(iii) Service performed after December 31, 1977, by an inmate of a custodial institution operated by the state, a political subdivision, or a nonprofit organization.

(u) Service that is performed by a nonresident alien individual for the period the individual temporarily is present in the United States as a nonimmigrant under division (F), (J), (M), or (Q) of section 101(a)(15) of the "Immigration and Nationality Act," 66 Stat. 163, 8 U.S.C.A. 1101, as amended, that is excluded under section 3306(c)(19) of the "Federal Unemployment Tax Act," 53 Stat. 183 (1939), 26 U.S.C.A. 3301 to 3311.

(v) Notwithstanding any other provisions of division (B)(3) of this section, services which are excluded under divisions (B)(3)(g), (j), (k), and (l) of this section, shall not be excluded from employment when performed for a nonprofit organization, as defined in division (X) of this section or for this state or its instrumentalities, or for a political subdivision or its instrumentalities.

(4) If the services performed during one half or more of any pay period by an employee for the person employing that employee constitute employment, all the services of such employee for such period shall be deemed to be employment; but if the services performed during more than one half of any such pay period by an employee for the person employing that employee do not constitute employment, then none of the services of such employee for such period shall be deemed to be employment. As used in division (B)(4) of this section, "pay period" means a period, of not more than thirty-one consecutive days, for which payment of remuneration is ordinarily made to the employee by the person employing that employee. Division (B)(4) of this section does not apply to services performed in a pay period by an employee for the person employing that employee, if any of such service is excepted by division (B)(3)(o) of this section.

(C) "Benefits" means money payments payable to an individual who has established benefit rights, as provided in this chapter, for loss of remuneration due to the individual's unemployment.

(D) "Benefit rights" means the weekly benefit amount and the maximum benefit amount that may become payable to an individual within the individual's benefit year as determined by the administrator ~~or the administrator's deputy~~.

(E) "Claim for benefits" means a claim for waiting period or benefits for a designated week.

(F) "Additional claim" means the first claim for benefits filed following

any separation from employment during a benefit year; "continued claim" means any claim other than the first claim for benefits and other than an additional claim.

(G)(1) "Wages" means remuneration paid to an employee by each of the employee's employers with respect to employment; except that wages shall not include that part of remuneration paid during any calendar year to an individual by an employer or such employer's predecessor in interest in the same business or enterprise, which in any calendar year is in excess of eight thousand two hundred fifty dollars on and after January 1, 1992; eight thousand five hundred dollars on and after January 1, 1993; eight thousand seven hundred fifty dollars on and after January 1, 1994; and nine thousand dollars on and after January 1, 1995. Remuneration in excess of such amounts shall be deemed wages subject to contribution to the same extent that such remuneration is defined as wages under the "Federal Unemployment Compensation Tax Act," 84 Stat. 714 (1970), 26 U.S.C.A. 3301 to 3311, as amended. The remuneration paid an employee by an employer with respect to employment in another state, upon which contributions were required and paid by such employer under the unemployment compensation act of such other state, shall be included as a part of remuneration in computing the amount specified in this division.

(2) Notwithstanding division (G)(1) of this section, if, as of the computation date for any calendar year, the administrator determines that the level of the unemployment compensation fund is sixty per cent or more below the minimum safe level as defined in section 4141.25 of the Revised Code, then, effective the first day of January of the following calendar year, wages subject to this chapter shall not include that part of remuneration paid during any calendar year to an individual by an employer or such employer's predecessor in interest in the same business or enterprise which is in excess of nine thousand dollars. The increase in the dollar amount of wages subject to this chapter under this division shall remain in effect from the date of the administrator's determination pursuant to division (G)(2) of this section and thereafter notwithstanding the fact that the level in the fund may subsequently become less than sixty per cent below the minimum safe level.

(H)(1) "Remuneration" means all compensation for personal services, including commissions and bonuses and the cash value of all compensation in any medium other than cash, except that in the case of agricultural or domestic service, "remuneration" includes only cash remuneration. Gratuities customarily received by an individual in the course of the individual's employment from persons other than the individual's employer and which are accounted for by such individual to the individual's employer

are taxable wages.

The reasonable cash value of compensation paid in any medium other than cash shall be estimated and determined in accordance with rules prescribed by the administrator, provided that "remuneration" does not include:

(a) Payments as provided in divisions (b)(2) to (b)(16) of section 3306 of the "Federal Unemployment Tax Act," 84 Stat. 713, 26 U.S.C.A. 3301 to 3311, as amended;

(b) The payment by an employer, without deduction from the remuneration of the individual in the employer's employ, of the tax imposed upon an individual in the employer's employ under section 3101 of the "Internal Revenue Code of 1954," with respect to services performed after October 1, 1941.

(2) "Cash remuneration" means all remuneration paid in cash, including commissions and bonuses, but not including the cash value of all compensation in any medium other than cash.

(I) "Interested party" means the administrator and any party to whom notice of a determination of an application for benefit rights or a claim for benefits is required to be given under section 4141.28 of the Revised Code.

(J) "Annual payroll" means the total amount of wages subject to contributions during a twelve-month period ending with the last day of the second calendar quarter of any calendar year.

(K) "Average annual payroll" means the average of the last three annual payrolls of an employer, provided that if, as of any computation date, the employer has had less than three annual payrolls in such three-year period, such average shall be based on the annual payrolls which the employer has had as of such date.

(L)(1) "Contributions" means the money payments to the state unemployment compensation fund required of employers by section 4141.25 of the Revised Code and of the state and any of its political subdivisions electing to pay contributions under section 4141.242 of the Revised Code. Employers paying contributions shall be described as "contributory employers."

(2) "Payments in lieu of contributions" means the money payments to the state unemployment compensation fund required of reimbursing employers under sections 4141.241 and 4141.242 of the Revised Code.

(M) An individual is "totally unemployed" in any week during which the individual performs no services and with respect to such week no remuneration is payable to the individual.

(N) An individual is "partially unemployed" in any week if, due to

involuntary loss of work, the total remuneration payable to the individual for such week is less than the individual's weekly benefit amount.

(O) "Week" means the calendar week ending at midnight Saturday unless an equivalent week of seven consecutive calendar days is prescribed by the administrator.

(1) "Qualifying week" means any calendar week in an individual's base period with respect to which the individual earns or is paid remuneration in employment subject to this chapter. A calendar week with respect to which an individual earns remuneration but for which payment was not made within the base period ~~may~~, when necessary to qualify for benefit rights, may be considered to be a qualifying week. The number of qualifying weeks which may be established in a calendar quarter shall not exceed the number of calendar weeks in the quarter.

(2) "Average weekly wage" means the amount obtained by dividing an individual's total remuneration for all qualifying weeks during the base period by the number of such qualifying weeks, provided that if the computation results in an amount which is not a multiple of one dollar, such amount shall be rounded to the next lower multiple of one dollar.

(P) "Weekly benefit amount" means the amount of benefits an individual would be entitled to receive for one week of total unemployment.

(Q)(1) "Base period" means the first four of the last five completed calendar quarters immediately preceding the first day of an individual's benefit year, except as provided in division (Q)(2) of this section.

(2) If an individual does not have sufficient qualifying weeks and wages in the base period to qualify for benefit rights, the individual's base period shall be the four most recently completed calendar quarters preceding the first day of the individual's benefit year. Such base period shall be known as the "alternate base period." If information as to weeks and wages for the most recent quarter of the alternate base period is not available to the administrator from the regular quarterly reports of wage information, which are systematically accessible, the administrator may, consistent with the provisions of section 4141.28 of the Revised Code, base the determination of eligibility for benefits on the affidavit of the claimant with respect to weeks and wages for that calendar quarter. The claimant shall furnish payroll documentation, where available, in support of the affidavit. The determination based upon the alternate base period as it relates to the claimant's benefit rights, shall be amended when the quarterly report of wage information from the employer is timely received and that information causes a change in the determination. As provided in division (B)(1)(b) of section 4141.28 of the Revised Code, any benefits paid and charged to an

employer's account, based upon a claimant's affidavit, shall be adjusted effective as of the beginning of the claimant's benefit year. No calendar quarter in a base period or alternate base period shall be used to establish a subsequent benefit year.

(3) The "base period" of a combined wage claim, as described in division (H) of section 4141.43 of the Revised Code, shall be the base period prescribed by the law of the state in which the claim is allowed.

(R) "Benefit year" with respect to an individual means the fifty-two week period beginning with the first day of that week with respect to which the individual first files a valid application for determination of benefit rights, and thereafter the fifty-two week period beginning with the first day of that week with respect to which the individual next files a valid application for determination of benefit rights after the termination of the individual's last preceding benefit year, except that the application shall not be considered valid unless the individual has had employment in six weeks that is subject to this chapter or the unemployment compensation act of another state, or the United States, and has, since the beginning of the individual's previous benefit year, in the employment earned three times the average weekly wage determined for the previous benefit year. The "benefit year" of a combined wage claim, as described in division (H) of section 4141.43 of the Revised Code, shall be the benefit year prescribed by the law of the state in which the claim is allowed. ~~Any~~

Effective for applications filed with respect to weeks beginning on or after October 1, 2000, any application for determination of benefit rights made in accordance with section 4141.28 of the Revised Code is valid if the individual filing such application is unemployed, has been employed by an employer or employers subject to this chapter, in at least twenty qualifying weeks within the individual's base period, and in such weeks has earned or been paid remuneration at an average weekly wage, beginning on and after January 1, 1992, of not less than twenty-seven and one-half per cent of the statewide average weekly wage for such weeks, and the reason for the individual's separation from employment is not disqualifying pursuant to division (D)(2) of section 4141.29 or section 4141.291 of the Revised Code. A disqualification imposed pursuant to division (D)(2) of section 4141.29 or section 4141.291 of the Revised Code must be removed as provided in those sections as a requirement of establishing a valid application for benefit rights. The

The statewide average weekly wage shall be calculated by the administrator once a year based on the twelve-month period ending the thirtieth day of June, as set forth in division (B)(3) of section 4141.30 of the

Revised Code, rounded down to the nearest dollar. Increases or decreases in the amount of remuneration required to have been earned or paid in order for individuals to have filed valid applications shall become effective on Sunday of the calendar week in which the first day of January occurs that follows the twelve-month period ending the thirtieth day of June upon which the calculation of the statewide average weekly wage was based.

As used in this division, an individual is "unemployed" if, with respect to the calendar week in which such application is filed, the individual is "partially unemployed" or "totally unemployed" as defined in this section or if, prior to filing the application, the individual was separated from the individual's most recent work for any reason which terminated the individual's employee-employer relationship, or was laid off indefinitely or for a definite period of seven or more days.

(S) "Calendar quarter" means the period of three consecutive calendar months ending on the thirty-first day of March, the thirtieth day of June, the thirtieth day of September, and the thirty-first day of December, or the equivalent thereof as the administrator prescribes by rule.

(T) "Computation date" means the first day of the third calendar quarter of any calendar year.

(U) "Contribution period" means the calendar year beginning on the first day of January of any year.

(V) "Agricultural labor," for the purpose of this division, means any service performed prior to January 1, 1972, which was agricultural labor as defined in this division prior to that date, and service performed after December 31, 1971:

(1) On a farm, in the employ of any person, in connection with cultivating the soil, or in connection with raising or harvesting any agricultural or horticultural commodity, including the raising, shearing, feeding, caring for, training, and management of livestock, bees, poultry, and fur-bearing animals and wildlife;

(2) In the employ of the owner or tenant or other operator of a farm in connection with the operation, management, conservation, improvement, or maintenance of such farm and its tools and equipment, or in salvaging timber or clearing land of brush and other debris left by hurricane, if the major part of such service is performed on a farm;

(3) In connection with the production or harvesting of any commodity defined as an agricultural commodity in section 15 (g) of the "Agricultural Marketing Act," 46 Stat. 1550 (1931), 12 U.S.C. 1141j, as amended, or in connection with the ginning of cotton, or in connection with the operation or maintenance of ditches, canals, reservoirs, or waterways, not owned or

operated for profit, used exclusively for supplying and storing water for farming purposes;

(4) In the employ of the operator of a farm in handling, planting, drying, packing, packaging, processing, freezing, grading, storing, or delivering to storage or to market or to a carrier for transportation to market, in its unmanufactured state, any agricultural or horticultural commodity, but only if the operator produced more than one half of the commodity with respect to which such service is performed;

(5) In the employ of a group of operators of farms, or a cooperative organization of which the operators are members, in the performance of service described in division (V)(4) of this section, but only if the operators produced more than one-half of the commodity with respect to which the service is performed;

(6) Divisions (V)(4) and (5) of this section shall not be deemed to be applicable with respect to service performed:

(a) In connection with commercial canning or commercial freezing or in connection with any agricultural or horticultural commodity after its delivery to a terminal market for distribution for consumption; or

(b) On a farm operated for profit if the service is not in the course of the employer's trade or business.

As used in division (V) of this section, "farm" includes stock, dairy, poultry, fruit, fur-bearing animal, and truck farms, plantations, ranches, nurseries, ranges, greenhouses, or other similar structures used primarily for the raising of agricultural or horticultural commodities and orchards.

(W) "Hospital" means an institution which has been registered or licensed by the Ohio department of health as a hospital.

(X) "Nonprofit organization" means an organization, or group of organizations, described in section 501(c)(3) of the "Internal Revenue Code of 1954," and exempt from income tax under section 501(a) of that code.

(Y) "Institution of higher education" means a public or nonprofit educational institution which:

(1) Admits as regular students only individuals having a certificate of graduation from a high school, or the recognized equivalent;

(2) Is legally authorized in this state to provide a program of education beyond high school; and

(3) Provides an educational program for which it awards a bachelor's or higher degree, or provides a program which is acceptable for full credit toward such a degree, a program of post-graduate or post-doctoral studies, or a program of training to prepare students for gainful employment in a recognized occupation.

For the purposes of this division, all colleges and universities in this state are institutions of higher education.

(Z) For the purposes of this chapter, "states" includes the District of Columbia, the Commonwealth of Puerto Rico, and the Virgin Islands.

(AA) "Alien" means, for the purposes of division (A)(1)(d) of this section, an individual who is an alien admitted to the United States to perform service in agricultural labor pursuant to sections 214 (c) and 101 (a)(15)(H) of the "Immigration and Nationality Act," 66 Stat. 163, 8 U.S.C.A. 1101.

(BB)(1) "Crew leader" means an individual who furnishes individuals to perform agricultural labor for any other employer or farm operator, and:

(a) Pays, either on the individual's own behalf or on behalf of the other employer or farm operator, the individuals so furnished by the individual for the service in agricultural labor performed by them;

(b) Has not entered into a written agreement with the other employer or farm operator under which the agricultural worker is designated as in the employ of the other employer or farm operator.

(2) For the purposes of this chapter, any individual who is a member of a crew furnished by a crew leader to perform service in agricultural labor for any other employer or farm operator shall be treated as an employee of the crew leader if:

(a) The crew leader holds a valid certificate of registration under the "Farm Labor Contractor Registration Act of 1963," 90 Stat. 2668, 7 U.S.C. 2041; or

(b) Substantially all the members of the crew operate or maintain tractors, mechanized harvesting or crop-dusting equipment, or any other mechanized equipment, which is provided by the crew leader; and

(c) If the individual is not in the employment of the other employer or farm operator within the meaning of division (B)(1) of this section.

(3) For the purposes of this division, any individual who is furnished by a crew leader to perform service in agricultural labor for any other employer or farm operator and who is not treated as in the employment of the crew leader under division (BB)(2) of this section shall be treated as the employee of the other employer or farm operator and not of the crew leader. The other employer or farm operator shall be treated as having paid cash remuneration to the individual in an amount equal to the amount of cash remuneration paid to the individual by the crew leader, either on the crew leader's own behalf or on behalf of the other employer or farm operator, for the service in agricultural labor performed for the other employer or farm operator.

(CC) "Educational institution" means an institution other than an

stitution of higher education as defined in division (Y) of this section which:

(1) Offers participants, trainees, or students an organized course of study or training designed to transfer to them knowledge, skills, information, doctrines, attitudes, or abilities from, by, or under the guidance of an instructor or teacher; and

(2) Is approved, chartered, or issued a permit to operate as a school by the state board of education or other government agency that is authorized within the state to approve, charter, or issue a permit for the operation of a school.

For the purposes of this division, the courses of study or training which the institution offers may be academic, technical, trade, or preparation for gainful employment in a recognized occupation.

Sec. 4141.05. The administrator of the bureau of employment services shall establish a division of ~~research and statistics~~ labor market information. The head of the division shall be known as the "director of the division of ~~research and statistics~~ labor market information." ~~The director may not be removed without the consent of the advisory council, nor may the duties of his office be altered, suspended, or abolished without the consent of the council.~~

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, ~~except that upon expiration of the term ending November 5, 1975, the new term which succeeds it shall commence on November 6, 1975, and end on February 27, 1981; and upon expiration of the term ending August 31, 1977, the new term which succeeds it shall commence on September 1, 1977, and end on February 27, 1983.~~ 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 ~~from the unemployment compensation administration fund~~. The governor ~~may~~, 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 position 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 ~~in such case or at any time it is determined by the governor that a member of the commission is incapacitated to serve,~~ appoint a member of the advisory council representing the same affiliations to act and receive the same compensation ~~from the unemployment fund~~ 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 ~~Chapter 124. division (A)(8) of section 124.11~~ of the Revised Code, each member of the commission may appoint a private secretary ~~to~~ 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 or its secretary shall keep a record of the proceedings of the commission and of its determinations.~~

HEARINGS BEFORE THE COMMISSION ARE HELD AT THE

HEARING OFFICER LEVEL AND THE REVIEW LEVEL. UNLESS OTHERWISE PROVIDED IN THIS CHAPTER, INITIAL HEARINGS INVOLVING CLAIMS FOR COMPENSATION AND OTHER UNEMPLOYMENT COMPENSATION ISSUES ARE CONDUCTED AT THE HEARING OFFICER LEVEL BY HEARING OFFICERS APPOINTED BY THE COMMISSION. HEARINGS AT THE REVIEW LEVEL ARE CONDUCTED BY HEARING OFFICERS APPOINTED BY THE COMMISSION, BY MEMBERS OF THE COMMISSION ACTING EITHER INDIVIDUALLY OR COLLECTIVELY, AND BY MEMBERS OF THE COMMISSION AND HEARING OFFICERS ACTING JOINTLY. IN ALL HEARINGS CONDUCTED AT THE REVIEW LEVEL, THE COMMISSION SHALL DESIGNATE THE HEARING OFFICER OR OFFICERS WHO ARE TO CONDUCT THE HEARING. WHEN THE TERM "HEARING OFFICER" IS USED IN REFERENCE TO HEARINGS CONDUCTED AT THE REVIEW LEVEL, THE TERM INCLUDES MEMBERS OF THE COMMISSION. ALL DECISIONS ISSUED AT THE REVIEW LEVEL ARE ISSUED BY THE COMMISSION.

The commission and its hearing officers shall hear appeals arising from determinations of the administrator of the bureau of employment services involving claims for compensation and other unemployment compensation issues. The commission shall adopt, amend, or rescind ~~such~~ 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 sections 4141.01 to 4141.46 of the Revised Code. The rules of procedure adopted by the commission shall be effective as the commission prescribes and shall not be inconsistent to the extent that the rules are consistent with such sections.

The commission, subject to Chapter 124. of the Revised Code, and with the approval of the governor, shall appoint such ~~referees~~ hearing officers as are necessary. The ~~referees~~ hearing officers shall be classified by the department of administrative services ~~and any.~~ Any promotions ~~of the referees or any increase~~ increases in compensation of the ~~referees~~ hearing officers may be recommended by the commission subject to classifications which are made by the department ~~of administrative services.~~ The commission may grant power to take testimony in any appeals coming before the commission. The members of the commission and its referees shall, in the performance of their duties, 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 ~~reporters, stenographers, clerical aid, and other employees~~ support personnel as are requisite needed to the discharge of carry out the duties of the commission ~~and the~~. 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 central office of the bureau or its branch offices wherever possible.

The commission shall have access to all the records of the bureau of employment services needed in the performance of its official duties. The commission shall have the right to request of the administrator necessary information from ~~the research and statistics department, the legal department, the department of public information, the fiscal department, or any other department from which pertinent information is necessary~~ any division of the bureau having that information.

The commission shall prepare and submit to the administrator 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 administrator shall approve the commission's request unless funds are insufficient to finance the request. The administrator 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 administrator 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 administrator'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 administrator of its determination.

Sec. 4141.07. (A) The unemployment compensation review commission ~~may~~, by rule, may authorize persons other than ones who are admitted to the practice of law also to appear before the commission in any kind of proceeding as representatives of employers or claimants. The commission may prescribe in any rule so adopted the minimum qualifications for such agents and such minimum standards of practice as are appropriate.

Notwithstanding section 119.13 of the Revised Code, the representation of parties before the commission by a person not admitted to the practice of law does not impair or invalidate a proceeding for the purpose of a

subsequent appeal to a court or for any other purpose where a party knowingly selects representation by a person not admitted to the practice of law.

(B) No individual claiming benefits shall be charged fees of any kind in any proceeding under sections 4141.01 to 4141.46 of the Revised Code, by the commission or its representatives. Any individual claiming benefits or any employer may represent themselves personally or be represented by a person admitted to the practice of law or by a person not admitted to the practice of law in any proceeding before the administrator of the bureau of employment services, or, before the commission or a ~~referee~~ hearing officer; but no such counsel or agent representing an individual claiming benefits shall either charge or receive for such services more than an amount approved by the commission.

No person shall charge or receive anything of value in violation of this section.

