(Q) Make recommendations to the governor and the general assembly regarding the design and funding of the student financial aid programs specified in sections 3333.12, 3333.122, 3333.21 to 3333.27, and 5910.02 of the Revised Code;

(R) Participate in education-related state or federal programs on behalf of the state and assume responsibility for the administration of such programs in accordance with applicable state or federal law;

(S) Adopt rules for student financial aid programs as required by sections 3333.12, 3333.122, 3333.21 to 3333.27, 3333.28, 3333.29, and 5910.02 of the Revised Code, and perform any other administrative functions assigned to the board by those sections;

(T) Administer contracts under sections 3702.74 and 3702.75 of the Revised Code in accordance with rules adopted by the director of health under section 3702.79 of the Revised Code;

(U) Conduct enrollment audits of state-supported institutions of higher education;

(V) Appoint consortiums of college and university personnel to participate in the development and operation of statewide collaborative efforts, including the Ohio supercomputer center, the Ohio academic resources network, OhioLink, and the Ohio learning network. For each consortium, the board shall designate a college or university to serve as that consortium's fiscal agent, financial officer, and employer. Any funds appropriated to the board for consortiums shall be distributed to the fiscal agents for the operation of the consortiums. A consortium shall follow the rules of the college or university that serves as its fiscal agent.

Sec. 3333.044. (A) The Ohio board of regents may contract with any consultants that are necessary for the discharge of the board's duties under this chapter.

(B) The Ohio board of regents may purchase, upon the terms that the board determines to be advisable, one or more policies of insurance from insurers authorized to do business in this state that insure consultants who have contracted with the board under division (A) of this section or members of an advisory committee appointed under section 3333.04 of the Revised Code, with respect to the activities of the consultants or advisory committee members in the course of the performance of their responsibilities as consultants or advisory committee members.

(C) Subject to the approval of the controlling board, the Ohio board of regents may contract with any entities for the discharge of the board's duties and responsibilities under any of the programs established pursuant to sections 3333.12, 3333.122, 3333.21 to 3333.28, 3702.71 to 3702.81, and

5120.55, and Chapter 5910. of the Revised Code. The board shall not enter into a contract under this division unless the proposed contractor demonstrates that its primary purpose is to promote access to higher education by providing student financial assistance through loans, grants, or scholarships, and by providing high quality support services and information to students and their families with regard to such financial assistance.

Chapter 125. of the Revised Code does not apply to contracts entered into pursuant to this section. In awarding contracts under this division, the board shall consider factors such as the cost of the administration of the contract, the experience of the contractor, and the contractor's ability to properly execute the contract.

Sec. 3333.047. With regard to any state student financial aid program established in this chapter, Chapter 5910., or section 5919.34 of the Revised Code, the Ohio board of regents shall conduct audits to:

(A) Determine the validity of information provided by students and parents regarding eligibility for state student financial aid. If the board determines that eligibility data has been reported incorrectly or inaccurately, and where the board determines an adjustment to be appropriate, the institution of higher education shall adjust the financial aid awarded to the student.

(B) Ensure that institutions of higher education are in compliance with the board's rules governing state student financial aid programs. An institution that fails to comply with the board's rules in the administration of any state student financial aid program shall be fully liable to reimburse the board for the unauthorized use of student financial aid funds.

Sec. 3333.12. (A) As used in this section:

(1) "Eligible student" means an undergraduate student who is:

(a) An Ohio resident enrolled in an undergraduate program before the 2006-2007 academic year;

(b) Enrolled in either of the following:

(i) An accredited institution of higher education in this state that meets the requirements of Title VI of the Civil Rights Act of 1964 and is state-assisted, is nonprofit and has a certificate of authorization from the Ohio board of regents pursuant to Chapter 1713. of the Revised Code, has a certificate of registration from the state board of career colleges and schools and program authorization to award an associate or bachelor's degree, or is a private institution exempt from regulation under Chapter 3332. of the Revised Code as prescribed in section 3333.046 of the Revised Code. Students who attend an institution that holds a certificate of registration shall be enrolled in a program leading to an associate or bachelor's degree for

which associate or bachelor's degree program the institution has program authorization issued under section 3332.05 of the Revised Code.

(ii) A technical education program of at least two years duration sponsored by a private institution of higher education in this state that meets the requirements of Title VI of the Civil Rights Act of 1964.