Sec. 4141.09. (A) There is hereby created an unemployment compensation fund to be administered by the state without liability on the part of the state beyond the amounts paid into the fund and earned by the fund. The unemployment compensation fund shall consist of all contributions, payments in lieu of contributions described in sections 4141.241 and 4141.242 of the Revised Code, reimbursements of the federal share of extended benefits described in section 4141.301 of the Revised Code, collected under sections 4141.01 to 4141.46 of the Revised Code, together with all interest earned upon any moneys deposited with the secretary of the treasury of the United States to the credit of the account of this state in the unemployment trust fund established and maintained pursuant to section 904 of the "Social Security Act," any property or securities acquired through the use of moneys belonging to the fund, and all earnings of such property or securities. The unemployment compensation fund shall be used to pay benefits and refunds as provided by such sections and for no other purpose.

(B) The treasurer of state shall be the custodian of the unemployment compensation fund and shall administer such fund in accordance with the directions of the administrator of the bureau of employment services. All disbursements therefrom shall be paid by the treasurer of state on warrants drawn by the administrator. Such warrants may bear the facsimile signature of the administrator printed thereon and that of a deputy or other employee of the administrator charged with the duty of keeping the account of the unemployment compensation fund and with the preparation of warrants for the payment of benefits to the persons entitled thereto. Moneys in the

clearing and benefit accounts shall not be commingled with other state funds, except as provided in division (C) of this section, but shall be maintained in separate accounts on the books of the depository bank. Such money shall be secured by the depository bank to the same extent and in the same manner as required by sections 135.01 to 135.21 of the Revised Code; and collateral pledged for this purpose shall be kept separate and distinct from any collateral pledged to secure other funds of this state. All sums recovered for losses sustained by the unemployment compensation fund shall be deposited therein. The treasurer of state shall be liable on the treasurer's official bond for the faithful performance of the treasurer's duties in connection with the unemployment compensation fund, such liability to exist in addition to any liability upon any separate bond.

(C) The treasurer of state shall maintain within the unemployment compensation fund three separate accounts which shall be a clearing account, an unemployment trust fund account, and a benefit account. All moneys payable to the unemployment compensation fund, upon receipt thereof by the administrator, shall be forwarded to the treasurer of state, who shall immediately deposit them in the clearing account. Refunds of contributions, or payments in lieu of contributions, payable pursuant to division (E) of this section may be paid from the clearing account upon warrants signed by a deputy or other employee of the administrator charged with the duty of keeping the record of the clearing account and with the preparation of warrants for the payment of refunds to persons entitled thereto. After clearance thereof, all moneys in the clearing account shall be deposited with the secretary of the treasury of the United States to the credit of the account of this state in the unemployment trust fund established and maintained pursuant to section 904 of the "Social Security Act," in accordance with requirements of the "Federal Unemployment Tax Act," 53 Stat. 183 (1939), 26 U.S.C.A. 3301, 3304(a)(3), any law in this state relating to the deposit, administration, release, or disbursement of moneys in the possession or custody of this state to the contrary notwithstanding. The benefit account shall consist of all moneys requisitioned from this state's account in the unemployment trust fund. Federal funds, other than funds received by the administrator under divisions (I) and (J) of this section, received for payment of federal benefits may be deposited into the benefit account solely for payment of benefits under a federal program administered by this state. Moneys so requisitioned shall be used solely for the payment of benefits and for no other purpose. Moneys in the clearing and benefit accounts may be deposited by the treasurer of state, under the direction of the administrator, in any bank or public depository in which general funds of

the state may be deposited, but no public deposit insurance charge or premium shall be paid out of the fund.

(D) Moneys shall be requisitioned from this state's account in the unemployment trust fund solely for the payment of benefits and in accordance with regulations prescribed by the administrator. The administrator shall requisition from the unemployment trust fund such amounts, not exceeding the amount standing to this state's account therein, as are deemed necessary for the payment of benefits for a reasonable future period. Upon receipt thereof, the treasurer of state shall deposit such moneys in the benefit account. Expenditures of such money in the benefit account and refunds from the clearing account shall not require specific appropriations or other formal release by state officers of money in their custody. Any balance of moneys requisitioned from the unemployment trust fund which remains unclaimed or unpaid in the benefit account after the expiration of the period for which such sums were requisitioned shall either be deducted from estimates for and may be utilized for the payment of benefits during succeeding periods, or, in the discretion of the administrator, shall be redeposited with the secretary of the treasury of the United States to the credit of this state's account in the unemployment trust fund, as provided in division (C) of this section. Unclaimed or unpaid federal funds redeposited with the secretary of the treasury of the United States shall be credited to the appropriate federal account.

(E) No claim for an adjustment or a refund on contribution, payment in lieu of contributions, interest, or forfeiture alleged to have been erroneously or illegally assessed or collected, or alleged to have been collected without authority, and no claim for an adjustment or a refund of any sum alleged to have been excessive or in any manner wrongfully collected shall be allowed unless an application, in writing, therefor is made within four years from the date on which such payment was made. If the administrator determines that such contribution, payment in lieu of contributions, interest, or forfeiture, or any portion thereof, was erroneously collected, the administrator shall allow such employer to make an adjustment thereof without interest in connection with subsequent contribution payments, or payments in lieu of contributions, by the employer, or the administrator may refund said amount, without interest, from the clearing account of the unemployment compensation fund, except as provided in division (B) of section 4141.11 of the Revised Code. For like cause and within the same period, adjustment or refund may be so made on the administrator's own initiative. An overpayment of contribution, payment in lieu of contributions, interest, or forfeiture for which an employer has not made application for refund prior to the date of sale of the

employer's business shall accrue to the employer's successor in interest.

An application for an adjustment or a refund, or any portion thereof, that is rejected is binding upon the employer unless, within thirty days after the mailing of a written notice of rejection to the employer's last known address, or, in the absence of mailing of such notice, within thirty days after the delivery of such notice, the employer files an application for a review and redetermination setting forth the reasons therefor. The administrator shall promptly examine the application for review and redetermination, and if a review is granted, the employer shall be promptly notified thereof, and shall be granted an opportunity for a prompt hearing.

(F) If the administrator finds that contributions have been paid to the bureau of employment services in error, and that such contributions should have been paid to a department of another state or of the United States charged with the administration of an unemployment compensation law, the administrator may upon request by such department or upon the administrator's own initiative transfer to such department the amount of such contributions, less any benefits paid to claimants whose wages were the basis for such contributions. The administrator may request and receive from such department any contributions or adjusted contributions paid in error to such department which should have been paid to the bureau.

(G) In accordance with section 303(c)(3) of the Social Security Act, and section 3304(a)(17) of the Internal Revenue Code of 1954 for continuing certification of Ohio unemployment compensation laws for administrative grants and for tax credits, any interest required to be paid on advances under Title XII of the Social Security Act shall be paid in a timely manner and shall not be paid, directly or indirectly, by an equivalent reduction in the Ohio unemployment taxes or otherwise, by the state from amounts in the unemployment compensation fund.

(H) The treasurer of state, under the direction of the administrator and in accordance with the "Cash Management Improvement Act of 1990," 104 Stat. 1061, 31 U.S.C.A. 335, 6503, shall deposit amounts of interest earned by the state on funds in the benefit account established pursuant to division (C) of this section into the bureau of employment services banking fees fund, which is hereby created in the state treasury for the purpose of paying related banking costs incurred by the state for the period for which the interest is calculated, except that if the deposited interest exceeds the banking costs incurred by the state for the period for which the interest is calculated, the treasurer of state shall deposit the excess interest into the unemployment trust fund.

(I) The treasurer of state, under the direction of the administrator, shall

deposit federal funds received by the administrator pursuant to the "Trade Act of 1974," 88 Stat. 1978, 19 U.S.C.A. 2101, as amended, into the Trade Act account, which is hereby created for the purpose of paying for benefits, training, and support services under that act.

(J) The treasurer of state, under the direction of the administrator, shall deposit federal funds received by the administrator pursuant to the "North American Free Trade Agreement Implementation Act," 107 Stat. 2057 (1993), 19 U.S.C.A. 3301, into the North American Free Trade account, which is hereby created for the purpose of paying for benefits, training, and support services under that act.

Sec. 4141.16. (A) The administrator of the bureau of employment services shall make available, upon request, to the director of human services or to the county directors of human services in the state 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. The agency requesting the information shall pay the bureau the actual cost of furnishing the information requested.

(B) The administrator ~~shall~~ also shall furnish, upon request of a public agency administering or supervising the administration of a state plan approved under part A of Title IV of the "Social Security Act," 49 Stat. 627 (1935), 42 U.S.C.A. 601, or of a public agency charged with any duty or responsibility under any program or activity authorized or required under part D of Title IV of such act, information with respect to any individual specified in the request as to:

(1) Whether the individual is receiving, has received, or has made application for unemployment compensation, and the amount of any compensation being received by the individual;

(2) The current or most recent home address of the individual;

(3) Whether the individual has refused an offer of employment and, if so, a description of the employment so offered and the terms, conditions, and rate of pay therefor.

The public agency shall pay to the bureau of employment services the actual costs of furnishing the information described in this division, as provided in the "Unemployment Compensation Amendments of 1976," 90 Stat. 2667, 42 U.S.C. 603a.

(C)(1) The administrator shall disclose, upon request, to officers, agents, or employees of any state or local child support enforcement agency, any wage information contained in the records of the bureau of employment services with respect to an individual identified in the request.

(2) The officer, agent, or employee of the state or local child support enforcement agency shall state in the request that the wage information shall be used only for the purposes of establishing paternity; establishing, modifying, and enforcing child support obligations which are being administered pursuant to a plan described in section 454 of the "Social Security Act," 88 Stat. 2354 (1975), 42 U.S.C.A. 654, which has been approved by the United States secretary of health and human services under part D of Title IV of the "Social Security Act," 88 Stat. 2351 (1975), 42 U.S.C.A. 651.

(3) State and local child support enforcement agencies, pursuant to section 303(d) of the "Social Security Act," 94 Stat. 441 (1980), 42 U.S.C.A. 503, as set forth in the "Social Security Disability Amendments of 1980," section 408(B) of P.L. 96-265, shall pay to the bureau the actual costs of furnishing the information described in this division.

(4) Requirements with respect to the confidentiality of information obtained in the administration of this chapter and any sanctions imposed on improper disclosure of information obtained therein shall apply to the redisclosure of information disclosed under this section.

(D) The administrator also shall furnish, as required by section 303(h) of the "Social Security Act," to the United States secretary of health and human services, and on a reimbursable basis, prompt access to wage and claims information, including any information useful in locating an absent parent or such parent's employer for use by the "Parent Locator Service," section 453, part D of Title IV of the "Social Security Act" and as required under section 303(h) of such act.

(E)(1) If the director of human services determines that direct, on-line access to the automated information system maintained by the bureau of employment services is an effective and efficient means of obtaining necessary information to aid in the enforcement or collection of child support obligations, the director shall make a written request to the administrator of the bureau of employment services to permit the following to have direct, on-line access to the information system:

(a) The department of human services;

(b) Officers, agents, or employees of a state or local child support enforcement agency of this state or of another state as designated by the director;

(c) Officers, agents, or employees of any private agency designated by the director that is operating pursuant to a contract entered into with a state or local child support enforcement agency of this state for the exchange of information related to the enforcement and collection of child support

obligations.

(2) The director of human services shall not designate pursuant to division (E)(1) of this section a state or local child support enforcement agency of this state or of another state or any private agency to have access to the automated information system maintained by the bureau unless ~~he~~ the director also determines that on-line direct access to the bureau's automated information system by that agency is necessary for the implementation of a child support enforcement program operating pursuant to a plan described in section 454 of the "Social Security Act," 88 Stat. 2354 (1975), 42 U.S.C.A. 654, that has been approved by the secretary of health and human services under part D of Title IV of the "Social Security Act," 88 Stat. 2351 (1975), 42 U.S.C.A. 651.

(3) Upon receipt of a request made under division (E)(1) of this section, the administrator of the bureau shall comply with the request and shall adopt rules pursuant to this section and section 111.15 of the Revised Code to regulate access to the bureau's automated information system. The rules shall include a confidentiality requirement that conforms to division (E)(5) of this section.

(4)(a) State and local child support enforcement agencies, pursuant to section 303(d) of the "Social Security Act," 94 Stat. 441 (1980), 42 U.S.C.A. 503, as set forth in the "Social Security Disability Amendments of 1980," section 408(B) of P.L. 96-265, shall pay to the bureau the actual costs to the bureau of accessing its automated information system.

(b) Any private agency designated by the director of human services pursuant to division (E)(1) of this section that is operating pursuant to a contract entered into with a state or local child support enforcement agency of this state for the exchange of information related to the enforcement and collection of child support obligations shall pay or provide contractually for the payment of the actual costs to the bureau of accessing its automated information system.

(5) The requirements with respect to the confidentiality of information obtained in the administration of this chapter and any sanctions imposed on improper disclosure of information obtained in the administration of this chapter shall apply to any information obtained pursuant to division (E) of this section through on-line access to the bureau's automated information system.

(F) The director of human services, the director's employees, and other individuals to whom information is made available pursuant to this section are subject to section 4141.22 of the Revised Code and the penalty for violation of that section as specified in section 4141.99 of the Revised Code.

(G) As used in this section, "state or local child support enforcement agency" means either of the following:

(1) In this state, the department of human services, the division of child support created pursuant to section 5101.31 of the Revised Code, or a child support enforcement agency designated by the board of county commissioners pursuant to section 2301.35 of the Revised Code;

(2) In a state other than this state, any agency of a state or of a political subdivision of a state operating pursuant to a plan described in section 454 of the "Social Security Act," which has been approved by the secretary of health and human services under part D of Title IV of the "Social Security Act."

Sec. 4141.17. The administrator of the bureau of employment services and ~~his secretary, deputies, and authorized representative~~ the unemployment compensation review commission may administer oaths, certify to official acts, take depositions, issue subpoenas, and compel the attendance and testimony of witnesses and the production of books, accounts, papers, records, documents, and testimony; ~~but no person shall be compelled pursuant to this section to attend at a place outside the county in which he resides or is found.~~

~~No person shall be excused from attending and testifying or from producing books, papers, correspondence, memoranda, or other records before the administrator or his secretary or deputy or before any authorized representative, agent, or agency of the administrator, in any cause, hearing, or proceeding before the administrator or a local board, on the ground that the testimony or evidence required of him may tend to incriminate him or subject him to a penalty or forfeiture; but no person shall be prosecuted or be subjected to any penalty or forfeiture on account of any transaction, matter, or thing concerning which he is compelled, after having claimed his privilege against self incrimination, to testify or produce evidence, except that such individual so testifying shall not be exempt from prosecution and punishment for perjury committed in so testifying.~~

In case of the refusal of a witness to attend or testify, or to produce books or papers, as to any matter regarding which ~~he~~ the witness might be lawfully interrogated in the administration of this chapter, the court of common pleas of the county in which the person resides or is found, the court of appeals that has jurisdiction over the county in which the person resides or is found, or a judge thereof, upon application of the administrator or commission, shall compel obedience by proceedings as for contempt as in case of like refusal to obey a similar order of the court.

Sec. 4141.20. (A) Every employer, including those not otherwise

subject to this chapter, shall furnish the administrator of the bureau of employment services upon request all information required by ~~him~~ the administrator to carry out the requirements of this chapter. Every employer receiving from the administrator any blank with direction to fill it out shall cause it to be properly filled out, in the manner prescribed by the administrator, so as to answer fully and correctly all questions therein propounded, and shall furnish all the information therein sought, or, if unable to do so, ~~such~~ that employer shall give the administrator in writing good and sufficient reason for such failure.

The administrator may require that such information be verified under oath and returned to the administrator within the period fixed by ~~him~~ the administrator or by law. The administrator or any person employed by ~~him~~ the administrator for that purpose may examine under oath any such employer, or the officer, agent, or employee of ~~such~~ that employer, for the purpose of ascertaining any information ~~which~~ ~~such~~ that the employer is required by this chapter to furnish to the administrator. Any employer who fails to furnish information as is required by the administrator under authority of this section shall forfeit five hundred dollars to be collected in a civil action brought against the employer in the name of the state.

(B) Effective with the calendar quarter beginning April 1, 1987, every contributory employer shall file a quarterly contribution report and a quarterly report of wages. The quarterly reports shall be filed no later than the last day of the first month following the close of the calendar quarter for which the quarterly reports are being filed. The employer shall enter on the quarterly contribution report the total and taxable remuneration paid to all employees during the quarter. The employer shall enter on the quarterly report of wages the name and social security number of each individual employed during the calendar quarter, the total remuneration paid the individual, the number of weeks during the quarter for which the individual was paid remuneration, and any other information as required by section 1137 of the "Social Security Act." The administrator shall furnish the form or forms on which the quarterly reports are to be submitted or the employer may use other methods of reporting, including electronic information transmission methods, as approved by the administrator.

Effective until the calendar quarter beginning January 1, 1993, in case of failure to file the quarterly contribution report or the report of wages containing all the required contribution and wage information within the time prescribed by this section, there shall be assessed a forfeiture amounting to ten per cent of the contributions due; provided such forfeiture shall not be less than twenty-five nor more than two hundred fifty dollars.

The administrator may waive the forfeiture only with respect to the report of wages, and the waiver may be approved only if the employer shows good cause for failure to file the required information.

Effective with the calendar quarter beginning January 1, 1993, in case of failure to file the quarterly contribution report containing all the required information within the time prescribed by this section, there shall be assessed a forfeiture amounting to twenty-five one-hundredths of one per cent of the total remuneration paid by the employer, provided such forfeiture shall not be less than thirty nor more than five hundred dollars per quarterly contribution report. The administrator may waive the forfeiture only if the employer provides to the administrator a written statement showing good cause for failure to file the required quarterly contribution report.

Effective with the calendar quarter beginning January 1, 1993, in case of failure to file the quarterly report of wages containing all the required information within the time prescribed by this section, there shall be assessed a forfeiture amounting to twenty-five one-hundredths of one per cent of the total remuneration paid by the employer, provided such forfeiture shall be not less than thirty nor more than five hundred dollars per quarterly report of wages. The administrator may waive the forfeiture only if the employer provides to the administrator a written statement showing good cause for failure to file the required quarterly report of wages.

(C) Effective with the calendar quarter beginning April 1, 1987, every employer liable for payments in lieu of contributions shall file a quarterly payroll report and a quarterly report of wages. The employer shall file the quarterly reports no later than the last day of the first month following the close of the calendar quarter for which the quarterly reports are being filed. The employer shall enter on the quarterly payroll report the total remuneration paid to all employees during the quarter and the total wages that would have been taxable had the employer been subject to contributions. The employer shall enter on the quarterly report of wages the name and social security number of each individual employed during the calendar quarter, the total remuneration paid the individual, the number of weeks during the quarter for which the individual was paid remuneration, and any other information as required by section 1137 of the "Social Security Act." The administrator shall furnish the form or forms on which the quarterly reports are to be submitted or the employer may use other methods of reporting, including electronic information transmission methods, as approved by the administrator.

Effective until the calendar quarter beginning January 1, 1993, in case of failure to file the quarterly payroll report or the report of wages

containing all of the required payroll or wage information within the time prescribed by this section, the employer shall be assessed a forfeiture of twenty-five dollars per report. The administrator may waive the forfeiture only with respect to the report of wages, and such waiver may be approved only if the employer shows good cause for failure to file the required information.

Effective with the calendar quarter beginning January 1, 1993, in case of failure to file the quarterly payroll report containing all the required wage information within the time prescribed by this section, the employer shall be assessed a forfeiture amounting to twenty-five one-hundredths of one per cent of the total remuneration paid by the employer, provided such forfeiture shall not be less than thirty nor more than five hundred dollars per quarterly payroll report. The administrator may waive the forfeiture only if the employer provides to the administrator a written statement showing good cause for failure to file the required quarterly payroll report.

Effective with the calendar quarter beginning January 1, 1993, in case of failure to file the quarterly report of wages containing all the required information within the time prescribed by this section, there shall be assessed a forfeiture amounting to twenty-five one-hundredths of one per cent of the total remuneration paid by the employer, provided such forfeiture shall be not less than thirty nor more than five hundred dollars per quarterly report of wages. The administrator may waive the forfeiture only if the employer provides to the administrator a written statement showing good cause for failure to file the required quarterly report of wages.

(D) All forfeitures required by this section shall be paid into the unemployment compensation special administrative fund as provided in section 4141.11 of the Revised Code.

Sec. 4141.21. Except as provided in sections 4141.16, 4141.161, 4141.162, and 4141.163 of the Revised Code; ~~until October 1, 1994, except as provided in section 4141.164 of the Revised Code;~~ and subject to section 4141.43 of the Revised Code, the information maintained by the administrator of the bureau of employment services or furnished to the ~~administrator of the bureau of employment services~~ by employers or employees pursuant to this chapter is for the exclusive use and information of the bureau of employment services in the discharge of its duties and shall not be open to the public or be used in any court in any action or proceeding pending therein, or be admissible in evidence in any action, other than one arising under ~~such~~ those sections. All of the information and records necessary or useful in the determination of any particular claim for benefits or necessary in verifying any charge to an employer's account under sections

4141.23 to 4141.26 of the Revised Code shall be available for examination and use by the employer and the employee involved or their authorized representatives in the hearing of such cases, and ~~such~~ that information may be tabulated and published in statistical form for the use and information of the state departments and the public.

Sec. 4141.22. (A) No person shall disclose any information ~~which~~ that was maintained by the administrator of the bureau of employment services or furnished to the administrator ~~of the bureau of employment services~~ by employers or employees pursuant to Chapter 4141. of the Revised Code, unless such disclosure is permitted under section 4141.21 of the Revised Code.