(c) Enrolled as a full-time student or enrolled as a less than full-time student for the term expected to be the student's final term of enrollment and is enrolled for the number of credit hours necessary to complete the requirements of the program in which the student is enrolled.

(2) "Gross income" includes all taxable and nontaxable income of the parents, the student, and the student's spouse, except income derived from an Ohio academic scholarship, income earned by the student between the last day of the spring term and the first day of the fall term, and other income exclusions designated by the board. Gross income may be verified to the board by the institution in which the student is enrolled using the federal financial aid eligibility verification process or by other means satisfactory to the board.

(3) "Resident," "full-time student," "dependent," "financially independent," and "accredited" shall be defined by rules adopted by the board.

(B) The Ohio board of regents shall establish and administer an instructional grant program and may adopt rules to carry out this section. The general assembly shall support the instructional grant program by such sums and in such manner as it may provide, but the board may also receive funds from other sources to support the program. If the amounts available for support of the program are inadequate to provide grants to all eligible students, preference in the payment of grants shall be given in terms of income, beginning with the lowest income category of gross income and proceeding upward by category to the highest gross income category.

An instructional grant shall be paid to an eligible student through the institution in which the student is enrolled, except that no instructional grant shall be paid to any person serving a term of imprisonment. Applications for such grants shall be made as prescribed by the board, and such applications may be made in conjunction with and upon the basis of information provided in conjunction with student assistance programs funded by agencies of the United States government or from financial resources of the institution of higher education. The institution shall certify that the student applicant meets the requirements set forth in divisions (A)(1)(b) and (c) of this section. Instructional grants shall be provided to an eligible student only as long as the student is making appropriate progress toward a nursing

diploma or an associate or bachelor's degree. No student shall be eligible to receive a grant for more than ten semesters, fifteen quarters, or the equivalent of five academic years. A grant made to an eligible student on the basis of less than full-time enrollment shall be based on the number of credit hours for which the student is enrolled and shall be computed in accordance with a formula adopted by the board. No student shall receive more than one grant on the basis of less than full-time enrollment.

An instructional grant shall not exceed the total instructional and general charges of the institution.

(C) The tables in this division prescribe the maximum grant amounts covering two semesters, three quarters, or a comparable portion of one academic year. Grant amounts for additional terms in the same academic year shall be determined under division (D) of this section.

For a full-time student who is a dependent and enrolled in a nonprofit educational institution that is not a state-assisted institution and that has a certificate of authorization issued pursuant to Chapter 1713. of the Revised Code, the amount of the instructional grant for two semesters, three quarters, or a comparable portion of the academic year shall be determined in accordance with the following table:

Private Institution
Table of Grants
Maximum Grant $5,466

Gross Income	Number of Dependents				
	1	2	3	4	5 or more
$0 - $15,000	$5,466	$5,466	$5,466	$5,466	$5,466
$15,001 - $16,000	4,920	5,466	5,466	5,466	5,466
$16,001 - $17,000	4,362	4,920	5,466	5,466	5,466
$17,001 - $18,000	3,828	4,362	4,920	5,466	5,466
$18,001 - $19,000	3,288	3,828	4,362	4,920	5,466
$19,001 - $22,000	2,736	3,288	3,828	4,362	4,920
$22,001 - $25,000	2,178	2,736	3,288	3,828	4,362
$25,001 - $28,000	1,626	2,178	2,736	3,288	3,828
$28,001 - $31,000	1,344	1,626	2,178	2,736	3,288
$31,001 - $32,000	1,080	1,344	1,626	2,178	2,736
$32,001 - $33,000	984	1,080	1,344	1,626	2,178
$33,001 - $34,000	888	984	1,080	1,344	1,626
$34,001 - $35,000	444	888	984	1,080	1,344
$35,001 - $36,000	--	444	888	984	1,080
$36,001 - $37,000	--	--	444	888	984

$37,001 - $38,000	--	--	--	444	888
$38,001 - $39,000	--	--	--	--	444

For a full-time student who is financially independent and enrolled in a nonprofit educational institution that is not a state-assisted institution and that has a certificate of authorization issued pursuant to Chapter 1713. of the Revised Code, the amount of the instructional grant for two semesters, three quarters, or a comparable portion of the academic year shall be determined in accordance with the following table:

Private Institution
Table of Grants
Maximum Grant $5,466

Gross Income	Number of Dependents					
	0	1	2	3	4	5 or more
$0 - $4,800	$5,466	$5,466	$5,466	$5,466	$5,466	$5,466
$4,801 - $5,300	4,920	5,466	5,466	5,466	5,466	5,466
$5,301 - $5,800	4,362	5,196	5,466	5,466	5,466	5,466
$5,801 - $6,300	3,828	4,914	5,196	5,466	5,466	5,466
$6,301 - $6,800	3,288	4,650	4,914	5,196	5,466	5,466
$6,801 - $7,300	2,736	4,380	4,650	4,914	5,196	5,466
$7,301 - $8,300	2,178	4,104	4,380	4,650	4,914	5,196
$8,301 - $9,300	1,626	3,822	4,104	4,380	4,650	4,914
$9,301 - $10,300	1,344	3,546	3,822	4,104	4,380	4,650
$10,301 - $11,800	1,080	3,408	3,546	3,822	4,104	4,380
$11,801 - $13,300	984	3,276	3,408	3,546	3,822	4,104
$13,301 - $14,800	888	3,228	3,276	3,408	3,546	3,822
$14,801 - $16,300	444	2,904	3,228	3,276	3,408	3,546
$16,301 - $19,300	--	2,136	2,628	2,952	3,276	3,408
$19,301 - $22,300	--	1,368	1,866	2,358	2,676	3,000
$22,301 - $25,300	--	1,092	1,368	1,866	2,358	2,676
$25,301 - $30,300	--	816	1,092	1,368	1,866	2,358
$30,301 - $35,300	--	492	540	672	816	1,314

For a full-time student who is a dependent and enrolled in an educational institution that holds a certificate of registration from the state board of career colleges and schools or a private institution exempt from regulation under Chapter 3332. of the Revised Code as prescribed in section 3333.046 of the Revised Code, the amount of the instructional grant for two semesters, three quarters, or a comparable portion of the academic year shall be determined in accordance with the following table:

Career Institution

Table of Grants
Maximum Grant $4,632

Gross Income	Number of Dependents				
	1	2	3	4	5 or more
$0 - $15,000	$4,632	$4,632	$4,632	$4,632	$4,632
$15,001 - $16,000	4,182	4,632	4,632	4,632	4,632
$16,001 - $17,000	3,684	4,182	4,632	4,632	4,632
$17,001 - $18,000	3,222	3,684	4,182	4,632	4,632
$18,001 - $19,000	2,790	3,222	3,684	4,182	4,632
$19,001 - $22,000	2,292	2,790	3,222	3,684	4,182
$22,001 - $25,000	1,854	2,292	2,790	3,222	3,684
$25,001 - $28,000	1,416	1,854	2,292	2,790	3,222
$28,001 - $31,000	1,134	1,416	1,854	2,292	2,790
$31,001 - $32,000	906	1,134	1,416	1,854	2,292
$32,001 - $33,000	852	906	1,134	1,416	1,854
$33,001 - $34,000	750	852	906	1,134	1,416
$34,001 - $35,000	372	750	852	906	1,134
$35,001 - $36,000	--	372	750	852	906
$36,001 - $37,000	--	--	372	750	852
$37,001 - $38,000	--	--	--	372	750
$38,001 - $39,000	--	--	--	--	372

For a full-time student who is financially independent and enrolled in an educational institution that holds a certificate of registration from the state board of career colleges and schools or a private institution exempt from regulation under Chapter 3332. of the Revised Code as prescribed in section 3333.046 of the Revised Code, the amount of the instructional grant for two semesters, three quarters, or a comparable portion of the academic year shall be determined in accordance with the following table:

Career Institution
Table of Grants
Maximum Grant $4,632

Gross Income	Number of Dependents					
	0	1	2	3	4	5 or more
$0 - $4,800	$4,632	$4,632	$4,632	$4,632	$4,632	$4,632
$4,801 - $5,300	4,182	4,632	4,632	4,632	4,632	4,632
$5,301 - $5,800	3,684	4,410	4,632	4,632	4,632	4,632
$5,801 - $6,300	3,222	4,158	4,410	4,632	4,632	4,632
$6,301 - $6,800	2,790	3,930	4,158	4,410	4,632	4,632