(B) No person in the employ of the administrator of the bureau of employment services, or who has been in the employ of the administrator at any time, shall divulge any information secured by ~~him~~ the person while so employed in respect to the transactions, property, business, or mechanical, chemical, or other industrial process of any person, firm, corporation, association, or partnership to any person other than the administrator or other employees of the bureau of employment services as required by ~~such~~ the person's duties, or to other persons as authorized by the administrator under section 4141.43 of the Revised Code.

Whoever violates this section shall be disqualified from holding any appointment or employment by the administrator.

Sec. 4141.24. (A)(1) The administrator of the bureau of employment services shall maintain a separate account for each employer and, except as otherwise provided in division ~~(D)~~(B) of section 4141.25 of the Revised Code respecting mutualized contributions, shall credit such employer's account with all the contributions, or payments in lieu of contributions, which ~~he~~ the employer has paid on ~~his~~ the employer's own behalf.

(2) If, as of the computation date, a contributory employer's account shows a negative balance computed as provided in division ~~(C)~~(A)(3) of section 4141.25 of the Revised Code, less any contributions due and unpaid on such date, which negative balance is in excess of the limitations imposed by divisions (A)(2)(a), (b), and (c) of this section and if the employer's account is otherwise eligible for the transfer, then before ~~his~~ the employer's contribution rate is computed for the next succeeding contribution period, an amount equal to the amount of the excess eligible for transfer shall be permanently transferred from the account of such employer and charged to the mutualized account provided in division ~~(D)~~(B) of section 4141.25 of the Revised Code.

(a) If as of any computation date, a contributory employer's account

shows a negative balance in excess of ten per cent of the employer's average annual payroll, then before ~~his~~ the employer's contribution rate is computed for the next succeeding contribution period, an amount equal to the amount of the excess shall be transferred from the account as provided in this division. No contributory employer's account may have any excess transferred pursuant to division (A)(2)(a) of this section, unless ~~his~~ the employer's account has shown a positive balance for at least two consecutive computation dates prior to the computation date with respect to which the transfer is proposed. Each time a transfer is made pursuant to division (A)(2)(a) of this section, the employer's account is ineligible for any additional transfers under that division, until the account shows a positive balance for at least two consecutive computation dates subsequent to the computation date of which the most recent transfer occurs pursuant to division (A)(2)(a), (b), or (c) of this section.

(b) If at the next computation date after the computation date at which a transfer from the account occurs pursuant to division (A)(2)(a) of this section, a contributory employer's account shows a negative balance in excess of fifteen per cent of the employer's average annual payroll, then before ~~his~~ the employer's contribution rate is computed for the next succeeding contribution period an amount equal to the amount of the excess shall be permanently transferred from the account as provided in this division.

(c) If at the next computation date subsequent to the computation date at which a transfer from a contributory employer's account occurs pursuant to division (A)(2)(b) of this section, the employer's account shows a negative balance in excess of twenty per cent of the employer's average annual payroll, then before ~~his~~ the employer's contribution rate is computed for the next succeeding contribution period, an amount equal to the amount of the excess shall be permanently transferred from the account as provided in this division.

(d) If no transfer occurs pursuant to division (A)(2)(b) or (c) of this section, the employer's account is ineligible for any additional transfers under division (A)(2) until the account requalifies for a transfer pursuant to division (A)(2)(a) of this section.

(B) Any employer may make voluntary payments in addition to the contributions required under this chapter, in accordance with rules established by the administrator. Such payments shall be included in the employer's account as of the computation date, provided they are received by the bureau of employment services by the thirty-first day of December following such computation date. Such voluntary payment, when accepted

from an employer, will not be refunded in whole or in part. In determining whether an employer's account has a positive balance on two consecutive computation dates and is eligible for transfers under division (A)(2) of this section, the administrator shall exclude any voluntary payments made subsequent to the last transfer made under division (A)(2) of this section.

(C) All contributions to the fund shall be pooled and available to pay benefits to any individual entitled to benefits irrespective of the source of such contributions.

(D)(1) For the purposes of this section and sections 4141.241 and 4141.242 of the Revised Code, an employer's account shall be charged only for benefits based on remuneration paid by such employer. Benefits paid to an eligible individual shall be charged against the account of each employer within the claimant's base period in the proportion to which wages attributable to each employer of the claimant bears to the claimant's total base period wages. Charges to the account of a base period employer with whom the claimant is employed part-time at the time ~~his~~ the claimant's application for a determination of benefits rights is filed shall be charged to the mutualized account when all of the following conditions are met:

(a) The claimant also worked part-time for the employer during the base period of the claim.

(b) The claimant is unemployed due to loss of other employment.

(c) The employer ~~either~~ is not a reimbursing employer under section 4141.241 or 4141.242 of the Revised Code ~~or is a reimbursing employer who has been determined to be a seasonal employer pursuant to section 4141.33 of the Revised Code, and the benefit charges are for weeks of unemployment that occurred outside the seasonal employer's seasonal period.~~

(2) Notwithstanding division (D)(1) of this section, charges to the account of any employer, including any reimbursing employer, shall be charged to the mutualized account if it finally is determined by a court on appeal that the employer's account is not chargeable for the benefits.

(3) The administrator shall notify each employer at least once each month of the benefits charged to ~~his~~ the employer's account since the last preceding notice; except that for the purposes of sections 4141.241 and 4141.242 of the Revised Code which provides the billing of employers on a payment in lieu of a contribution basis, the administrator may prescribe a quarterly or less frequent notice of benefits charged to the employer's account. Such notice will show a summary of the amount of benefits paid which were charged to the employer's account. This notice shall not be deemed a determination of the claimant's eligibility for benefits. Any

employer so notified, ~~may~~, however, may file within fifteen days after the mailing date of the notice, ~~file~~ an exception to charges appearing on the notice on the grounds that such charges are not in accordance with this section. The administrator shall promptly examine the exception to such charges and shall notify the employer of ~~his~~ the administrator's decision thereon, which decision shall become final unless appealed to the ~~board of unemployment compensation~~ review commission in the manner provided in section 4141.26 of the Revised Code. For the purposes of this division, an exception is considered timely filed when it has been received as provided in division (I)(2) of section 4141.28 of the Revised Code.

~~(3) For the purpose of this section and sections 4141.241 and 4141.242 of the Revised Code, benefits based on public service wages for services performed in a public service job as defined in the "Comprehensive Employment and Training Act of 1973," 87 Stat. 839, 29 U.S.C.A. 801, as amended, to the extent that wages are paid with funds provided under that federal act shall not be charged to the account of any employer but shall be charged to the account of the federal government to the extent that the unemployment compensation fund is reimbursed for benefits under section 221, Title II of the "Emergency Jobs and Unemployment Assistance Act of 1974," 88 Stat. 1845, as added by section 6(a) of Public Law 94-444, as amended.~~

(E) The administrator shall terminate and close the account of any contributory employer who has been subject to this chapter if the enterprise for which the account was established is no longer in operation and it has had no payroll and its account has not been chargeable with benefits for a period of five consecutive years. The amount of any positive balance, computed as provided in division ~~(C)(A)~~(3) of section 4141.25 of the Revised Code, in an account closed and terminated as provided in this section shall be credited to the mutualized account as provided in division ~~(D)(B)~~(2)(b) of section 4141.25 of the Revised Code. The amount of any negative balance, computed as provided in division ~~(C)(A)~~(3) of section 4141.25 of the Revised Code, in an account closed and terminated as provided in this section shall be charged to the mutualized account as provided in division ~~(D)(B)~~(1)(b) of section 4141.25 of the Revised Code. The amount of any positive balance or negative balance, credited or charged to the mutualized account after the termination and closing of an employer's account, shall not thereafter be considered in determining the contribution rate of such employer. The closing of an employer's account as provided in this division shall not relieve such employer from liability for any unpaid contributions or payment in lieu of contributions which are due for periods

prior to such closing.

If the administrator finds that a contributory employer's business is closed solely because of the entrance of one or more of the owners, officers, or partners, or the majority stockholder, into the armed forces of the United States, or any of its allies, or of the United Nations after July 1, 1950, such employer's account shall not be terminated and if the business is resumed within two years after the discharge or release of such persons from active duty in the armed forces, the employer's experience shall be deemed to have been continuous throughout such period. The reserve ratio of any such employer shall be the total contributions paid by such employer minus all benefits, including benefits paid to any individual during the period such employer was in the armed forces, based upon wages paid by ~~him~~ the employer prior to ~~his~~ the employer's entrance into the armed forces divided by the average of ~~his~~ the employer's annual payrolls for the three most recent years during the whole of which the employer has been in business.

(F) If an employer transfers ~~his~~ the employer's business or otherwise reorganizes such business, the successor in interest shall assume the resources and liabilities of such employer's account, and continue the payment of all contributions, or payments in lieu of contributions, due under this chapter. If an employer acquires substantially all of the assets in a trade or business of another employer, or a clearly segregable and identifiable portion of an employer's enterprise, and immediately after the acquisition employs in ~~his~~ the employer's trade or business substantially the same individuals who immediately prior to the acquisition were employed in the trade or business or in the separate unit of such trade or business of such predecessor employer, then, upon application to the administrator signed by the predecessor employer and the acquiring employer, the employer acquiring such enterprise is the successor in interest. In the case of a transfer of a portion of an employer's enterprise, only that part of the experience with unemployment compensation and payrolls that is directly attributable to the segregated and identifiable part shall be transferred and used in computing the contribution rate of the successor employer on the next computation date. The administrator by rule may prescribe procedures for effecting transfers of experience as provided for in this section.

(G) For the purposes of this section, two or more employers who are parties to or the subject of a merger, consolidation, or other form of reorganization effecting a change in legal identity or form are deemed to be a single employer if the administrator finds that immediately after such change the employing enterprises of the predecessor employers are continued solely through a single employer as successor thereto, and

immediately after such change such successor is owned or controlled by substantially the same interests as the predecessor employers, and the successor has assumed liability for all contributions required of the predecessor employers, and the consideration of such two or more employers as a single employer for the purposes of this section would not be inequitable.

(H) No rate of contribution less than ~~three~~ two and seven-tenths per cent shall be permitted a contributory employer succeeding to the experience of another contributory employer pursuant to this section for any period subsequent to such succession, except in accordance with rules prescribed by the administrator, which rules shall be consistent with federal requirements for additional credit allowance in section 3303 of the "Internal Revenue Code of 1954" and consistent with this chapter, except that such rules may establish a computation date for any such period different from the computation date generally prescribed by this chapter, and may define "calendar year" as meaning a twelve consecutive month period ending on the same day of the year as that on which such computation date occurs.

(I) The administrator may prescribe rules for the establishment, maintenance, and dissolution of common contribution rates for two or more contributory employers, and in accordance with such rules and upon application by two or more employers shall establish such common rate to be computed by merging the several contribution rate factors of such employers for the purpose of establishing a common contribution rate applicable to all such employers.

Sec. 4141.241. (A)(1) Any nonprofit organization described in division (X) of section 4141.01 of the Revised Code, which becomes subject to this chapter on or after January 1, 1972, shall pay contributions under section 4141.25 of the Revised Code, unless it elects, in accordance with this division, to pay to the administrator of employment services for deposit in the unemployment compensation fund an amount in lieu of contributions equal to the amount of regular benefits plus one half of extended benefits paid from that fund that is attributable to service in the employ of the nonprofit organization to individuals whose service, during the base period of the claims, was within the effective period of such election.

(2) Any nonprofit organization which becomes subject to this chapter after January 1, 1972, may elect to become liable for payments in lieu of contributions for a period of not less than the remainder of that calendar year and the next calendar year, beginning with the date on which such subjectivity begins, by filing a written notice of its election with the administrator not later than thirty days immediately following the date of the

determination of such subjectivity.

(3) Any nonprofit organization which makes an election in accordance with this division will continue to be liable for payments in lieu of contributions for the period described in this division and until it files with the administrator a written notice terminating its election. The notice shall be filed not later than thirty days prior to the beginning of the calendar year for which the termination is to become effective.

(4) Any nonprofit organization which has been paying contributions for a period subsequent to January 1, 1972, may change to a reimbursable basis by filing with the administrator, not later than thirty days prior to the beginning of any calendar year, a written notice of election to become liable for payments in lieu of contributions. The election shall not be terminable by the organization during that calendar year and the next calendar year.

(5) The administrator, in accordance with any rules the administrator prescribes, shall notify each nonprofit organization of any determination which the administrator may make of its status as an employer and of the effective date of any election which it makes and of any termination of the election. Any determinations shall be subject to reconsideration, appeal, and review in accordance with section 4141.26 of the Revised Code.

(B) Except as provided in division (I) of section 4141.29 of the Revised Code, benefits based on service with a nonprofit organization granted a reimbursing status under this section 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. Payments in lieu of contributions shall be made in accordance with this division and division (D) of section 4141.24 of the Revised Code.

(1)(a) At the end of each calendar quarter, or at the end of any other period as determined by the administrator under division (D)~~(2)~~(3) of section 4141.24 of the Revised Code, the administrator shall bill each nonprofit organization or group of such organizations which has elected to make payments in lieu of contributions for an amount equal to the full amount of regular benefits plus one half of the amount of extended benefits paid during such quarter or other prescribed period which is attributable to service in the employ of such organization.

(b) In the computation of the amount of benefits to be charged to employers liable for payments in lieu of contributions, all benefits attributable to service described in division (B)(1)(a) of this section shall be computed and charged to such organization as described in division (D) of section 4141.24 of the Revised Code, and, except as provided in division ~~(C)~~(D)~~(2)~~ of section ~~4141.33~~ 4141.24 of the Revised Code, no portion of the

amount may be charged to the mutualized account established by division ~~(D)~~(B) of section 4141.25 of the Revised Code.

(c) The administrator may prescribe regulations under which organizations, which have elected to make payments in lieu of contributions may request permission to make such payments in equal installments throughout the year with an adjustment at the end of the year for any excess or shortage of the amount of such installment payments compared with the total amount of benefits actually charged the organization's account during the year. In making any adjustment, where the total installment payments are less than the actual benefits charged, the organization shall be liable for payment of the unpaid balance in accordance with division (B)(2) of this section. If the total installment payments exceed the actual benefits charged, all or part of the excess may, at the discretion of the administrator, be refunded or retained in the fund as part of the payments which may be required in the next year.

(2) Payment of any bill rendered under division (B)(1) of this section shall be made not later than thirty days after the bill was mailed to the last known address of the organization or was otherwise delivered to it, unless there has been an application for review and redetermination in accordance with division (B)(4) of this section.

(3) Payments made by an organization under this section shall not be deducted or deductible, in whole or in part, from the remuneration of individuals in the employ of the organization.

(4) An organization may file an application for review and redetermination of the amounts appearing on any bill rendered to such organization under division (B)(1) of this section. The application shall be filed and determined under division ~~(D)~~~~(2)~~(3) of section 4141.24 of the Revised Code.

(5) Past due payments of amounts in lieu of contributions shall be subject to the same interest rates and collection procedures that apply to past due contributions under sections 4141.23 and 4141.27 of the Revised Code. In case of failure to file a required quarterly report within the time prescribed by the administrator, the nonprofit organization shall be subject to a forfeiture pursuant to section 4141.20 of the Revised Code for each quarterly report that is not timely filed.

All interest and forfeitures collected under this division shall be paid into the unemployment compensation special administrative fund as provided in section 4141.11 of the Revised Code.

(6) All payments in lieu of contributions collected under this section shall be paid into the unemployment compensation fund as provided in

section 4141.09 of the Revised Code. Any refunds of such payments shall be paid from the unemployment compensation fund, as provided in section 4141.09 of the Revised Code.

(C)(1) Any nonprofit organization, or group of such organizations approved under division (D) of this section, that elects to become liable for payments in lieu of contributions shall be required within thirty days after the effective date of its election, to execute and file with the administrator a surety bond approved by the administrator or it may elect instead to deposit with the administrator approved municipal or other bonds, or approved securities, or a combination thereof, or other forms of collateral security approved by the administrator.

(2)(a) The amount of the bond or deposit required shall be equal to three per cent of the organization's wages paid for employment as defined in section 4141.01 of the Revised Code that would have been taxable had the organization been a subject employer during the four calendar quarters immediately preceding the effective date of the election, or the amount established by the administrator within the limitation provided in division (C)(2)(d) of this section, whichever is the less. The effective date of the amount of the bond or other collateral security required after the employer initially is determined by the administrator to be liable for payments in lieu of contributions shall be the renewal date in the case of a bond or the biennial anniversary of the effective date of election in the case of deposit of securities or other forms of collateral security approved by the administrator, whichever date shall be most recent and applicable. If the nonprofit organization did not pay wages in each of such four calendar quarters, the amount of the bond or deposit shall be as determined by the administrator under regulations prescribed for this purpose.

(b) Any bond or other form of collateral security approved by the administrator deposited under this division shall be in force for a period of not less than two calendar years and shall be renewed with the approval of the administrator, at such times as the administrator may prescribe, but not less frequently than at two year intervals as long as the organization continues to be liable for payments in lieu of contributions. The administrator shall require adjustments to be made in a previously filed bond or other form of collateral security as the administrator considers appropriate. If the bond or other form of collateral security is to be increased, the adjusted bond or collateral security shall be filed by the organization within thirty days of the date that notice of the required adjustment was mailed or otherwise delivered to it. Failure by any organization covered by such bond or collateral security to pay the full

amount of payments in lieu of contributions when due, together with any applicable interest provided for in division (B)(5) of this section, shall render the surety liable on the bond or collateral security to the extent of the bond or collateral security, as though the surety was the organization.

(c) Any securities accepted in lieu of surety bond by the administrator shall be deposited with the treasurer of state who shall have custody thereof and retain the same in ~~his or her~~ the treasurer of state's possession, or release them, according to conditions prescribed by regulations of the administrator. Income from the securities, held in custody by the treasurer of state, shall accrue to the benefit of the depositor and shall be distributed to the depositor in the absence of any notification from the administrator that the depositor is in default on any payment owed to the bureau of employment services. The administrator may require the sale of any such bonds to the extent necessary to satisfy any unpaid payments in lieu of contributions, together with any applicable interest or forfeitures provided for in division (B)(5) of this section. The administrator shall require the employer within thirty days following any sale of deposited securities, under this subdivision, to deposit additional securities, surety bond or combination of both, to make whole the employer's security deposit at the approved level. Any cash remaining from the sale of such securities may, at the discretion of the administrator, be refunded in whole or in part, or be paid into the unemployment compensation fund to cover future payments required of the organization.

(d) The required bond or deposit for any nonprofit organization, or group of such organizations approved by the administrator under division (D) of this section, that is determined by the administrator to be liable for payments in lieu of contributions effective beginning on and after January 1, 1996, but prior to January 1, 1998, and the required bond or deposit for any renewed elections under division (C)(2)(b) of this section effective during that period shall not exceed one million two hundred fifty thousand dollars. The required bond or deposit for any nonprofit organization, or group of such organizations approved by the administrator under division (D) of this section, that is determined to be liable for payments in lieu of contributions effective on and after January 1, 1998, and the required bond or deposit for any renewed elections effective on and after January 1, 1998, shall not exceed two million dollars.

(3) If any nonprofit organization fails to file a bond or make a deposit, or to file a bond in an increased amount or to make whole the amount of a previously made deposit, as provided under this division, the administrator may terminate the organization's election to make payments in lieu of contributions effective for the quarter following such failure and the

termination shall continue for not less than the remainder of that calendar year and the next calendar year, beginning with the quarter in which the termination becomes effective; except that the administrator may extend for good cause the applicable filing, deposit or adjustment period by not more than thirty days.

(D)(1) Two or more nonprofit organizations that have become liable for payments in lieu of contributions, in accordance with division (A) of this section, may file a joint application to the administrator for the establishment of the group account for the purpose of sharing the cost of benefits paid that are attributable to service in the employ of those employers. Notwithstanding division (E) of section 4141.242 of the Revised Code, hospitals operated by this state or a political subdivision may participate in a group account with nonprofit organizations under the procedures set forth in this section. Each application shall identify and authorize a group representative to act as the group's agent for the purposes of this division.

(2) Upon the administrator's approval of the application, the administrator shall establish a group account for the employers effective as of the beginning of the calendar quarter in which ~~he~~ the administrator receives the application and shall notify the group's representative of the effective date of the account. The account shall remain in effect for not less than two years and thereafter until terminated by the administrator or upon application by the group.

(3) Upon establishment of the account, each member of the group shall be liable, in the event that the group representative fails to pay any bill issued to it pursuant to division (B) of this section, for payments in lieu of contributions with respect to each calendar quarter in the amount that bears the same ratio to the total benefits paid in the quarter that are attributable to service performed in the employ of all members of the group as the total wages paid for service in employment by the member in the quarter bear to the total wages paid during the quarter for service performed in the employ of all members of the group.

(4) The administrator shall adopt regulations as considered necessary with respect to the following: applications for establishment, bonding, maintenance, and termination of group accounts that are authorized by this section; addition of new members to and withdrawal of active members from such accounts; and the determination of the amounts that are payable under this division by the group representative and in the event of default in payment by the group representative, members of the group, and the time and manner of payments.

Sec. 4141.25. (A) ~~Wages paid for services in a public service job as defined in the "Comprehensive Employment and Training Act of 1973," 87 Stat. 839, 29 U.S.C.A. 801, as amended, shall not be subject to contribution to the extent that wages are paid with funds provided under that federal act and are not subject to the tax imposed by the "Federal Unemployment Tax Act," 53 Stat. 183 (1939), 26 U.S.C.A. 3301, and that benefits based on those services are reimbursed to this state by the federal government.~~

~~(B) An employer who first becomes subject to this chapter as a contributory employer shall pay the average contribution rate computed for the industry in which the employer is engaged, or a rate of three per cent, whichever is greater, until there have been four consecutive calendar quarters, ending on the thirtieth day of June prior to the computation date throughout which the employer's account was chargeable with benefits. Upon expiration of this qualifying period, the rate shall then be computed in accordance with division (C) of this section. The "average contribution rate" for the industry as used in this division means the most recent annual average rate reported by the bureau of employment services contained in report RS 203.2.~~

~~(C) The administrator of the bureau of employment services shall determine as of each computation date the contribution rate of each contributing employer subject to this chapter for the next succeeding contribution period. The administrator shall determine a standard rate of contribution or an experience rate for each contributing employer. Once a rate of contribution has been established under this section for a contribution period, except as provided in division (D) of section 4141.26 of the Revised Code, that rate shall remain effective throughout such contribution period. The rate of contribution shall be determined in accordance with the following requirements:~~

~~(1) An employer whose experience does not meet the terms of division (A)(2) of this section shall be assigned a standard rate of contribution. Effective for contribution periods beginning on and after January 1, 1998, an employer's standard rate of contribution shall be a rate of two and seven-tenths per cent, except that the rate for employers engaged in the construction industry shall be the average contribution rate computed for the construction industry in which the employer is engaged or as set forth in division (B) of this section or a rate of two and seven-tenths per cent, whichever is greater, unless there have been four consecutive calendar quarters, ending on the thirtieth day of June prior to the computation date, throughout which the employer's account was chargeable with benefits, including an employer whose account is reactivated before being terminated~~

~~under division (E) of section 4141.24 of the Revised Code. In the latter event any balance in the prior account, either a positive or negative balance as described in division (C)(3) of this section, shall be included in the reactivated account. The standard rate set forth in this division (C)(1) of this section shall be applicable to a nonprofit organization whose election to make payments in lieu of contributions is voluntarily terminated or canceled by the administrator under section 4141.241 of the Revised Code, and thereafter pays contributions as required by this section. If such nonprofit organization had been a contributory employer prior to its election to make payments in lieu of contributions, then any prior balance in the contributory account shall become part of the reactivated account.~~

As used in division (A) of this section, "the average contribution rate computed for the construction industry" means the most recent annual average rate attributable to the construction industry as prescribed by the administrator.

(2) A contributing employer subject to this chapter shall qualify for an experience rate only if the employer had no more than three consecutive quarters without employment subject to this chapter during the first seven of the eight completed calendar quarters immediately prior to the computation date. Upon meeting the expiration of the qualifying period requirements provided for in division (C)(1)(A)(2) of this section, and as of each computation date thereafter, the administrator shall calculate the total credits to each employer's account consisting of the contributions other than mutualized contributions including all contributions paid prior to the computation date for all past periods plus:

(a) The contributions owing on the computation date that are paid within thirty days after the computation date, and credited to the employer's account;

(b) All voluntary contributions paid by an employer pursuant to division (B) of section 4141.24 of the Revised Code.

(3) The administrator ~~shall~~ also shall determine the benefits which are chargeable to each employer's account and which were paid prior to the computation date with respect to weeks of unemployment ending prior to the computation date. The administrator ~~shall~~ then shall determine the positive or negative balance of each employer's account by calculating the excess of such contributions and interest over the benefits chargeable, or the excess of such benefits over such contributions and interest. Any resulting negative balance ~~shall~~ then shall be subject to adjustment as provided in division (A)(2) of section 4141.24 of the Revised Code after which the positive or negative balance shall be expressed in terms of a percentage of

the employer's average annual payroll. If the total standing to the credit of an employer's account exceeds the total charges, as provided in this division, the employer has a positive balance and if such charges exceed such credits the employer has a negative balance. Each employer's contribution rate shall then be determined in accordance with the following schedule:

Contribution Rate Schedule

If, as of the computation date the contribution rate balance of an employer's account as a percentage of the employer's average annual payroll is	The employer's contribution rate for the next succeeding contribution period shall be
(a) A negative balance of:	
20.0% or more	6.5%
19.0% but less than	20.0% 6.4%
17.0% but less than	19.0% 6.3%
15.0% but less than	17.0% 6.2%
13.0% but less than	15.0% 6.1%
11.0% but less than	13.0% 6.0%
9.0% but less than	11.0% 5.9%
5.0% but less than	9.0% 5.7%
4.0% but less than	5.0% 5.5%
3.0% but less than	4.0% 5.3%
2.0% but less than	3.0% 5.1%
1.0% but less than	2.0% 4.9%
more than 0.0% but less than	1.0% 4.8%
(b) A 0.0% or a positive balance of less than	1.0% 4.7%
(c) A positive balance of:	
1.0% or more, but less than	1.5% 4.6%
1.5% or more, but less than	2.0% 4.5%
2.0% or more, but less than	2.5% 4.3%
2.5% or more, but less than	3.0% 4.0%
3.0% or more, but less than	3.5% 3.8%
3.5% or more, but less than	4.0% 3.5%
4.0% or more, but less than	4.5% 3.3%
4.5% or more, but less than	5.0% 3.0%
5.0% or more, but less than	5.5% 2.8%
5.5% or more, but less than	6.0% 2.5%
6.0% or more, but less than	6.5% 2.2%
6.5% or more, but less than	7.0% 2.0%

7.0% or more, but less than	7.5%	1.8%
7.5% or more, but less than	8.0%	1.6%
8.0% or more, but less than	8.5%	1.4%
8.5% or more, but less than	9.0%	1.3%
9.0% or more, but less than	9.5%	1.1%
9.5% or more, but less than	10.0%	1.0%
10.0% or more, but less than	10.5%	.9%
10.5% or more, but less than	11.0%	.7%
11.0% or more, but less than	11.5%	.6%
11.5% or more, but less than	12.0%	.5%
12.0% or more, but less than	12.5%	.4%
12.5% or more, but less than	13.0%	.3%
13.0% or more, but less than	14.0%	.2%
14.0% or more		.1%

(d) The contribution rates shall be as specified in divisions (a), (b), and (c) of the contribution rate schedule except that notwithstanding the amendments made to division (a) of the contribution rate schedule in this section, if, as of the computation date: for 1991, the negative balance is 5.0% or more, the contribution rate shall be 5.7%; for 1992, if the negative balance is 11.0% or more, the contribution rate shall be 6.0%; and for 1993, if the negative balance is 17.0% or more, the contribution rate shall be 6.3%. Thereafter, the contribution rates shall be as specified in the contribution rate schedule.

~~(D)~~(B)(1) The administrator shall establish and maintain a separate account to be known as the "mutualized account." As of each computation date there shall be charged to this account:

(a) As provided in division (A)(2) of section 4141.24 of the Revised Code, an amount equal to the sum of that portion of the negative balances of employer accounts which exceeds the applicable limitations as such balances are computed under division ~~(C)~~(A) of this section as of such date;

(b) An amount equal to the sum of the negative balances remaining in employer accounts which have been closed during the year immediately preceding such computation date pursuant to division (E) of section 4141.24 of the Revised Code;

(c) An amount equal to the sum of all benefits improperly paid preceding such computation date which are not recovered but which are not charged to an employer's account, or which after being charged, are credited back to an employer's account;

(d) An amount equal to the sum of any other benefits paid preceding such computation date which, under this chapter, are not chargeable to an

employer's account;

(e) An amount equal to the sum of any refunds made during the year immediately preceding such computation date of erroneously collected mutualized contributions required by this division which were previously credited to this account;

(f) An amount equal to the sum of any repayments made to the federal government during the year immediately preceding such computation date of amounts which may have been advanced by it to the unemployment compensation fund under section 1201 of the "Social Security Act," 49 Stat. 648 (1935), 42 U.S.C. 301;

(g) Any amounts appropriated by the general assembly out of funds paid by the federal government, under section 903 of the "Social Security Act," to the account of this state in the federal unemployment trust fund.

(2) As of every computation date there shall be credited to the mutualized account provided for in this division:

(a) The proceeds of the mutualized contributions as provided in this division;

(b) Any positive balances remaining in employer accounts which are closed as provided in division (E) of section 4141.24 of the Revised Code;

(c) Any benefits improperly paid which are recovered but which cannot be credited to an employer's account;

(d) All amounts which may be paid by the federal government under section 903 of the "Social Security Act" to the account of this state in the federal unemployment trust fund;

(e) Amounts advanced by the federal government to the account of this state in the federal unemployment trust fund under section 1201 of the "Social Security Act" to the extent such advances have been repaid to or recovered by the federal government;

(f) Interest credited to the Ohio unemployment trust fund as deposited with the secretary of the treasury of the United States.

(3) Annually, as of the computation date, the administrator shall determine the total credits and charges made to the mutualized account during the preceding twelve months and the overall condition of the account. The administrator shall issue an annual statement containing this information and such other information as the administrator deems pertinent, including a report that the sum of the balances in the mutualized account, employers' accounts, and any subsidiary accounts equal the balance in the state's unemployment trust fund maintained under section 904 of the "Social Security Act."

(4) As used in this division:

(a) "Fund as of the computation date" means as of any computation date, the aggregate amount of the unemployment compensation fund, including all contributions owing on the computation date that are paid within thirty days thereafter, all payments in lieu of contributions that are paid within sixty days after the computation date, all reimbursements of the federal share of extended benefits described in section 4141.301 of the Revised Code that are owing on the computation date, and all interest earned by the fund and received on or before the computation date from the federal government.

(b) "Minimum safe level" means an amount equal to two standard deviations above the average of the adjusted annual average unemployment compensation benefit payment from 1970 to the most recent calendar year prior to the computation date, as determined by the administrator pursuant to division ~~(D)~~(B)(4)(b) of this section. To determine the adjusted annual payment of unemployment compensation benefits, the administrator first shall multiply the number of weeks compensated during each calendar year beginning with 1970 by the most recent annual average weekly unemployment compensation benefit payment and then compute the average and standard deviation of the resultant products.

(c) "Annual average weekly unemployment compensation benefit payment" means the amount resulting from dividing the unemployment compensation benefits paid from the benefit account maintained within the unemployment compensation fund pursuant to section 4141.09 of the Revised Code, by the number of weeks compensated during the same time period.

(5) If, as of any computation date, the charges to the mutualized account during the entire period subsequent to the computation date, July 1, 1966, made in accordance with division ~~(D)~~(B)(1) of this section, exceed the credits to such account including mutualized contributions during such period, made in accordance with division ~~(D)~~(B)(2) of this section, the amount of such excess charges shall be recovered during the next contribution period. To recover such amount, the administrator shall compute the percentage ratio of such excess charges to the average annual payroll of all employers eligible for an experience rate under division ~~(C)~~(A) of this section. The percentage so determined shall be computed to the nearest tenth of one per cent and shall be an additional contribution rate to be applied to the wages paid by each employer whose rate is computed under the provisions of division ~~(C)~~(A) of this section in the contribution period next following such computation date, but such percentage shall not exceed five-tenths of one per cent; however, when there are any excess

charges in the mutualized account, as computed in this division, then the mutualized contribution rate shall not be less than one-tenth of one per cent.

(6) If the fund as of the computation date is above or below minimum safe level, the contribution rates provided for in each classification in division ~~(C)~~(A)(3) of this section for the next contribution period shall be adjusted as follows:

(a) If the fund is thirty per cent or more above minimum safe level, the contribution rates provided in division ~~(C)~~(A)(3) of this section shall be decreased two-tenths of one per cent.

(b) If the fund is more than fifteen per cent but less than thirty per cent above minimum safe level, the contribution rates provided in division ~~(C)~~(A)(3) of this section shall be decreased one-tenth of one per cent.

(c) If the fund is more than fifteen per cent but less than thirty per cent below minimum safe level, the contribution rates of all employers shall be increased twenty-five one-thousandths of one per cent plus a per cent increase calculated and rounded pursuant to division ~~(D)~~(B)(6)(g) of this section.

(d) If the fund is more than thirty per cent but less than forty-five per cent below minimum safe level, the contribution rates of all employers shall be increased seventy-five one-thousandths of one per cent plus a per cent increase calculated and rounded pursuant to division ~~(D)~~(B)(6)(g) of this section.

(e) If the fund is more than forty-five per cent but less than sixty per cent below minimum safe level, the contribution rates of all employers shall be increased one-eighth of one per cent plus a per cent increase calculated and rounded pursuant to division ~~(D)~~(B)(6)(g) of this section.

(f) If the fund is sixty per cent or more below minimum safe level, the contribution rates of all employers shall be increased two-tenths of one per cent plus a per cent increase calculated and rounded pursuant to division ~~(D)~~(B)(6)(g) of this section.

(g) The additional per cent increase in contribution rates required by divisions ~~(D)~~(B)(6)(c), (d), (e), and (f) of this section that is payable by each individual employer shall be calculated in the following manner. The flat rate increase required by a particular division shall be multiplied by three and the product divided by the average experienced-rated contribution rate for all employers as determined by the administrator for the most recent calendar year. The resulting quotient shall be multiplied by an individual employer's contribution rate determined pursuant to division ~~(C)~~(A)(3) of this section. The resulting product shall be rounded to the nearest tenth of one per cent, added to the flat rate increase required by division

(c), (d), (e), or (f) of this section, as appropriate, and the total shall be rounded to the nearest tenth of one per cent. As used in division ~~(D)~~(B)(6)(g) of this section, the "average experienced-rated contribution rate" means the most recent annual average contribution rate reported by the bureau contained in report RS 203.2 less the mutualized and minimum safe level contribution rates included in such rate.

(h) If any of the increased contribution rates of division ~~(D)~~(B)(6)(c), (d), (e), or (f) of this section are imposed, the rate shall remain in effect for the calendar year in which it is imposed and for each calendar year thereafter until the administrator determines as of the computation date for calendar year 1991 and as of the computation date for any calendar year thereafter pursuant to this section, that the level of the unemployment compensation fund equals or exceeds the minimum safe level as defined in division ~~(D)~~(B)(4)(b) of this section. Nothing in division ~~(D)~~(B)(6)(h) of this section shall be construed as restricting the imposition of the increased contribution rates provided in divisions ~~(D)~~(B)(6)(c), (d), (e), and (f) of this section if the fund falls below the percentage of the minimum safe level as specified in those divisions.

(7) The additional contributions required by division ~~(D)~~(B)(5) of this section shall be credited to the mutualized account. The additional contributions required by division ~~(D)~~(B)(6) of this section shall be credited fifty per cent to individual employer accounts and fifty per cent to the mutualized account.

~~(E)~~(C) If an employer makes a payment of contributions which is less than the full amount required by divisions ~~(C)~~(A) and ~~(D)~~(B) of this section, such partial payment shall be applied first against the mutualized contributions required under division ~~(D)~~(B) of this section, including the additional contributions required under division ~~(D)~~(B)(6) of this section. Any remaining partial payment shall be credited to the employer's individual account.

~~(F)~~(D) Whenever there are any increases in contributions resulting from an increase in wages subject to contributions as defined in division (G) of section 4141.01 of the Revised Code, or from an increase in the mutualized rate of contributions provided in division ~~(D)~~(B) of this section, or from a revision of the contribution rate schedule provided in division ~~(C)~~(A) of this section, except for that portion of the increase attributable to a change in the positive or negative balance in an employer's account, which increases become effective after a contract for the construction of real property, as defined in section 5701.02 of the Revised Code, has been entered into, the contractee upon written notice by a prime contractor shall reimburse the

contractor for all increased contributions paid by the prime contractor or by subcontractors upon wages for services performed under the contract. Upon reimbursement by the contractee to the prime contractor, the prime contractor shall reimburse each subcontractor for the increased contributions.

~~(G)~~(E) Effective only for the contribution period beginning on January 1, 1996, and ending on December 31, 1996, mutualized contributions collected or received by the administrator pursuant to division ~~(D)~~(B)(5) of this section and amounts credited to the mutualized account pursuant to division ~~(D)~~(B)(7) of this section shall be deposited into or credited to the unemployment compensation benefit reserve fund that is created under division ~~(H)~~(F) of this section, except that amounts collected, received, or credited in excess of two hundred million dollars shall be deposited into or credited to the unemployment trust fund established pursuant to section 4141.09 of the Revised Code.

~~(H)~~(F) The state unemployment compensation benefit reserve fund is hereby created as a trust fund in the custody of the treasurer of state and shall not be part of the state treasury. The fund shall consist of all moneys collected or received as mutualized contributions pursuant to division ~~(D)~~(B)(5) of this section and amounts credited to the mutualized account pursuant to division ~~(D)~~(B)(7) of this section as provided by division ~~(G)~~(E) of this section. All moneys in the fund shall be used solely to pay unemployment compensation benefits in the event that funds are no longer available for that purpose from the unemployment trust fund established pursuant to section 4141.09 of the Revised Code.

~~(H)~~(G) The balance in the unemployment compensation benefit reserve fund remaining at the end of the contribution period beginning January 1, 2000, and any mutualized contribution amounts for the contribution period beginning on January 1, 1996, that may be received after December 31, 2000, shall be deposited into the unemployment trust fund established pursuant to section 4141.09 of the Revised Code. Income earned on moneys in the state unemployment compensation benefit reserve fund shall be available for use by the administrator of the bureau of employment services only for the purposes described in division ~~(K)~~(I) of this section, and shall not be used for any other purpose.

~~(J)~~(H) The unemployment compensation benefit reserve fund balance shall be added to the unemployment trust fund balance in determining the minimum safe level tax to be imposed pursuant to division ~~(D)~~(B) of this section and shall be included in the mutualized account balance for the purpose of determining the mutualized contribution rate pursuant to division

~~(D)~~(B)(5) of this section.

~~(K)~~(I) All income earned on moneys in the unemployment compensation benefit reserve fund from the investment of the fund by the treasurer of state shall accrue to the bureau of employment services automation administration fund, which is hereby established in the state treasury. Moneys within the automation administration fund shall be used to meet the costs related to automation of the bureau and the administrative costs related to collecting and accounting for unemployment compensation benefit reserve fund revenue. Any funds remaining in the automation administration fund upon completion of the bureau's automation projects that are funded by that fund shall be deposited into the unemployment trust fund established pursuant to section 4141.09 of the Revised Code.

~~(L)~~(J) The administrator shall prepare and submit monthly reports to the unemployment compensation advisory commission with respect to the status of efforts to collect and account for unemployment compensation benefit reserve fund revenue and the costs related to collecting and accounting for that revenue. The administrator shall obtain approval from the unemployment compensation advisory commission for expenditure of funds from the bureau of employment services automation administration fund. Funds may be approved for expenditure for purposes set forth in division ~~(K)~~(I) of this section only to the extent that federal or other funds are not available.

Sec. 4141.26. (A) As soon as practicable after the first day of September but not later than the first day of December of each year, the administrator of the bureau of employment services shall notify each employer of the employer's contribution rate as determined for the next ensuing contribution period pursuant to section 4141.25 of the Revised Code provided the employer has furnished the bureau of employment services, by the first day of September following the computation date, with the wage information for all past periods necessary for the computation of the contribution rate.

(B)(1) In the case of contribution rates applicable to contribution periods beginning on or before December 31, 1992, if the employer has not furnished the necessary wage information, the employer's contribution rate for such contribution period shall be the maximum rate provided in such section, except that, if the employer files the necessary wage information by the end of the thirtieth day following the issuance of the maximum rate notice, the employer's rate then shall be computed as provided in section 4141.25 of the Revised Code.

(2) In the case of contribution rates applicable to contribution periods beginning on or after January 1, 1993, and before January 1, 1995, if the

employer has not furnished the necessary wage information, the employer's contribution rate for such contribution period shall not be computed as provided in section 4141.25 of the Revised Code, but instead shall be assigned at the maximum rate provided in that section, with the following exceptions:

(a) If the employer files the necessary wage information by December thirty-first of the year immediately preceding the contribution period for which the rate is to be effective, the employer's rate then shall be computed as provided in division ~~(C)~~(A) of section 4141.25 of the Revised Code.

(b) The administrator may waive the maximum contribution rate assigned pursuant to division (B)(2) of this section if the employer meets all of the following conditions within thirty days after the administrator mails the notice of the maximum contribution rate assigned pursuant to division (B)(2) of this section:

(i) Provides to the administrator a written request for waiver of the maximum contribution rate, clearly demonstrating that failure to timely furnish the wage information as required by division (A) of this section was a result of circumstances beyond the control of the employer or the employer's agent, except that negligence on the part of the employer shall not be considered beyond the control of the employer or the employer's agent;

(ii) Furnishes to the administrator all of the wage information as required by division (A) of this section and all quarterly reports due pursuant to section 4141.20 of the Revised Code;

(iii) Pays in full all contributions, payments in lieu of contributions, interest, forfeiture, and fines for each quarter for which such payments are due.

(3) In the case of contribution rates applicable to contribution periods beginning on or after January 1, 1995, if the employer has not timely furnished the necessary wage information as required by division (A) of this section, the employer's contribution rate for such contribution period shall not be computed as provided in section 4141.25 of the Revised Code, but instead shall be assigned a contribution rate equal to one hundred twenty-five per cent of the maximum rate provided in that section, with the following exceptions:

(a) If the employer files the necessary wage information by the thirty-first day of December of the year immediately preceding the contribution period for which the rate is to be effective, the employer's rate shall be computed as provided in division ~~(C)~~(A) of section 4141.25 of the Revised Code;

(b) The administrator may waive the contribution rate assigned pursuant to division (B)(3) of this section if the employer meets all of the following conditions within thirty days after the administrator mails to the employer the notice of the contribution rate assigned pursuant to division (B)(3) of this section:

(i) Provides to the administrator a written request for waiver of the contribution rate, clearly demonstrating that the failure to timely furnish the wage information as required by division (A) of this section was a result of circumstances beyond the control of the employer or the employer's agent, except that negligence on the part of the employer shall not be considered to be beyond the control of the employer or the employer's agent;

(ii) Furnishes to the administrator all of the wage information as required by division (A) of this section and all quarterly reports due pursuant to section 4141.20 of the Revised Code;

(iii) Pays in full all contributions, payments in lieu of contributions, interest, forfeiture, and fines for each quarter for which such payments are due.

(c) The administrator shall revise the contribution rate of an employer who has not timely furnished the necessary wage information as required by division (A) of this section, who has been assigned a contribution rate pursuant to division (B)(3) of this section, and who does not meet the requirements of division (B)(3)(a) or (b) of this section, if the employer furnishes the necessary wage information to the administrator within thirty-six months following the thirty-first day of December of the year immediately preceding the contribution period for which the rate is to be effective. The revised rate under division (B)(3)(c) of this section shall be equal to one hundred twenty per cent of the contribution rate that would have resulted if the employer had timely furnished the necessary wage information under division (A) of this section.

(4) The administrator shall deny an employer's request for a waiver of the requirement that the employer's contribution rate be the maximum rate under division (B)(2)(b) of this section, or be the rate assigned under division (B)(3)(b) of this section, or for a revision of the employer's rate as provided in division (B)(3)(c) of this section if the administrator finds that the employer's failure to timely file the necessary wage information was due to an attempt to evade payment.

(5) The administrator shall round the contribution rates the administrator determines under this division to the nearest tenth of one per cent.

(C) If, as a result of the computation pursuant to division (B) of this section, the employer's account shows a negative balance in excess of the

plicable limitations, in that computation, the excess above applicable limitations shall not be transferred from the account as provided in division (A)(2) of section 4141.24 of the Revised Code.

(D) The rate determined pursuant to this section and section 4141.25 of the Revised Code shall become binding upon the employer unless:

(1) The employer makes a voluntary contribution as provided in division (B) of section 4141.24 of the Revised Code, whereupon the administrator shall issue the employer a revised contribution rate notice if the contribution changes the employer's rate; or

(2) Within thirty days after the mailing of notice of the employer's rate or a revision of it to the employer's last known address or, in the absence of mailing of such notice, within thirty days after the delivery of such notice, the employer files an application with the administrator for reconsideration of the administrator's determination of such rate setting forth reasons for such request. The administrator shall promptly examine the application for reconsideration and shall notify the employer of the administrator's reconsidered decision, which shall become final unless, within thirty days after the mailing of such notice by certified mail, return receipt requested, the employer files an application for review of such decision with the unemployment compensation review commission. The commission shall promptly examine the application for review of the administrator's decision and shall grant such employer an opportunity for a fair hearing. The proceeding at the hearing before the commission shall be recorded in the means and manner prescribed by the commission. For the purposes of this division, the review is considered timely filed when it has been received as provided in division (I)(2) of section 4141.28 of the Revised Code.

The employer and the administrator shall be promptly notified of the commission's decision, which shall become final unless, within thirty days after the mailing of notice of it to the employer's last known address by certified mail, return receipt requested, or, in the absence of mailing, within thirty days after delivery of such notice, an appeal is taken by the employer or the administrator to the court of common pleas of Franklin county. Such appeal shall be taken by the employer or the administrator by filing a notice of appeal with the clerk of such court and with the commission. Such notice of appeal shall set forth the decision appealed and the errors in it complained of. Proof of the filing of such notice with the commission shall be filed with the clerk of such court.

The commission, upon written demand filed by the appellant and within thirty days after the filing of such demand, shall file with the clerk a certified transcript of the record of the proceedings before the commission

pertaining to the determination or order complained of, and the appeal shall be heard upon such record certified to the commission. In such appeal, no additional evidence shall be received by the court, but the court may order additional evidence to be taken before the commission, and the commission, after hearing such additional evidence, shall certify such additional evidence to the court or it may modify its determination and file such modified determination, together with the transcript of the additional record, with the court. After an appeal has been filed in the court, the commission, by petition, may be made a party to such appeal. Such appeal shall be given precedence over other civil cases. The court may affirm the determination or order complained of in the appeal if it finds, upon consideration of the entire record, that the determination or order is supported by reliable, probative, and substantial evidence and is in accordance with law. In the absence of such a finding, it may reverse, vacate, or modify the determination or order or make such other ruling as is supported by reliable, probative, and substantial evidence and is in accordance with law. The judgment of the court shall be final and conclusive unless reversed, vacated, or modified on appeal. An appeal may be taken from the decision of the court of common pleas of Franklin county.

(E) The appeal provisions of division (D) of this section apply to all other determinations and orders of the administrator affecting the liability of an employer to pay contributions or the amount of such contributions, determinations respecting application for refunds of contributions, determinations respecting applications for classification of employment as seasonal under section 4141.33 of the Revised Code, and exceptions to charges of benefits to an employer's account as provided in division (D) of section 4141.24 of the Revised Code.

(F) The validity of any general order or rule of the administrator adopted pursuant to this chapter or of any final order or action of the unemployment compensation review commission respecting any such general order or rule may be determined by the court of common pleas of Franklin county, and such general order, rule, or action may be sustained or set aside by the court on an appeal to it which may be taken by any person affected by the order, rule, or action in the manner provided by law. Such appeal to the court of common pleas of Franklin county shall be filed within thirty days after the date such general order, rule, or action was publicly released by the administrator or the commission. Either party to such action may appeal from the court of common pleas of Franklin county as in ordinary civil cases.

(G) Notwithstanding any determination made in pursuance of sections

4141.23 to 4141.26 of the Revised Code, no individual who files a claim for benefits shall be denied the right to a fair hearing as provided in section 4141.28 of the Revised Code, or the right to have a claim determined on the merits of it.

(H)(1) Notwithstanding division (D) of this section, if the administrator finds that an omission or error in bureau records or employer reporting caused the administrator to issue an erroneous determination or order affecting contribution rates, the liability of an employer to pay contributions or the amount of such contributions, determinations respecting applications for refunds of contributions, determinations respecting applications for classification of ~~employment as~~ seasonal status under section 4141.33 of the Revised Code, or exceptions to charges of benefits to an employer's account as provided in division (D) of section 4141.24 of the Revised Code, the administrator may issue a corrected determination or order correcting the erroneous determination or order, except as provided in division (H)(2) of this section.

(2) The administrator may not issue a corrected determination or order correcting an erroneous determination or order if both of the following apply:

(a) The erroneous determination or order was caused solely by an omission or error of the bureau;

(b) A correction of the erroneous determination or order would adversely affect the employer or any of the employers that were parties in interest to the erroneous determination or order.

A corrected determination or order issued under this division takes precedence over and renders void the erroneous determination or order and is appealable as provided in division (D) of this section.

Sec. 4141.28. (A) Applications for determination of benefit rights and claims for benefits shall be filed with a deputy of the administrator of the bureau of employment services designated for the purpose. Such applications and claims may also be filed with an employee of another state or federal agency charged with the duty of accepting applications and claims for unemployment benefits or with an employee of the unemployment insurance commission of Canada, ~~charged with the duty of accepting applications and claims for unemployment benefits~~.

When a former employee of a state agency, board, or commission that has terminated its operations files an application under this division, the former employee shall give notice that the agency, board, or commission has terminated its operations. All notices or information required to be sent under this chapter to or furnished by the applicant's employer shall be sent

to or furnished by the director of administrative services.

(B)(1) When an unemployed individual files an application for determination of benefit rights, the administrator shall furnish the individual with the information specified in division (A) of section 4141.321 of the Revised Code and with a pamphlet giving instructions for the steps an applicant may take if the applicant's claim for benefits is disallowed. The pamphlet shall state the applicant's right of appeal, clearly describe the different levels of appeal, and explain where and when each appeal must be filed. In filing an application, the individual shall, for the individual's most recent employment, furnish the administrator with either:

(a) The information furnished by the employer as provided for in division (B)(2) of this section;

(b) The name and address of the employer for whom the individual performed services and the individual's written statement of the reason for separation from the employer.

Where the claimant has furnished information in accordance with division (B)(1)(b) of this section, the administrator shall promptly send a notice in writing that such filing has been made to the individual's most recent separating employer, which notice shall request from the employer the reason for the individual's unemployment. ~~The notice shall inform such employer of the employer's right, upon request, to be present at a fact finding interview conducted prior to the making of any determination under that division. Upon receipt of any request, the claimant and the employer making the request shall have at least three days' prior notice of the time and place of the fact finding interview. In the conduct of the interview, the administrator is not bound by rules of evidence or of procedure for the conduct of hearings.~~ The administrator also may request from any base period employer information necessary for the determination of the ~~applicant's~~ claimant's rights to benefits. Information as to the reason for unemployment preceding an additional claim shall be obtained in the same manner. Requests for such information shall be ~~stamped~~ dated by the administrator with the date on which they are mailed. If the employer fails to mail or deliver such information within ten working days from the date the administrator mailed and ~~date stamped~~ dated such request, and if necessary to assure prompt payment of benefits when due, the administrator shall make the determination, and shall base the determination on such information as is available to the administrator, which shall include the ~~applicant's~~ claimant's statement made under division (B)(1)(b) of this section. The determination, as it relates to the claimant's determination of benefit rights, shall be amended upon receipt of correct remuneration

information at any time within the benefit year and any benefits paid and charged to an employer's account prior to the receipt of such information shall be adjusted, effective as of the beginning of the claimant's benefit year.

(2) An employer who separates within any seven-day period fifty or more individuals because of lack of work, and these individuals upon separation will be unemployed as defined in division (R) of section 4141.01 of the Revised Code, shall furnish notice to the administrator of the dates of separation and the approximate number of individuals being separated. The notice shall be furnished at least three working days prior to the date of the first day of such separations. In addition, at the time of separation the employer shall furnish to the individual being separated or to the administrator separation information necessary to determine the individual's eligibility, on forms and in a manner approved by the administrator.

An employer who operates multiple business establishments at which both the effective authority for hiring and separation of employees and payroll information is located and who, because of lack of work, separates a total of fifty or more individuals at two or more business establishments is exempt from the first paragraph of division (B)(2) of this section. This paragraph shall not be construed to relieve an employer who operates multiple business establishments from complying with division (B)(2) of this section where the employer separates fifty or more individuals at any business establishment within a seven-day period.

An employer of individuals engaged in connection with the commercial canning or commercial freezing of fruits and vegetables is exempt from the provision of division (B)(2) of this section that requires an employer to furnish notice of separation at least three working days prior to the date of the first day of such separations.

(3) Where an individual at the time of filing an application for determination of benefit rights furnishes separation information provided by the employer or where the employer has provided the administrator with the information in accordance with division (B)(2) of this section, the administrator shall make a determination of eligibility on the basis of the information furnished. The administrator shall promptly notify all interested parties under division (D)(1) of this section of the determination.

(4) Where an employer has furnished separation information under division (B)(2) of this section which is insufficient to enable the administrator to make a determination of a claim for benefits of an individual, or where the individual fails at the time of filing an application for determination of benefit rights to produce the separation information furnished by an employer, the administrator shall follow the provisions

specified in division (B)(1) of this section.

(C) The administrator ~~or the administrator's deputy~~ shall promptly examine any application for determination of benefit rights filed, and on the basis of any facts found by the administrator ~~or deputy~~ shall determine whether or not the application is valid, and if valid, the date on which the benefit year shall commence and the weekly benefit amount. The claimant, the most recent employer, and any other employer in the claimant's base period shall promptly be notified of the determination and the reasons therefor. In addition, the determination issued to the claimant shall include the total amount of benefits payable, and the determination issued to each chargeable base period employer shall include the total amount of benefits which may be charged to the employer's account.

(D)(1) The administrator ~~or the administrator's deputy~~ shall examine the first claim for benefits filed in any benefit year, and any additional claim, and on the basis of any facts found by the administrator ~~or deputy~~ shall determine whether division (D) of section 4141.29 of the Revised Code is applicable to the claimant's most recent separation and, to the extent necessary, prior separations from work, and whether the separation reason is qualifying or disqualifying for the ensuing period of unemployment. Notice of such determination shall be mailed to the claimant, the claimant's most recent separating employer, and any other employer involved in the determination.

(a) Whenever the administrator has reason to believe that the unemployment of twenty-five or more individuals relates to a labor dispute, the administrator ~~shall~~, within five calendar days after their claims are filed, shall schedule a hearing concerning the reason for unemployment. Notice of the hearing shall be sent to all interested parties, including the duly authorized representative of the parties, as provided in division (D)(1) of this section. The hearing date shall be scheduled so as to provide at least ten days' prior notice of the time and date of the hearing. A similar hearing, in such cases, may be scheduled when there is a dispute as to the duration or ending date of the labor dispute.

(b) The administrator shall appoint a hearing officer to conduct the hearing of the case under division (D)(1)(a) of this section. The hearing officer is not bound by common law or statutory rules of evidence or by technical or formal rules of procedure, but shall take any steps that are reasonable and necessary to obtain the facts and determine whether the claimants are entitled to benefits under the law. The failure of any interested party to appear at the hearing shall not preclude a decision based upon all the facts available to the hearing officer. The proceeding at the hearing shall

be recorded by mechanical means or by other means prescribed by the administrator. The record need not be transcribed unless an application for appeal is filed on the decision and the chairperson of the unemployment compensation review commission requests a transcript of the hearing within fourteen days after the application for appeal is received by the commission. The administrator shall prescribe rules concerning the conduct of the hearings and all related matters and appoint an attorney to direct the operation of this function.

(c) The administrator shall issue the hearing officer's decisions and reasons therefor on the case within ten calendar days after the hearing. The hearing officer's decision issued by the administrator is final unless an application for appeal is filed with the review commission within twenty-one days after the decision was mailed to all interested parties. The administrator ~~may~~, within the twenty-one-day appeal period, may remove and vacate the decision and issue a revised determination and appeal date.

(d) Upon receipt of the application for appeal, the full review commission shall review the administrator's decision and either schedule a further hearing on the case or disallow the application. The review commission shall review the administrator's decision within fourteen days after receipt of the decision or the receipt of a transcript requested under division (D)(1)(b) of this section, whichever is later.

(i) When a further hearing is granted, the commission shall make the administrator's decision and record of the case, as certified by the administrator, a part of the record and shall consider the administrator's decision and record in arriving at a decision on the case. The commission's decision affirming, modifying, or reversing the administrator's decision, following the further appeal, shall be mailed to all interested parties within fourteen days after the hearing.

(ii) A decision of the disallowance of a further appeal shall be mailed to all interested parties within fourteen days after the commission makes the decision to disallow. The disallowance is deemed an affirmation of the administrator's decision.

(iii) The time limits specified in divisions (D)(1)(a), (b), (c), and (d) of this section may be extended by agreement of all interested parties or for cause beyond the control of the administrator or the commission.

(e) An appeal of the commission's decision issued under division (D)(1)(d) of this section may be taken to the court of common pleas as provided in division (O) of this section.

(f) A labor dispute decision involving fewer than twenty-five individuals shall be determined under division (D)(1) of this section and the

review commission shall determine any appeal from the decision pursuant to division (M) of this section and within the time limits provided in division (D)(1)(d) of this section.

~~(2) The administrator or the administrator's deputy shall also examine each continued claim for benefits filed, and on the basis of any facts found by the administrator or the administrator's deputy shall determine whether such claim shall be allowed.~~

(a) The determination of a first or additional claim, including the reasons therefor, shall be mailed to the claimant, the claimant's most recent separating employer, and any other employer involved in the determination.

~~(b)~~ When the determination of a continued claim results in a disallowed claim, the administrator shall notify the claimant of such disallowance and the reasons therefor.

(3) Where the claim for benefits is directly attributable to unemployment caused by a major disaster, as declared by the president of the United States pursuant to the "Disaster Relief Act of 1970," 84 Stat. 1745, 42 U.S.C.A. 4402, and the individual filing the claim would otherwise have been eligible for disaster unemployment assistance under that act, then upon application by the employer any benefits paid on the claim shall not be charged to the account of the employer who would have been charged on such claim but instead shall be charged to the mutualized account described in section 4141.25 of the Revised Code, provided that this division is not applicable to an employer electing reimbursing status under section 4141.241 of the Revised Code, except reimbursing employers for whom benefit charges are charged to the mutualized account pursuant to division ~~(C)(D)(2)~~ of section ~~4141.33~~ 4141.24 of the Revised Code.

(4)(a) An individual filing a new claim for unemployment compensation shall disclose, at the time of filing, whether or not the individual owes child support obligations. In such a case, the administrator shall notify the state or local child support enforcement agency enforcing the obligation only if the claimant has been determined to be eligible for unemployment compensation.

(b) The administrator shall deduct and withhold from unemployment compensation payable to an individual who owes child support obligations:

(i) Any amount required to be deducted and withheld from the unemployment compensation pursuant to legal process, as that term is defined in section 459(i)(5) of the "Social Security Act," as amended by the "Personal Responsibility and Work Opportunity Reconciliation Act of 1996," 100 Stat. 2105, 42 U.S.C. 659, and properly served upon the administrator, as described in division (D)(4)(c) of this section; or

(ii) Where division (D)(4)(b)(i) of this section is inapplicable, in the amount determined pursuant to an agreement submitted to the administrator under section 454(20)(19)(B)(i) of the "Social Security Act," 88 Stat. 2351, 42 U.S.C. 654, as amended, by the state or local child support enforcement agency; or

(iii) If neither division (D)(4)(b)(i) nor (ii) of this section is applicable, then in the amount specified by the individual.

(c) The ~~bureau of employment services~~ administrator shall receive all legal process described in division (D)(4)(b)(i) of this section from each local child support enforcement agency, which legal process was issued by the agency under section 2301.371 of the Revised Code or otherwise was issued by the agency. The processing of cases under part D of Title IV of the "Social Security Act," 88 Stat. 2351 (1975), 42 U.S.C.A. 651, as amended, shall be determined pursuant to agreement between the administrator and the state department of human services. The department shall pay, pursuant to that agreement, all of the costs of the bureau of employment services that are associated with a deduction and withholding under division (D)(4)(b)(i) and (ii) of this section.

(d) The amount of unemployment compensation subject to being withheld pursuant to division (D)(4)(b) of this section is that amount which remains payable to the individual after application of any recoupment provisions for recovery of overpayments and after deductions which have been made under this chapter for deductible income received by the individual. Effective for applications to establish unemployment compensation benefit rights filed after December 27, 1997, the amount withheld with respect to a week of unemployment benefits shall not exceed fifty per cent of the individual's weekly benefit amount as determined by the administrator.

(e) Any amount deducted and withheld under division (D)(4)(b) of this section shall be paid to the appropriate state or local child support enforcement agency in the following manner:

(i) The administrator shall determine the amounts that are to be deducted and withheld on a per county basis.

(ii) For each county, the administrator shall forward to the local child support enforcement agency of the county, at intervals to be determined pursuant to the agreement referred to in division (D)(4)(c) of this section, the amount determined for that county under division (D)(4)(e)(i) of this section for disbursement to the obligees or assignees of such support obligations.

(f) Any amount deducted and withheld under division (D)(4)(b) of this

section shall for all purposes be treated as if it were paid to the individual as unemployment compensation and paid by the individual to the state or local child support agency in satisfaction of the individual's child support obligations.

(g) Division (D)(4) of this section applies only if appropriate arrangements have been made for reimbursement by the state or local child support enforcement agency for the administrative costs incurred by the administrator under this section which are associated with or attributable to child support obligations being enforced by the state or local child support enforcement agency.

(h) As used in division (D)(4) of this section:

(i) "Child support obligations" means only obligations which are being enforced pursuant to a plan described in section 454 of the "Social Security Act," 88 Stat. 2351, 42 U.S.C. 654, as amended, which has been approved by the United States secretary of health and human services under part D of Title IV of the "Social Security Act," 88 Stat. 2351, 42 U.S.C. 651, as amended.

(ii) "State child support enforcement agency" means the department of human services, bureau of child support, designated as the single state agency for the administration of the program of child support enforcement pursuant to part D of Title IV of the "Social Security Act," 88 Stat. 2351, 42 U.S.C. 651, as amended.

(iii) "Local child support enforcement agency" means the child support enforcement agency designated pursuant to section 2301.35 of the Revised Code or any other agency of a political subdivision of the state operating pursuant to a plan mentioned in division (D)(4)(h)(i) of this section.

(iv) "Unemployment compensation" means any compensation payable under this chapter including amounts payable by the administrator pursuant to an agreement under any federal law providing for compensation, assistance, or allowances with respect to unemployment.

(E)(1) Any base period or subsequent employer of a claimant who has knowledge of specific facts affecting such claimant's right to receive benefits for any week may notify the administrator in writing of such facts. The administrator shall prescribe a form to be used for such eligibility notice, but failure to use the prescribed form shall not preclude the administrator's examination of any notice.

(2) An eligibility notice is timely filed if received by the administrator ~~or the administrator's deputy~~ or postmarked prior to or within forty-five calendar days after the end of the week with respect to which a claim for benefits is filed by the claimant. An employer who does not timely file an

eligibility notice shall not be an interested party with respect to the claim for benefits which is the subject of the notice.

(3) The administrator ~~or the administrator's deputy~~ shall consider the information contained in the eligibility notice, together with other facts found by the administrator ~~or the administrator's deputy~~ and, after giving notice to the notifying employer, ~~if the employer timely filed the eligibility notice, and to the claimant, and other interested parties and informing them of their right to be present at a predetermination fact finding interview,~~ shall determine, unless a prior determination on the same eligibility issue has become final, whether such claim shall be allowed or disallowed, and shall mail notice of such determination to the notifying employer who timely filed the eligibility notice, to the claimant, and to other interested parties. If the determination disallows benefits for any week in question, the payment of benefits with respect to that week shall be withheld pending further appeal, or an overpayment order shall be issued by the administrator as prescribed in section 4141.35 of the Revised Code, if applicable.

(F) In making determinations ~~on applications for determination of benefit rights and claims for benefits,~~ the administrator ~~and the administrator's deputy~~ shall follow decisions of the unemployment compensation review commission which have become final with respect to claimants similarly situated.

(G)(1) ~~Any~~ Until October 1, 1998, any interested party notified of a determination of an application for determination of benefit rights or a claim for benefits may, within twenty-one calendar days after the notice was mailed to the party's last known post-office address, apply in writing for a reconsideration of the administrator's ~~or deputy's~~ determination.

On and after October 1, 1998, any party notified of a determination may appeal within twenty-one calendar days after notice was mailed to the party's last known post-office address or within an extended period pursuant to division (Q) of this section. Upon receipt of the appeal, the administrator either shall issue a redetermination within twenty-one days of receipt or transfer the appeal to the commission, which shall acquire jurisdiction over the appeal. If the administrator issues a redetermination, the redetermination shall void the prior determination. A redetermination under this section is appealable to the same extent that a determination is appealable.

~~(2) Unless an application for reconsideration is filed within the twenty one day period, or within an extended period pursuant to division (R) of this section, such determination of the administrator or deputy is final, except that upon discovery, within the benefit year, of~~ If the administrator finds within the benefit year that the determination was

erroneous due to an error in an employer's report other than a report to correct remuneration information as provided in division (B) of this section or any typographical or clerical error in the administrator's determination ~~or a decision on reconsideration~~, the administrator ~~or the administrator's deputy~~ shall issue a corrected determination ~~or decision~~ to all interested parties, which determination ~~or decision~~ shall take precedence over and void the prior determination ~~or decision~~ of the administrator ~~or the administrator's deputy~~, provided no appeal has been filed with the commission. ~~If a request for reconsideration is filed within the twenty-one-day period, the administrator shall promptly consider such request and, after giving notice to the interested parties and informing them of their right to be present at a predetermination fact-finding interview, conducted as described in division (B) of this section, shall issue the decision to the interested parties; except that, if in the administrator's judgment the issues are such as to require a hearing, the administrator may refer any request for reconsideration to the commission as an appeal.~~

(3) If benefits are allowed by the administrator in ~~the initial a~~ determination ~~or the decision on reconsideration~~, or in a decision by a referee hearing officer, the review commission, or a court, the benefits shall be paid promptly, notwithstanding any further appeal, provided that if benefits are denied ~~upon reconsideration or on~~ appeal, of which the parties have notice and an opportunity to be heard, the payment of benefits shall be withheld pending a decision on any further appeal.

(4) Any benefits paid to a claimant under this section prior to a final determination of the claimant's right to the benefits shall be charged to the employer's account as provided in division (D) of section 4141.24 of the Revised Code, provided that if there is no final determination of the claim by the subsequent thirtieth day of June, the employer's account will be credited with the total amount of benefits which has been paid prior to that date, based on the determination which has not become final. The total amount credited to the employer's account shall be charged to a suspense account which shall be maintained as a separate bookkeeping account and administered as a part of section 4141.24 of the Revised Code, and shall not be used in determining the account balance of the employer for the purpose of computing the employer's contribution rate under section 4141.25 of the Revised Code. If it is finally determined that the claimant is entitled to all or a part of the benefits in dispute, the suspense account shall be credited and the appropriate employer's account charged with the benefits. If it is finally determined that the claimant is not entitled to all or any portion of the benefits in dispute, the benefits shall be credited to the suspense account and

a corresponding charge made to the mutualized account established in division ~~(D)~~(B) of section 4141.25 of the Revised Code, provided that, except as otherwise provided in this division, if benefits are chargeable to an employer or group of employers who is required or elects to make payments to the fund in lieu of contributions under section 4141.241 of the Revised Code, the benefits shall be charged to the employer's account in the manner provided in division (D) of section 4141.24 and division (B) of section 4141.241 of the Revised Code, and no part of the benefits may be charged to the suspense account provided in this division. To the extent that benefits which have been paid to a claimant and charged to the employer's account are found not to be due the claimant and are recovered by the administrator as provided in section 4141.35 of the Revised Code, they shall be credited to the employer's account.

(H) ~~Any~~ Until October 1, 1998, any interested party may appeal the administrator's decision on reconsideration to the commission and unless an appeal is filed from such decision on reconsideration with the commission within twenty-one calendar days after such decision was mailed to the last known post-office address of the appellant, or within an extended period pursuant to division ~~(R)~~(Q) of this section, such decision on reconsideration is final and benefits shall be paid or denied in accordance therewith. The date of the mailing provided by the administrator on determination or decision on reconsideration is sufficient evidence upon which to conclude that the determination or decision on reconsideration was mailed on that date.

On and after October 1, 1998, the date of the mailing provided by the administrator on the determination or redetermination is sufficient evidence upon which to conclude that the determination or redetermination was mailed on that date.

(I) ~~Requests for reconsideration, appeals, or applications for further appeals~~ Appeals may be filed with the administrator, commission, ~~with the administrator or one of the administrator's deputies~~, with an employee of another state or federal agency charged with the duty of accepting claims, or with ~~an employee of the unemployment insurance commission of Canada charged with the duty of accepting claims.~~

(1) Any timely written notice ~~stating~~ that the interested party desires a ~~review of the previous determination or decision and the reasons therefor,~~ to appeal shall be accepted.

(2) The administrator, commission, or authorized agent must receive the ~~request, appeal, or application~~ within the specified appeal period in order for the ~~request, appeal, or application~~ to be deemed timely filed, except that:

(a) If the United States postal service is used as the means of delivery, the enclosing envelope must have a postmark date, as governed by United States postal regulations, that is on or before the last day of the specified appeal period; and

(b) Where the postmark date is illegible or missing, the ~~request~~, appeal, or ~~application~~ is timely filed if received no later than the end of the third calendar day following the last day of the specified appeal period.

(3) The administrator may adopt rules pertaining to alternate methods of filing appeals.

(J) When an appeal from a ~~decision on reconsideration~~ ~~determination~~ of the administrator or deputy is taken to the commission at the hearing officer level, all interested parties shall be notified and the commission or a referee shall, after affording such parties reasonable opportunity for a fair hearing, shall affirm, modify, or reverse the findings of fact and the decision determination of the administrator or deputy in the manner which that appears just and proper. However, the commission may refer a case to the administrator for a redetermination if the commission decides that the case does not require a hearing. In the conduct of such a hearing by a hearing officer or any other hearing on appeal to the commission which is provided in this section, the commission and the referees hearing officers are not bound by common law or statutory rules of evidence or by technical or formal rules of procedure. The commission and the referees hearing officers shall take any steps in the hearings, consistent with the impartial discharge of their duties, which appear reasonable and necessary to ascertain the facts and determine whether the claimant is entitled to benefits under the law. For the purpose of any hearing on appeal which is provided in this section, the file of the administrator pertaining to the case shall be certified by the administrator and shall automatically become a part of the record in the appeal hearing. All information in the file which pertains to the claim, including statements made to the administrator or the administrator's deputy by the individual claiming benefits or other interested parties, shall be considered by the commission and the referees in arriving at a decision, together with any other information which is produced at the hearing. The commission and referees hearings shall be de novo, except that the administrator's file pertaining to a case shall be included in the record to be considered.

The hearing officers may conduct any such hearing in person or by telephone. The commission shall adopt rules which designate the circumstances under which the commission or referees hearing officers may conduct a hearing by telephone, grant a party to the hearing the opportunity

to object to a hearing by telephone, and govern the conduct of hearings by telephone. An interested party whose hearing would be by telephone pursuant to the commission rules may elect to have an in-person hearing, provided that the party electing the in-person hearing agrees to have the hearing at the time and place the commission determines pursuant to rule.

(1) The failure of the claimant or other interested party to appear at a hearing, unless the claimant or interested party is the appealing party, shall not preclude a decision in the claimant's or interested party's favor, if on the basis of all the information in the record, including that contained in the file of the administrator, the claimant or interested party is entitled to the decision.

(2) If the party appealing fails to appear at the hearing, the ~~referee or the commission~~ hearing officer shall dismiss the appeal, provided that the ~~referee~~ hearing officer or commission shall vacate the dismissal upon a showing that due notice of the hearing was not mailed to such party's last known address or good cause for the failure to appear is shown to ~~the referee or the commission~~ within fourteen days after the hearing date. No further appeal from the decision may thereafter be instituted by such party. If the other party fails to appear at the hearing, the ~~referee or the commission~~ hearing officer shall proceed with the hearing and shall issue a decision ~~without further hearing, provided that the referee or~~ based on the evidence of record, including the administrator's file. The commission shall vacate the decision upon a showing that due notice of the hearing was not mailed to such party's last known address or good cause for such party's failure to appear is shown to ~~the referee or the commission~~ within fourteen days after the hearing date.

(3) Where a party requests that a hearing be scheduled in the evening because the party is employed during the day, the commission ~~or referee~~ shall schedule the hearing during such hours as the party is not employed.

(4) The interested parties may waive, in writing, the hearing. if the parties waive the hearing, the hearing officer shall issue a decision based on the evidence of record, including the administrator's file.

(K) The proceedings at the hearing before the ~~referee, or the commission~~ hearing officer, shall be recorded by mechanical means or otherwise as may be prescribed by the commission. ~~Unless the claim is further appealed, such~~ In the absence of further proceedings, the record of proceedings that is made need not be transcribed.

(L) All interested parties shall be notified of the ~~referee's~~ hearing officer's decision, which shall include the reasons therefor. The ~~referee's~~ hearing officer's decision shall become final unless, within twenty-one days

after the decision was mailed to the last known post-office address of such parties, or within an extended period pursuant to division ~~(R)~~(Q) of this section, the commission on its own motion removes or transfers such claim to ~~itself or an application to institute a further appeal before the commission~~ the review level, or upon a request for review that is filed by any an interested party and ~~such appeal~~ is allowed by the commission.

~~(M) When any claim is removed or transferred to the commission on its own motion, or when an application to institute a further appeal is allowed by the commission, the commission shall review the decision of the referee and shall either affirm, modify, or reverse such decision. Before rendering its decision, the commission may remand the case to the referee for further proceedings. When the commission disallows an application to institute a further appeal, or renders its decision affirming, modifying, or reversing the decision of the referee, all interested parties shall be notified of such decision or order by mail addressed to the last known post-office address of such parties. A disallowance by the commission of an application for further appeal shall be deemed an affirmation by the commission of the referee's decision under appeal.~~ IN THE CONDUCT OF A HEARING BY THE COMMISSION OR A HEARING OFFICER AT THE REVIEW LEVEL, THE COMMISSION AND THE HEARING OFFICERS ARE NOT BOUND BY COMMON LAW OR STATUTORY RULES OF EVIDENCE OR BY TECHNICAL OR FORMAL RULES OF PROCEDURE. THE COMMISSION AND THE HEARING OFFICERS SHALL TAKE ANY STEPS IN THE HEARINGS, CONSISTENT WITH THE IMPARTIAL DISCHARGE OF THEIR DUTIES, THAT APPEAR REASONABLE AND NECESSARY TO ASCERTAIN THE FACTS AND DETERMINE WHETHER THE CLAIMANT IS ENTITLED TO BENEFITS UNDER THE LAW.

(1) the review commission, or a hearing officer designated by the commission, shall consider an appeal at the review level under the following circumstances:

(a) when An appeal is required to be heard initially by the commission pursuant to this chapter;

(b) when the commission on its own motion removes an appeal within twenty-one days after a hearing officer issues the hearing officer's decision in the case;

(c) when a hearing officer refers an appeal to the commission within twenty-one days after the hearing officer issues the hearing officer's decision in the case;

(d) when an interested party files a request for review with the

commission within twenty-one days after the date a hearing officer issues the hearing officer's decision in the case. The commission shall disallow the request for review if it is not timely filed.

the commission may remove, and a hearing officer may refer, Appeals involving decisions of potentially precedential value.

(2) If a request for review is timely filed, the commission shall decide whether to allow or disallow the request for review.

If the request for review is disallowed, the commission shall notify all interested parties of that fact. The disallowance of a request for review constitutes a final decision by the commission for purposes of appeal to court. If the request for review is allowed, the commission shall notify all interested parties of that fact, and the commission shall provide a reasonable period of time, as the commission defines by rule, in which interested parties may file a response. After that period of time, the commission, based on the record before it, shall do one of the following at the review level:

(a) Affirm the decision of the hearing officer;

(b) Order that the case be heard or reheard by a hearing officer;

(c) Order that the case be heard or reheard by a hearing officer as a potential precedential decision;

(d) Order that the decision be rewritten.

(3) the commission shall send notice to all interested parties When it orders a case to be heard or reheard. The notice shall include the reasons for the hearing or rehearing. If the commission identifies an appeal as a potentially precedential case, the commission shall notify the administrator and other interested parties of the special nature of the hearing.

(N) Whenever the administrator and the chairperson of the review commission determine in writing and certify jointly that a controversy exists with respect to the proper application of this chapter to more than five hundred claimants similarly situated whose claims are pending before the administrator or the review commission or both on ~~reconsideration~~ redetermination or appeal applied for or filed by three or more employers or by such claimants, the chairperson of the review commission shall select one such claim which is representative of all such claims and assign it for a fair hearing and decision. Any other claimant or employer in the group who makes a timely request to participate in the hearing and decision shall be given a reasonable opportunity to participate as a party to the proceeding.

Such joint certification by the administrator and the chairperson of the commission shall constitute a stay of further proceedings in the claims of all claimants similarly situated until the issue or issues in controversy are adjudicated by the supreme court of Ohio. At the time the decision of the

commission is issued, the chairperson shall certify the commission's decision directly to the supreme court of Ohio and the chairperson shall file with the clerk of the supreme court a certified copy of the transcript of the proceedings before the commission pertaining to such decision. Hearings on such issues shall take precedence over all other civil cases. If upon hearing and consideration of such record the court decides that the decision of the commission is unlawful, the court shall reverse and vacate the decision or modify it and enter final judgment in accordance with such modification; otherwise such court shall affirm such decision. The notice of the decision of the commission to the interested parties shall contain a certification by the chairperson of the commission that the decision is of great public interest and that a certified transcript of the record of the proceedings before the commission has been filed with the clerk of the supreme court as an appeal to the court. Promptly upon the final judgment of the court, the administrator and the commission shall decide those claims pending before them where the facts are similar and shall notify all interested parties of such decision and the reason therefor in the manner provided for in this section. Nothing in this division shall be construed so as to deny the right of any such claimant, whose claim is pending before the administrator on ~~reconsideration~~ redetermination or before the commission, to apply for and be granted an opportunity for a fair hearing to show that the facts in the claimant's case are different from the facts in the claim selected as the representative claim as provided in this division, nor shall any such claimant be denied the right to appeal the decision of the administrator or the commission which is made as a result of the decision of the court in the representative case.

(O)(1) Any interested party as defined in division (I) of section 4141.01 of the Revised Code, within thirty days after notice of the decision of the commission was mailed to the last known post-office address of all interested parties, may appeal from the decision of the commission to the court of common pleas of the county where the appellant, if an employee, is resident or was last employed or of the county where the appellant, if an employer, is resident or has the principal place of business in this state. The commission shall provide on its decision the names and addresses of all interested parties. Such appeal shall be taken within such thirty days by the appellant by filing a notice of appeal with the clerk of the court of common pleas. Such filing shall be the only act required to perfect the appeal and vest jurisdiction in the court. Failure of an appellant to take any step other than timely filing of a notice of appeal does not affect the validity of the appeal, but is grounds only for such action as the court deems appropriate, which

may include dismissal of the appeal. Such notice of appeal shall set forth the decision appealed from. The appellant shall mail a copy of the notice of appeal to the commission and to all interested parties by certified mail to their last known post-office address and proof of the mailing of the notice shall be filed with the clerk within thirty days of filing the notice of appeal. All interested parties shall be made appellees. The commission upon receipt of the notice of appeal shall within thirty days file with the clerk a certified transcript of the record of the proceedings before the commission pertaining to the decision complained of, and mail a copy of the transcript to the appellant's attorney or to the appellant, if not represented by counsel. The appellant shall file a statement of the assignments of error presented for review within sixty days of the filing of the notice of appeal with the court. The appeal shall be heard upon such record certified by the commission. After an appeal has been filed in the court, the commission may, by petition, be made a party to such appeal. If the court finds that the decision was unlawful, unreasonable, or against the manifest weight of the evidence, it shall reverse and vacate such decision or it may modify such decision and enter final judgment in accordance with such modification; otherwise such court shall affirm such decision. Any interested party shall have the right to appeal from the decision of the court as in civil cases.

(2) If an appeal is filed after the thirty-day appeal period established in division (O)(1) of this section, the court of common pleas shall conduct a hearing to determine whether the appeal was timely filed pursuant to division ~~(R)~~(Q) of this section. At the hearing, additional evidence may be introduced and oral arguments may be presented regarding the timeliness of the filing of the appeal. If the court of common pleas determines that the time for filing the appeal is extended as provided in division ~~(R)~~(Q) of this section and that the appeal was filed within the extended time provided in that division, the court shall thereafter make its decision on the merits of the appeal. If the court of common pleas determines that the time for filing the appeal may not be extended as provided in division ~~(R)~~(Q) of this section, the court shall dismiss the appeal accordingly. The determination on timeliness by the court of common pleas may be appealed to the court of appeals as in civil cases, and such appeal shall be consolidated with any appeal from the decision by the court of common pleas on the merits of the appeal.

~~(P) Any application for reconsideration, any appeal from a decision on reconsideration of the determination or redetermination of the administrator, application to institute a further appeal, and any notice of intention to appeal the or a decision or order of the commission to a court of common pleas~~

may be executed in behalf of any party or any group of claimants by an agent.

~~(Q)(1) The administrator, the administrator's deputy, the referee, the review commission, or the court that has the authority or jurisdiction pursuant to this section to hear an application for reconsideration or an appeal that is timely filed shall render a decision on the application for reconsideration or the appeal and upon any further application for reconsideration or appeal that is timely filed, whether or not the claimant meets the able to work, available for suitable work, or the actively seeking work requirements of division (A)(4)(a) of section 4141.29 of the Revised Code, if all of the following apply:~~

~~(a) The claimant's claim for benefits is allowed or denied upon initial determination by the administrator or the administrator's deputy or upon reconsideration, review, or appeal by a decision of the administrator, the administrator's deputy, a referee, the review commission, or a court.~~

~~(b) After the claim is allowed or disallowed, the claimant is subjected to criminally injurious conduct, as defined in section 2743.51 of the Revised Code.~~

~~(c) Pursuant to this section, any interested party timely applies for reconsideration, or timely files an appeal, of the determination or decision.~~

~~(d) The claimant files an application for an award of reparations pursuant to sections 2743.51 to 2743.72 of the Revised Code, for the loss of unemployment benefits.~~

~~(2) Any decision that is rendered pursuant to division (Q)(1) of this section when a claimant fails to meet the able to work, available for suitable work, or the actively seeking work requirements of division (A)(4)(a) of section 4141.29 of the Revised Code shall apply only for the purposes of any claim for an award of reparations filed pursuant to sections 2743.51 to 2743.72 of the Revised Code and shall not enable a claimant who does not meet the able to work, available for suitable work, or the actively seeking work requirements of division (A)(4)(a) of section 4141.29 of the Revised Code to obtain any benefits pursuant to this chapter.~~

~~(R) The time for filing a request for reconsideration, an appeal, an application to institute further appeal a request for review, or a court appeal; under division (G), (H), (L), or (O) of this section shall be extended as follows:~~

~~(1) When the last day of an appeal period is a Saturday, Sunday, or legal holiday, the appeal period is extended to the next work day after the Saturday, Sunday, or legal holiday; or~~

~~(2) When an interested party provides certified medical evidence stating~~

that the interested party's physical condition or mental capacity prevented the interested party from filing a ~~request for reconsideration~~, an appeal, or ~~an application to institute further appeal~~ request for review pursuant to division (G), (H), or (L) of this section within the appropriate twenty-one-day period, the appeal period is extended to twenty-one days after the end of the physical or mental condition and the ~~request, appeal, or application~~ request for review is considered timely filed if filed within that extended period;

(3) When an interested party provides evidence, which evidence may consist of testimony from the interested party, that is sufficient to establish that the party did not actually receive the determination or decision within the applicable appeal period pursuant to division (G), (H), or (L) of this section, and the administrator or the commission finds that the interested party did not actually receive the determination or decision within the applicable appeal period, then the appeal period is extended to twenty-one days after the interested party actually receives the determination or decision.

(4) When an interested party provides evidence, which evidence may consist of testimony from the interested party, that is sufficient to establish that the party did not actually receive a decision within the thirty-day appeal period provided in division (O)(1) of this section, and a court of common pleas finds that the interested party did not actually receive the decision within that thirty-day appeal period, then the appeal period is extended to thirty days after the interested party actually receives the decision.

~~(S)(R)~~ No finding of fact or law, decision, or order of the administrator, ~~referee~~ hearing officer, or the review commission, or a reviewing court pursuant to this section, shall be given collateral estoppel or res judicata effect in any separate or subsequent judicial, administrative, or arbitration proceeding, other than a proceeding arising under this chapter.

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 ~~he~~ 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) Has registered at an employment office or other registration place

maintained or designated by the administrator of the bureau of employment services. Registration shall be made ~~in person or in writing~~ in accordance with the time limits, frequency, and manner prescribed by the administrator.

(4)(a) Is able to work and available for suitable work and is actively seeking suitable work either in a locality in which ~~he~~ the individual has earned wages subject to this chapter during ~~his~~ the individual's base period, or if ~~he~~ the individual leaves ~~such that~~ such locality, then in a locality where suitable work is normally is performed.

The administrator may waive the requirement that a claimant be actively seeking work when ~~he~~ the administrator finds that an individual has been laid off and the employer who laid ~~him~~ the individual off has notified the administrator 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, ~~such this~~ such waiver shall cease to be operative with respect to ~~such that~~ such layoff.

(b) The individual shall be instructed as to the efforts that ~~he~~ the individual must make in ~~his~~ the search for suitable work, except where the active search for work requirement has been waived under division (A)(4)(a) of this section, and shall keep a record of where and when ~~he~~ the individual has sought work in complying with ~~such those~~ such instructions and ~~shall~~, upon request, shall produce ~~such that~~ such record for examination by the administrator.

(c) An individual who is attending a training course approved by the administrator meets the requirement of this division, if ~~such~~ attendance was recommended by the administrator and the individual is regularly attending the course and is making satisfactory progress. An individual also meets the requirements of this division if ~~he~~ 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 ~~such that~~ such school, meets the availability and active search for work requirements of division (A)(4)(a) of this section if ~~he~~ the individual regularly attends the school during weeks with respect to

which the individual claims unemployment benefits and makes himself self available on any shift of hours for suitable employment with ~~his~~ the individual's most recent employer or any other employer in ~~his~~ the individual's base period, or for any other suitable employment to which ~~he~~ the individual is directed, under this chapter.

(e) The administrator shall adopt ~~such~~ any rules ~~as he~~ that the administrator deems necessary for the administration of division (A)(4) of this section.

(f) Notwithstanding any other provisions of this section, no otherwise eligible individual shall be denied benefits for any week because ~~he or she~~ 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 ~~such~~ 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 administrator under division (K) of this section, unless the administrator 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.

(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, but no more than one week of waiting period shall be required of any such individual in any benefit year in order to establish ~~his~~ 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 administrator or on the first day of the first week with respect to which ~~he~~ the individual has otherwise filed a claim for benefits in accordance with the rules of the bureau of employment services, provided such claim is allowed by the administrator ~~or his deputy~~.

(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 administrator finds that:

(a) ~~His~~ 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 ~~he~~ the individual is or was last employed; and for so long as ~~his~~ 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) ~~His~~ 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 ~~he~~ the individual is not financing, participating in, or directly interested in such labor dispute; ~~or~~

(ii) ~~His~~ 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 ~~his~~ the individual's employer is a wholly owned subsidiary of the employer engaged in the dispute, or unless ~~he~~ 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 ~~he~~ 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) ~~He~~ The individual has been given a disciplinary layoff for misconduct in connection with ~~his~~ the individual's work.

(2) For the duration of ~~his~~ the individual's unemployment if the administrator finds that:

(a) ~~He~~ The individual quit ~~his~~ work without just cause or has been discharged for just cause in connection with ~~his~~ 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 ~~he~~ the individual makes application to enter, or is inducted into ~~such~~ the armed forces within thirty days after such separation;

(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) ~~He~~ The individual has left ~~his~~ 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 ~~which~~ 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 ~~his~~ 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 ~~which~~ 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 ~~(D)(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, ~~unless the reimbursing employer is a seasonal employer as determined by the administrator pursuant to section 4141.33 of the Revised Code, and the benefit charges are for weeks of unemployment that occurred outside the seasonal employer's seasonal period 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 ~~his~~ 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 ~~shall~~, 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.

(b) ~~He~~ The individual has refused without good cause to accept an offer of suitable work when made by an employer either in person or to ~~his~~ 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 ~~his~~ the individual's employer and ~~he~~ 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 vocational 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 ~~(D)~~(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) ~~He~~ The individual has knowingly made a false statement or representation or knowingly failed to report any material fact with the object of obtaining benefits to which ~~he~~ the individual is not entitled.

(e) ~~He~~ The individual became unemployed by reason of commitment to any correctional institution.

(f) ~~He~~ The individual became unemployed because of dishonesty in connection with ~~his~~ the individual's most recent or any base period work. Remuneration earned in such work shall be excluded from ~~such~~ the individual's total base period remuneration and qualifying weeks ~~which that~~ otherwise would be credited to ~~such an~~ 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 ~~such~~ 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 ~~such~~ the individual based upon such excluded

remuneration or noncredited qualifying weeks.

For purposes of division (D)(2)(f) of this section, "dishonesty" means the commission of substantive theft, fraud, or deceitful acts.

(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 ~~he~~ 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 ~~his~~ the individual's residence, having regard to the character of the work ~~he~~ the individual has been accustomed to do, and travel to the place of work involves expenses substantially greater than that required for ~~his~~ 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 administrator ~~shall~~, 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, ~~his~~ the individual's physical fitness for the work, ~~his~~ the individual's prior training and experience, the length of ~~his~~ the individual's unemployment, the distance of the available work from ~~his~~ the individual's residence, and ~~his~~ the individual's prospects for obtaining local work.

(G) The "duration of ~~his~~ 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 ~~such~~ 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 ~~his~~ 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 (e) of this section or found to be qualified under the exceptions provided in division (D)(2)(a)(i), (ii), (iii), or (iv) of this section or division (A)(2) of section 4141.291 of the Revised Code, then benefits ~~which that~~ may become payable to such claimant, which are chargeable to the account of the employer from whom ~~he~~ 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 ~~(C)(D)(2)~~ of section ~~4141.33~~ 4141.24 of the Revised Code. In the case of a reimbursing employer, the administrator 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.

(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 ~~which 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 ~~such 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 ~~such 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 ~~such~~ 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 ~~such~~ 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 ~~such~~ 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 administrator or ~~his~~ the administrator'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 ~~which~~ 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 public school district or a county board of mental retardation shall be notified by the thirtieth day of April each year if ~~he~~ 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 administrator or ~~his~~ the administrator'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 ~~his~~ 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 administrator 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.

Sec. 4141.291. (A) Notwithstanding section 4141.29 of the Revised Code, an individual who voluntarily quits work:

(1) To accept a recall from a prior employer and establishes that the refusal or failure to accept the recall would have resulted in a substantial loss of employment rights, benefits, or pension, under a labor-management agreement or company policy;

(2) To accept a recall to employment from a prior employer and cannot establish that a substantial loss of employment rights, benefits, or pension was involved in the recall, or to accept other employment subject to this chapter, or the unemployment compensation act of another state, or of the United States, where the individual obtains such employment while still employed or commences such employment within seven calendar days after the last day of employment with the prior employer, and subsequent to the last day of the employment with the prior employer, works three weeks in the new employment and earns wages equal to one and one-half times the individual's average weekly wage or one hundred eighty dollars, whichever is less;

(3) Shall, under the conditions specified in either division (A)(1) or (2) of this section, remove the disqualification imposed by division (D)(2)(a) of section 4141.29 of the Revised Code and shall be deemed to have fully complied with division (G) of such section.

(B) Benefits which may become payable to such individual because of the individual's subsequent separation from the employer who recalled that individual shall be charged to employer accounts as provided in division (D) of section 4141.24 of the Revised Code.

(C) Any benefits which would be chargeable to the account of the

employer from whom such individual voluntarily quit to accept such recall or other employment which are not chargeable to the recalling employer as provided in this section shall be charged to the mutualized account provided in section 4141.25 of the Revised Code; except that any benefits chargeable to the account of a reimbursing employer under this division shall be charged to the account of the reimbursing employer and not the mutualized account ~~unless the charge is required under division (C) of section 4141.33 of the Revised Code, except as provided in division (D)(2) of section 4141.24 Of the Revised Code.~~

Sec. 4141.301. (A) As used in this section, unless the context clearly requires otherwise:

(1) "Extended benefit period" means a period which:

(a) Begins with the third week after a week for which there is a state "on" indicator; and

(b) Ends with either of the following weeks, whichever occurs later:

(i) The third week after the first week for which there is a state "off" indicator; or

(ii) The thirteenth consecutive week of such period;

Except, that no extended benefit period may begin by reason of a state "on" indicator before the fourteenth week following the end of a prior extended benefit period which was in effect with respect to this state.

(2) There is a "state 'on' indicator" for this state for a week if the administrator determines, in accordance with the regulations of the United States secretary of labor, that for the period consisting of such week and the immediately preceding twelve weeks, the rate of insured unemployment, not seasonally adjusted, under Chapter 4141. of the Revised Code:

(a) Equalled or exceeded one hundred and twenty per cent of the average of such rates for the corresponding thirteen-week period ending in each of the preceding two calendar years, and for weeks beginning before September 25, 1982, equalled or exceeded four per cent and for weeks beginning after September 25, 1982, equalled or exceeded five per cent;

(b) For weeks of unemployment beginning after December 31, 1977 and before September 25, 1982, such rate of insured unemployment:

(i) Met the criteria set forth in division (A)(2)(a) of this section; or

(ii) Equalled or exceeded five per cent.

(c) For weeks of unemployment beginning after September 25, 1982, such rate of insured unemployment:

(i) Met the criteria set forth in division (A)(2)(a) of this section; or

(ii) Equalled or exceeded six per cent.

(3) A "state 'off' indicator" exists for the state for a week if the

administrator determines, in accordance with the regulations of the United States secretary of labor, that for the period consisting of such week and the immediately preceding twelve weeks, the rate of insured unemployment, not seasonally adjusted, under Chapter 4141. of the Revised Code:

(a) Was less than one hundred and twenty per cent of the average of such rates for the corresponding thirteen-week period ending in each of the preceding two calendar years, or for weeks beginning before September 25, 1982, was less than four per cent and for weeks beginning after September 25, 1982, was less than five per cent;

(b) For weeks of unemployment beginning after December 31, 1977 and before September 25, 1982, such rate of insured unemployment:

(i) Was less than five per cent; and

(ii) Met the criteria set forth in division (A)(3)(a) of this section.

(c) For weeks of unemployment beginning after September 25, 1982, such rate of insured unemployment;

(i) Was less than six per cent; and

(ii) Met the criteria set forth in division (A)(3)(a) of this section.

(4) "Rate of insured unemployment," for purposes of divisions (A)(2) and (3) of this section, means the percentage derived by dividing:

(a) The average weekly number of individuals filing claims for regular compensation in this state for weeks of unemployment with respect to the most recent thirteen-consecutive-week period, as determined by the administrator on the basis of ~~his~~ the administrator's reports to the United States secretary of labor, by

(b) The average monthly employment covered under Chapter 4141. of the Revised Code, for the first four of the most recent six completed calendar quarters ending before the end of such thirteen-week period.

(5) "Regular benefits" means benefits payable to an individual, as defined in division (C) of section 4141.01 of the Revised Code, or under any other state law, including dependents' allowance and benefits payable to federal civilian employees and to ~~ex-servicemen~~ ex-servicepersons pursuant to the "Act of September 6, 1966," 80 Stat. 585, 5 U.S.C.A. 8501, other than extended benefits, and additional benefits as defined in division (A)(10) of this section.

(6) "Extended benefits" means benefits, including benefits payable to federal civilian employees and to ~~ex-servicemen~~ ex-servicepersons pursuant to the "Act of September 6, 1966," 80 Stat. 585, 5 U.S.C.A. 8501, and additional benefits, payable to an individual under the provisions of this section for weeks of unemployment in ~~his~~ the individual's eligibility period.

(7) "Eligibility period" of an individual means the period consisting of

the weeks in ~~his~~ the individual's benefit year which begin in an extended benefit period and, if ~~his~~ the individual's benefit year ends within the extended benefit period, any weeks thereafter which begin in the period.

(8) "Exhaustee" means an individual who, with respect to any week of unemployment in ~~his~~ the individual's eligibility period:

(a) Has received prior to the week, all of the regular benefits that were available to ~~him~~ the individual under Chapter 4141. of the Revised Code, or any other state law, including dependents' allowance and benefits payable to federal civilian employees and ~~ex-servicemen~~ ex-servicepersons under the "Act of September 6, 1966," 80 Stat. 585, 5 U.S.C.A. 8501, in ~~his~~ the individual's current benefit year that includes the week;

(b) Has received, prior to the week, all of the regular benefits that were available to ~~him~~ the individual under this chapter or any other state law, including dependents' allowances and regular benefits available to federal civilian employees and ~~ex-servicemen~~ ex-servicepersons under the "Act of September 6, 1966," 80 Stat. 585, 5 U.S.C.A. 8501, in ~~his~~ the individual's current benefit year that includes the week, after the cancellation of some or all of ~~his~~ the individual's wage credits or the total or partial reduction of ~~his~~ the individual's right to regular benefits, provided that, for the purposes of divisions (A)(8)(a) and (8)(b) of this section, an individual shall be deemed to have received in ~~his~~ the individual's current benefit year all of the regular benefits that were either payable or available to ~~him~~ the individual even though:

(i) As a result of a pending appeal with respect to wages or employment, or both, that were not included in the original monetary determination with respect to ~~his~~ the individual's current benefit year, ~~he~~ the individual may subsequently be determined to be entitled to more regular benefits, or

(ii) By reason of section 4141.33 of the Revised Code, or the seasonal employment provisions of another state law, ~~he~~ the individual is not entitled to regular benefits with respect to the week of unemployment, although ~~he~~ the individual may be entitled to regular benefits with respect to future weeks of unemployment in either the next season or off season in ~~his~~ the individual's current benefit year, and ~~he~~ the individual is otherwise an "exhaustee" within the meaning of this section with respect to ~~his~~ the right to regular benefits under state law seasonal employment provisions during either the season or off season in which that week of unemployment occurs, or

(iii) Having established a benefit year, no regular benefits are payable to ~~him~~ the individual during the year because ~~his~~ the individual's wage credits were cancelled or ~~his~~ the individual's right to regular benefits was totally

reduced as the result of the application of a disqualification; or

(c) ~~His~~ The individual's benefit year having expired prior to the week, has no, or insufficient, wages or weeks of employment on the basis of which ~~he the individual~~ could establish in any state a new benefit year that would include the week, or having established a new benefit year that includes the week, ~~he the individual~~ is precluded from receiving regular benefits by reason of a state law which meets the requirements of section 3304 (a)(7) of the "Federal Unemployment Tax Act," 53 Stat. 183, 26 U.S.C.A. 3301, ~~as amended to 3311~~; and

(i) Has no right for the week to unemployment benefits or allowances, as the case may be, under the Railroad Unemployment Insurance Act, the Trade Act of 1974, and other federal laws as are specified in regulations issued by the United States secretary of labor; and

(ii) Has not received and is not seeking for the week unemployment benefits under the unemployment compensation law of the Virgin Islands, prior to the day after that on which the secretary of labor approves the unemployment compensation law of the Virgin Islands, or of Canada; or if ~~he the individual~~ is seeking benefits and the appropriate agency finally determines that ~~he the individual~~ is not entitled to benefits under the law for the week.

(9) "State law" means the unemployment insurance law of any state, approved by the United States secretary of labor under section 3304 of the Internal Revenue Code of 1954.

(10) "Additional benefits" means benefits totally financed by a state and payable to exhaustees by reason of high unemployment or by reason of other special factors under the provisions of any state law.

(B) Except when the result would be inconsistent with the other provisions of this section, as provided in the regulations of the administrator, the provisions of Chapter 4141. of the Revised Code, which apply to claims for, or the payment of, regular benefits, shall apply to claims for, and the payment of, extended benefits.

(C) Any individual shall be eligible to receive extended benefits with respect to any week of unemployment in ~~his the individual's~~ eligibility period only if the administrator finds that, with respect to such week:

(1) The individual is an "exhaustee" as defined in division (A)(8) of this section; and

(2) The individual has satisfied the requirements of Chapter 4141. of the Revised Code, for the receipt of regular benefits that are applicable to individuals claiming extended benefits, including not being subject to a disqualification for the receipt of benefits.

(D) The weekly extended benefit amount payable to an individual for a week of total unemployment in ~~his~~ the individual's eligibility period shall be the same as the weekly benefit amount payable to ~~him~~ the individual during ~~his~~ the individual's applicable benefit year.

(E) The total extended benefit amount payable to any eligible individual with respect to ~~his~~ the individual's applicable benefit year shall be the lesser of the following amounts:

(1) Fifty per cent of the total amount of regular benefits, including dependents' allowances which were payable to ~~him~~ the individual under Chapter 4141. of the Revised Code, in ~~his~~ the individual's applicable benefit year;

(2) Thirteen times ~~his~~ the individual's weekly benefit amount, including dependents' allowances, which was payable to ~~him~~ the individual under Chapter 4141. of the Revised Code, for a week of total unemployment in the applicable benefit year; provided, that in making the computation under divisions (E)(1) and (2) of this section, any amount which is not a multiple of one dollar shall be rounded to the next lower multiple of one dollar.

(F)(1) Except as provided in division (F)(2) of this section, an individual eligible for extended benefits pursuant to an interstate claim filed in any state under the interstate benefit payment plan shall not be paid extended benefits for any week in which an extended benefit period is not in effect in such state.

(2) Division (F)(1) of this section does not apply with respect to the first two weeks for which extended compensation is payable to an individual, as determined without regard to this division, pursuant to an interstate claim filed under the interstate benefit payment plan from the total extended benefit amount payable to that individual in ~~his~~ the individual's applicable benefit year.

(3) Notwithstanding any other provisions of this section, if the benefit year of any individual ends within an extended benefit period, the remaining balance of extended benefits that the individual would, but for this section, be entitled to receive in that extended benefit period, with respect to weeks of unemployment beginning after the end of the benefit year, shall be reduced, but not below zero, by the product of the number of weeks for which the individual received any amounts as trade readjustment allowances within that benefit year, multiplied by the individual's weekly benefit amount for extended benefits.

(G)(1) Whenever an extended benefit period is to become effective in this state, as a result of a state "on" indicator, or an extended benefit period is to be terminated in this state as a result of a state "off" indicator, the

administrator shall make an appropriate public announcement.

(2) Computations required by division (A)(4) of this section shall be made by the administrator, in accordance with the regulations prescribed by the United States secretary of labor.

(H)(1)(a) The administrator shall promptly examine any application for extended benefits filed and, under this section, shall determine whether such application is to be allowed or disallowed and, if allowed, the weekly and total extended benefits payable and the effective date of the application. The claimant, ~~his~~ the claimant's most recent employer, and any other employer in the base period of the claim upon which the extended benefits are based, and who was chargeable for regular benefits based on such claim, shall be notified of such determination.

(b) The determination issued to the most recent or other base period employer shall include the total amount of extended benefits which may be charged to ~~his~~ the employer's account. Such potential charge amount shall be an amount equal to one-fourth of the regular benefits chargeable to ~~his~~ the employer's account on the regular claim upon which extended benefits are based except that, effective January 1, 1979, the potential charge amount to the state and its instrumentalities and its political subdivisions and their instrumentalities shall be an amount equal to one-half of the regular benefits chargeable to their accounts on such claim. If regular benefits were chargeable to the mutualized account, in lieu of an employer's account, then the extended benefits which are based on such prior mutualized benefits shall also be charged to the mutualized account.

(c) As extended benefits are paid to eligible individuals:

(i) One-half of such benefits will be charged to an extended benefit account to which reimbursement payments of one-half of extended benefits, received from the federal government as described in division (J) of this section, will be credited; and

(ii) One-half of the extended benefits shall be charged to the accounts of base period employers and the mutualized account in the same sequence as was provided for on the regular claim; or

(iii) The full amount of extended benefits shall be charged to the accounts of the state and its instrumentalities, and its political subdivisions and their instrumentalities. Employers making payments in lieu of contributions shall be charged in accordance with division (B)(1) of section 4141.241 of the Revised Code.

(d) If the application for extended benefits is disallowed, a determination shall be issued to the claimant, which determination shall set forth the reasons for the disallowance. Determinations issued under this

division, whether allowed or disallowed, shall be subject to reconsideration and appeal in accordance with section 4141.28 of the Revised Code.

(2) Any additional or continued claims, as described in division (F) of section 4141.01 of the Revised Code, filed by an individual at the beginning of, or during, ~~his~~ the individual's extended benefit period shall be determined under division (D) of section 4141.28 of the Revised Code, and such determination shall be subject to reconsideration and appeal in accordance with section 4141.28 of the Revised Code.

(I) Notwithstanding division (B) of this section, payment of extended benefits under this section shall not be made to any individual for any week of unemployment in ~~his~~ the individual's eligibility period during which ~~he~~ the individual fails to accept any offer of suitable work, as defined in division (I)(2) of this section, or fails to apply for any suitable work to which ~~he~~ the individual was referred by the administrator, or fails to actively engage in seeking work, as prescribed in division (I)(4) of this section.

(1) If any individual is ineligible for extended benefits for any week by reason of a failure described in this division, the individual shall be ineligible to receive extended benefits beginning with the week in which the failure occurred and continuing until the individual has been employed during each of four subsequent weeks and the total remuneration earned by the individual for this employment is equal to or more than four times the individual's weekly extended benefit amount, and has met all other eligibility requirements of this section, in order to establish entitlement to extended benefits.

(2) For purposes of this section, the term "suitable work" means, with respect to an individual, any work which is within the individual's capabilities, provided that with respect to the position all of the following requirements are met:

(a) It offers the individual gross average weekly remuneration of more than the sum of:

(i) The individual's extended weekly benefit amount; and

(ii) The amount of supplemental unemployment compensation benefits, as defined in section 501(c)(17)(D) of the "Internal Revenue Code of 1954," 80 Stat. 1515, 26 U.S.C.A. 501, payable to the individual for the week of unemployment.

(b) It pays equal to or more than the higher of:

(i) The minimum wage provided by section 6(a)(1) of the "Fair Labor Standards Act of 1938," 91 Stat. 1245, 29 U.S.C.A. 206, without regard to any exemption; or

(ii) Any applicable state or local minimum wage.

(c) It is offered to the individual in writing or is listed with the employment office maintained or designated by the bureau of employment services.

(3) Extended benefits shall not be denied under this division to any individual for any week by reason of a failure to accept an offer of, or apply for suitable work if either of the following conditions apply:

(a) The failure would not result in a denial of benefits to a regular benefit claimant under section 4141.29 of the Revised Code to the extent that section 4141.29 of the Revised Code is not inconsistent with division (I)(2) of this section;

(b) The individual furnishes evidence satisfactory to the administrator that the individual's prospects for obtaining work in ~~his~~ the individual's customary occupation within a reasonably short period are good. If the evidence is deemed satisfactory, the determination as to whether any work is suitable work with respect to this individual and whether the individual is ineligible or disqualified shall be based upon the meaning of "suitable work" and other provisions in section 4141.29 of the Revised Code.

(4) For purposes of this section, an individual shall be treated as actively engaged in seeking work during any week if:

(a) The individual has engaged in a systematic and sustained effort to obtain work during that week; and

(b) The individual provides tangible evidence to the administrator that ~~he~~ the individual has engaged in the effort during that week.

(5) The administrator shall refer applicants for extended benefits to job openings that meet the requirements of divisions (E) and (F) of section 4141.29 of the Revised Code, and in the case of applicants whose prospects are determined not to be good under division (I)(3)(b) of this section to any suitable work which meets the criteria in divisions (I)(2) and (3)(a) of this section.

(6) Individuals denied extended or regular benefits under division (D)(1)(b) of section 4141.29 of the Revised Code because of being given a disciplinary layoff for misconduct must, after the date of disqualification, work the length of time and earn the amount of remuneration specified in division (I)(1) of this section, and meet all other eligibility requirements of this section, in order to establish entitlement to extended benefits.

(J) All payments of extended benefits made pursuant to this section shall be paid out of the unemployment compensation fund, provided by section 4141.09 of the Revised Code, and all payments of the federal share of extended benefits that are received as reimbursements under section 204 of the "Federal-State Extended Unemployment Compensation Act of 1970," 84

Stat. 696, 26 U.S.C.A. 3306, shall be deposited in such unemployment compensation fund and shall be credited to the extended benefit account established by division (G) of this section. Any refund of extended benefits, because of prior overpayment of such benefits, may be made from the unemployment compensation fund.

(K) In the administration of the provisions of this section which are enacted to conform with the requirements of the "Federal-State Extended Unemployment Compensation Act of 1970," 84 Stat. 696, 26 U.S.C.A. 3306, the administrator shall take such action consistent with state law, as may be necessary:

(1) To ensure that the provisions are so interpreted and applied as to meet the requirements of the federal act as interpreted by the United States department of labor; and

(2) To secure to this state the full reimbursement of the federal share of extended benefits paid under this section that are reimbursable under the federal act.

Sec. 4141.312. Notwithstanding sections 4141.31 and 4141.311 of the Revised Code, and to the extent that the following provisions are required as a condition for full tax credit against the tax imposed by the "Federal Unemployment Tax Act of 1976," 84 Stat. 713, 26 U.S.C.A. 3301 to 3311, then the following conditions shall apply:

(A) The amount of benefits payable to a claimant for any week with respect to which the claimant is receiving a governmental or other pension, retirement or retired pay, annuity or any other similar periodic payment which is based on the previous work of the individual, shall, to the extent required by such federal act, be reduced by an amount equal to the amount of the pension, retirement or retired pay, annuity or other payment which is reasonably attributable to that week.

(B) The amount of any disability pension, allowance, or payment paid to former members of the armed forces of the United States which is based on the nature and extent of the disability rather than a prior period of employment or service, shall not reduce or be deducted from the weekly benefits payable.

Sec. 4141.33. (A) "Seasonal employment" means employment of individuals hired primarily to perform services in an industry which because of climatic conditions or because of the seasonal nature of such industry it is customary to operate only during regularly recurring periods of forty weeks or less in any consecutive fifty-two weeks. "Seasonal employer" means an employer determined by the administrator of the bureau of employment services to be an employer whose operations and business, with the

exception of certain administrative and maintenance operations, are substantially all in a seasonal industry. Any employer who claims to have seasonal employment in a seasonal industry may file with the administrator a written application for classification of such employment as seasonal. Whenever in any industry it is customary to operate because of climatic conditions or because of the seasonal nature of such industry only during regularly recurring periods of forty weeks or less duration, benefits shall be payable only during the longest seasonal periods which the best practice of such industry will reasonably permit. The administrator shall determine, after investigation, hearing, and due notice, whether the industry is seasonal and, if seasonal, establish seasonal periods for such seasonal employer. Until such determination by the administrator, no industry or employment shall be deemed seasonal.

(B) When the administrator has determined such seasonal periods, he shall also establish the proportionate number of weeks of employment and earnings required to qualify for seasonal benefit rights in place of the weeks of employment and earnings requirement stipulated in division (R) of section 4141.01 and section 4141.30 of the Revised Code, and the proportionate number of weeks for which seasonal benefits may be paid. An individual whose base period employment consists of only seasonal employment for a single seasonal employer and who meets the employment and earnings requirements determined by the administrator pursuant to this division will have his benefit rights determined in accordance with this division. Benefit charges for such seasonal employment shall be computed and charged in accordance with division (D) of section 4141.24 of the Revised Code. The administrator may adopt rules for implementation of this section.

(C) An individual whose base period employment consists of either seasonal employment with two or more seasonal employers or both seasonal employment and nonseasonal employment with employers subject to this chapter, will have his benefit rights determined in accordance with division (R) of section 4141.01 and section 4141.30 of the Revised Code. Benefit charges for both seasonal and nonseasonal employment shall be computed and charged in accordance with division (D) of section 4141.24 of the Revised Code, ~~except that benefit charges for weeks of unemployment that occurred outside a seasonal employer's seasonal period, as determined by the administrator pursuant to division (A) of this section, shall not be charged to the account of that seasonal employer but shall instead be charged to the mutualized account established pursuant to division (D) of section 4141.25 of the Revised Code.~~ The total seasonal and nonseasonal

benefits during a benefit year cannot exceed twenty-six times the weekly benefit amount.

(D) Benefits shall not be paid to any individual on the basis of any services, substantially all of which consist of participating in sports or athletic events or training or preparing to so participate, for any week which commences during the period between two successive sport seasons, or similar periods, if the individual performed services in the first of the seasons, or similar periods, and there is a reasonable assurance that the individual will perform services in the later of the seasons, or similar periods.

(1) The term "reasonable assurance" as used in this division means a written, verbal, or implied agreement that the individual will perform services in the same or similar capacity during the ensuing sports season.

(2) The administrator shall adopt rules concerning the eligibility for benefits of individuals under this division.

~~(D) Notwithstanding division (A) of this section, the Ohio expositions commission is a "seasonal employer" for purposes of this chapter.~~

Sec. 4141.35. (A) If the administrator of the bureau of employment services finds that any fraudulent misrepresentation has been made by an applicant for or a recipient of benefits with the object of obtaining benefits to which ~~he~~ the applicant or recipient was not entitled, and in addition to any other penalty or forfeiture under this chapter, then the administrator:

(1) Shall within four years after the end of the benefit year in which the fraudulent misrepresentation was made reject or cancel such person's entire weekly claim for benefits that was fraudulently claimed, or ~~his~~ the person's entire benefit rights if the misrepresentation was in connection with the filing of the claimant's application for determination of benefit rights;

(2) Shall by order declare that, for each application for benefit rights and for each weekly claim canceled, such person shall be ineligible for two otherwise valid weekly claims for benefits, claimed within six years subsequent to the discovery of such misrepresentation;

(3) ~~Shall by~~ By order ~~shall~~ require that the total amount of benefits rejected or canceled under division (A)(1) of this section be repaid to the bureau of employment services before such person may become eligible for further benefits, and shall withhold such unpaid sums from future benefit payments accruing and otherwise payable to such claimant. Effective with orders issued on or after January 1, 1993, if such benefits are not repaid within thirty days after the administrator's order becomes final, interest on the amount remaining unpaid shall be charged to the person at a rate and calculated in the same manner as provided under section 4141.23 of the

Revised Code. When a person ordered to repay benefits has repaid all overpaid benefits according to a plan approved by the administrator, the administrator may cancel the amount of interest that accrued during the period of the repayment plan. The administrator may take action in the courts of this state to collect benefits and interest as provided in sections 4141.23 and 4141.27 of the Revised Code, in regard to the collection of unpaid contributions, using the final repayment order as the basis for such action. No administrative or legal proceedings for the collection of such benefits or interest due shall be initiated after the expiration of six years from the date on which the administrator's order requiring repayment became final and the amount of any benefits or interest not recovered at that time, and any liens thereon, shall be canceled as uncollectible.

(4) May take action to collect benefits fraudulently obtained under the unemployment compensation law of any other state or the United States or Canada. Such action may be initiated in the courts of this state in the same manner as provided for unpaid contributions in section 4141.41 of the Revised Code.

(5) May take action to collect benefits that have been fraudulently obtained from the bureau, interest pursuant to division (A)(3) of this section, and court costs, through attachment proceedings under Chapter 2715. of the Revised Code and garnishment proceedings under Chapter 2716. of the Revised Code.

(B) If the administrator finds that an applicant for benefits has been credited with a waiting period or paid benefits to which the applicant was not entitled for reasons other than fraudulent misrepresentation, the administrator shall:

(1)(a) Within six months after the determination under which the claimant was credited with that waiting period or paid benefits becomes final pursuant to section 4141.28 of the Revised Code, or within three years after the end of the benefit year in which such benefits were claimed, whichever is later, by order cancel such waiting period and require that such benefits be repaid to the bureau of employment services or be withheld from any benefits to which such applicant is or may become entitled before any additional benefits are paid, provided that the repayment or withholding shall not be required where the overpayment is the result of the administrator's correcting or amending a prior decision due to a typographical or clerical error in the administrator's prior decision, or an error in an employer's report under division (G)(2) of section 4141.28 of the Revised Code.

(b) The limitation specified in division (B)(1)(a) of this section shall not

apply to cases involving the retroactive payment of remuneration covering periods for which benefits were previously paid to the claimant. However, in such cases, the administrator's order requiring repayment shall not be issued unless the administrator is notified of such retroactive payment within six months from the date the retroactive payment was made to the claimant.

(2) The administrator may, by reciprocal agreement with the United States secretary of labor or another state, recover overpayment amounts from unemployment benefits otherwise payable to an individual under Chapter 4141. of the Revised Code. Any overpayments made to the individual that have not previously been recovered under an unemployment benefit program of the United States may be recovered in accordance with section 303(g) of the "Social Security Act" and sections 3304(a)(4) and 3306(f) of the "Federal Unemployment Tax Act," ~~Pub. L. 99-272~~ 53 Stat. 183 (1939), 26 U.S.C.A. 3301 to 3311.

(3) If the amounts required to be repaid under division (B) of this section are not recovered within three years from the date the administrator's order requiring payment became final, initiate no further action to collect such benefits and the amount of any benefits not recovered at that time shall be canceled as uncollectible.

(C) The reconsideration and appeal provisions of section 4141.28 of the Revised Code shall apply to all orders and determinations issued under this section, except that an individual's right of appeal under division (B)(2) of this section shall be limited to this state's authority to recover overpayment of benefits.

(D) If an individual makes a full repayment or a repayment that is less than the full amount required by this section, the administrator shall apply the repayment to the mutualized account under division ~~(D)(B)~~ of section 4141.25 of the Revised Code, except that the administrator shall credit the repayment to the accounts of the individual's base period employers that previously have not been credited for the amount of improperly paid benefits charged against their accounts based on the proportion of benefits charged against the accounts as determined pursuant to division (D) of section 4141.24 ~~and division (B) or (C) of section 4141.33~~ of the Revised Code.

The administrator shall deposit any repayment collected under this section that the administrator determines to be payment of interest or court costs into the unemployment compensation special administrative fund established pursuant to section 4141.11 of the Revised Code.

Sec. 4141.43. (A) The administrator of the bureau of employment services may cooperate with the industrial commission, the bureau of

workers' compensation, the United States internal revenue service, the United States employment service, the department of human services, and other similar departments and agencies, as determined by the administrator, in the exchange or disclosure of information as to wages, employment, payrolls, unemployment, and other information. The administrator may employ, jointly with one or more of such agencies or departments, auditors, examiners, inspectors, and other employees necessary for the administration of this chapter and employment and training services for workers in the state.

(B) The administrator 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 administrator may afford reasonable cooperation with every agency of the United States charged with the administration of any unemployment compensation law.

(D) The administrator 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 administrator 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 administrator 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 administrator may estimate the number of weeks of employment represented by the wages reported to the administrator 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 administrator finds will be fair and reasonable as to all affected interests;

(2) Whereby the administrator 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 administrator 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 ~~(C)(D)(2)~~ of section ~~4141.33~~ 4141.24 of the Revised Code. The administrator 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 administrator 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 ~~his or her~~ the crew leader's place of business or from which ~~his or her~~ the crew leader's business is operated or controlled;

(b) ~~Has his or her residence~~ Resides if ~~he or she~~ the crew leader has no place of business in any state.

(F) The administrator 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 administrator 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 administrator 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) The administrator shall cooperate with the United States department of labor to the fullest extent consistent with this chapter, and shall take such action, through 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, and the "Federal-State Extended Unemployment Compensation Act of 1970," 84 Stat. 596, 26 U.S.C.A. 3306.

Sec. 4582.31. A port authority created in accordance with section 4582.22 of the Revised Code may:

(A) Adopt bylaws for the regulation of its affairs and the conduct of its business;

(B) Adopt an official seal;

(C) Maintain a principal office within its jurisdiction, and maintain such branch offices as it may require;

(D) Acquire, purchase, construct, reconstruct, enlarge, furnish, equip, maintain, repair, sell, exchange, lease or rent to, lease or rent from, or operate port authority facilities;

(E) Straighten, deepen, and improve any channel, river, stream, or other water course or way which may be necessary or proper in the development of the facilities of a water port;

(F) Make available the use or services of any port authority facility to one or more persons, one or more governmental agencies, or any combination thereof;

(G) Issue bonds or notes for the acquisition or construction of any port authority facility or other permanent improvement which a port authority is authorized to acquire or construct, in compliance with Chapter 133. of the Revised Code, except that such bonds or notes may only be issued pursuant to a vote of the electors residing within the area of jurisdiction of the port authority. The net indebtedness incurred by a port authority shall never exceed two per cent of the total value of all property within the territory comprising such port authority as listed and assessed for taxation.

(H) Issue port authority revenue bonds beyond the limit of bonded indebtedness provided by law, payable solely from revenues as provided in section 4582.48 of the Revised Code, unless the bonds be refunded by refunding bonds, for the purpose of providing funds to pay the costs of any port authority facility or facilities or parts thereof, pursuant to Section 13 of Article VIII, Ohio Constitution, and in order to create or preserve jobs and employment opportunities and improve the economic welfare of the people of the state;

(I) Apply to the proper authorities of the United States pursuant to appropriate law for the right to establish, operate, and maintain foreign trade zones ~~within the area of jurisdiction of the port authority~~ and to establish, operate, and maintain such foreign trade zones in accordance with the "Foreign Trade Zones Act," 48 Stat. 998 (1934), 19 U.S.C. 81a to 81u;

(J) Enjoy and possess the same rights, privileges, and powers granted municipal corporations under sections 721.04 to 721.11 of the Revised Code;

(K) Maintain such funds as it considers necessary;

(L) Direct its agents or employees, when properly identified in writing, and after at least five days' written notice, to enter upon lands within the confines of its jurisdiction in order to make surveys and examinations preliminary to location and construction of works for the purposes of the port authority, without liability of the port authority or its agents or employees except for actual damage done;

(M) Promote, advertise, and publicize the port authority and its facilities; provide information to shippers and other commercial interests; and appear before rate-making authorities to represent and promote the interests of the port authority;

(N) Adopt rules, not in conflict with general law, governing the use of its property, grounds, buildings, equipment, and facilities, and governing the

conduct of its employees and the public, in order to promote the public safety and convenience in and about its facilities and grounds, and to maintain order. Any such rule shall be posted at a prominent place in each of the facilities to which it applies. No person shall violate any lawful rule adopted and posted as provided in this division.

(O) Acquire by gift or purchase, hold, lease, and dispose of real and personal property and interests therein in the exercise of the powers of the port authority and the performance of its duties under sections 4582.21 to 4582.59 of the Revised Code;

(P) Acquire, in the name of the port authority, by purchase or otherwise, on such terms and in such manner as the port authority finds proper, or by the exercise of the right of condemnation in the manner provided by section 4582.56 of the Revised Code, such public or private lands, including public parks, playgrounds, or reservations, or parts thereof or rights therein, rights-of-way, property, rights, easements, and interests as it finds necessary for carrying out sections 4582.21 to 4582.59 of the Revised Code, and compensation shall be paid for public or private lands so taken;

(Q) 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 under sections 4582.21 to 4582.59 of the Revised Code.

(1) When the cost under any such contract or agreement, other than compensation for personal services, involves an expenditure of more than ten thousand dollars, the port authority shall make a written contract with the lowest responsive and responsible bidder, in accordance with section 9.312 of the Revised Code, after advertisement once a week for not less than two consecutive weeks in a newspaper of general circulation in the county where the facility is located, and in such other publications as the port authority 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; provided, that a contract or lease for the operation of a port authority facility constructed and owned by the port authority or an agreement for cooperation in the acquisition or construction of a port authority facility pursuant to section 4582.43 of the Revised Code or any contract for the construction of a port authority facility that is to be leased by the port authority to, and operated by, persons who are not governmental agencies and the cost of such facility is to be amortized exclusively from rentals or other charges paid to the port authority by persons who are not governmental agencies is not subject to the foregoing requirements and the

port authority may enter into such contract, lease, or agreement pursuant to negotiation and upon such terms and conditions and for such period as it finds to be reasonable and proper in the circumstances and in the best interests of proper operation or of efficient acquisition or construction of such facility.

(2) Each bid shall contain the full name of every person interested in it and shall be accompanied by a sufficient bond or certified check on a solvent bank that if the bid is accepted a contract will be entered into and the performance thereof secured.

(3) The port authority may reject any and all bids.

(4) A bond with good and sufficient surety, approved by the port authority, shall be required of all contractors in an amount equal to at least fifty per cent of the contract price, conditioned upon the faithful performance of the contract.

(R) Employ managers, superintendents, and other employees and retain or contract with consulting engineers, financial consultants, accounting experts, architects, attorneys, and such other consultants and independent contractors as are necessary in its judgment to carry out this chapter, and fix the compensation thereof. All expenses thereof shall be payable from any available funds of the port authority or from funds appropriated for such purpose by a political subdivision creating or participating in the creation of the port authority.

(S) Receive and accept from any federal agency grants for or in aid of the construction of any port authority facility or for research and development with respect to port authority facilities, and receive and accept aid or contributions from any source of money, property, labor, or other things of value, to be held, used, and applied only for the purposes for which such grants and contributions are made;

(T) Engage in research and development with respect to port authority facilities;

(U) Purchase fire and extended coverage and liability insurance for any port authority facility and for the principal office and branch offices of the port authority, insurance protecting the port authority and its officers and employees against liability for damage to property or injury to or death of persons arising from its operations, and any other insurance the port authority may agree to provide under any resolution authorizing its port authority revenue bonds or in any trust agreement securing the same;

(V) Charge, alter, and collect rentals and other charges for the use or services of any port authority facility as provided in section 4582.43 of the Revised Code;

(W) Provide coverage for its employees under Chapters 145., 4123., and 4141. of the Revised Code;

(X) Do all acts necessary or proper to carry out the powers expressly granted in sections 4582.21 to 4582.59 of the Revised Code.

SECTION 2. That existing sections 2743.55, 4141.01, 4141.05, 4141.06, 4141.07, 4141.09, 4141.16, 4141.17, 4141.20, 4141.21, 4141.22, 4141.24, 4141.241, 4141.25, 4141.26, 4141.28, 4141.29, 4141.291, 4141.301, 4141.312, 4141.33, 4141.35, 4141.43, and 4582.31 and sections 4141.043 and 4141.251 of the Revised Code are hereby repealed.

SECTION 3. Section 4141.29 of the Revised Code is presented in this act as a composite of the section as amended by both Am. Sub. H.B. 571 and S.B. 303 of the 120th General Assembly, with the new language of neither of the acts shown in capital letters. Section 4141.33 of the Revised Code is presented in this act as a composite of the section as amended by both Am. Sub. H.B. 152 and Sub. S.B. 154 of the 120th General Assembly, with the new language of neither of the acts shown in capital letters. Section 4141.43 of the Revised Code is presented in this act as a composite of the section as amended by both Am. Sub. S.B. 162 and Am. Sub. H.B. 275 of the 121st General Assembly, with the new language of neither of the acts shown in capital letters. This is in recognition of the principle stated in division (B) of section 1.52 of the Revised Code that such amendments are to be harmonized where not substantively irreconcilable and constitutes a legislative finding that such is the resulting version in effect prior to the effective date of this act.

SECTION 4. This act is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health, and safety. The reason for such necessity is to reduce the current tax burden for unemployment compensation upon certain employers of the state. Therefore, this act shall go into immediate effect.

Speaker _____ of the House of Representatives.

President _____ of the Senate.

Passed _____, 20____

Approved _____, 20____

Governor.

The section numbering of law of a general and permanent nature is complete and in conformity with the Revised Code.

Director, Legislative Service Commission.

Filed in the office of the Secretary of State at Columbus, Ohio, on the
____ day of _____, A. D. 20____.

Secretary of State.

File No. _____ Effective Date _____