$6,801 - $7,300	2,292	3,714	3,930	4,158	4,410	4,632
$7,301 - $8,300	1,854	3,462	3,714	3,930	4,158	4,410
$8,301 - $9,300	1,416	3,246	3,462	3,714	3,930	4,158
$9,301 - $10,300	1,134	3,024	3,246	3,462	3,714	3,930
$10,301 - $11,800	906	2,886	3,024	3,246	3,462	3,714
$11,801 - $13,300	852	2,772	2,886	3,024	3,246	3,462
$13,301 - $14,800	750	2,742	2,772	2,886	3,024	3,246
$14,801 - $16,300	372	2,466	2,742	2,772	2,886	3,024
$16,301 - $19,300	--	1,800	2,220	2,520	2,772	2,886
$19,301 - $22,300	--	1,146	1,584	1,986	2,268	2,544
$22,301 - $25,300	--	930	1,146	1,584	1,986	2,268
$25,301 - $30,300	--	708	930	1,146	1,584	1,986
$30,301 - $35,300	--	426	456	570	708	1,116

For a full-time student who is a dependent and enrolled in a state-assisted educational institution, the amount of the instructional grant for two semesters, three quarters, or a comparable portion of the academic year shall be determined in accordance with the following table:

Public Institution

Table of Grants

Maximum Grant $2,190

Gross Income	Number of Dependents				
	1	2	3	4	5 or more
$0 - $15,000	$2,190	$2,190	$2,190	$2,190	$2,190
$15,001 - $16,000	1,974	2,190	2,190	2,190	2,190
$16,001 - $17,000	1,740	1,974	2,190	2,190	2,190
$17,001 - $18,000	1,542	1,740	1,974	2,190	2,190
$18,001 - $19,000	1,320	1,542	1,740	1,974	2,190
$19,001 - $22,000	1,080	1,320	1,542	1,740	1,974
$22,001 - $25,000	864	1,080	1,320	1,542	1,740
$25,001 - $28,000	648	864	1,080	1,320	1,542
$28,001 - $31,000	522	648	864	1,080	1,320
$31,001 - $32,000	420	522	648	864	1,080
$32,001 - $33,000	384	420	522	648	864
$33,001 - $34,000	354	384	420	522	648
$34,001 - $35,000	174	354	384	420	522
$35,001 - $36,000	--	174	354	384	420
$36,001 - $37,000	--	--	174	354	384
$37,001 - $38,000	--	--	--	174	354
$38,001 - $39,000	--	--	--	--	174

For a full-time student who is financially independent and enrolled in a state-assisted educational institution, the amount of the instructional grant for two semesters, three quarters, or a comparable portion of the academic year shall be determined in accordance with the following table:

Public Institution
Table of Grants
Maximum Grant $2,190

Gross Income	Number of Dependents					
	0	1	2	3	4	5 or more
$0 - $4,800	$2,190	$2,190	$2,190	$2,190	$2,190	$2,190
$4,801 - $5,300	1,974	2,190	2,190	2,190	2,190	2,190
$5,301 - $5,800	1,740	2,082	2,190	2,190	2,190	2,190
$5,801 - $6,300	1,542	1,968	2,082	2,190	2,190	2,190
$6,301 - $6,800	1,320	1,866	1,968	2,082	2,190	2,190
$6,801 - $7,300	1,080	1,758	1,866	1,968	2,082	2,190
$7,301 - $8,300	864	1,638	1,758	1,866	1,968	2,082
$8,301 - $9,300	648	1,530	1,638	1,758	1,866	1,968
$9,301 - $10,300	522	1,422	1,530	1,638	1,758	1,866
$10,301 - $11,800	420	1,356	1,422	1,530	1,638	1,758
$11,801 - $13,300	384	1,308	1,356	1,422	1,530	1,638
$13,301 - $14,800	354	1,290	1,308	1,356	1,422	1,530
$14,801 - $16,300	174	1,164	1,290	1,308	1,356	1,422
$16,301 - $19,300	--	858	1,050	1,182	1,308	1,356
$19,301 - $22,300	--	540	750	948	1,062	1,200
$22,301 - $25,300	--	432	540	750	948	1,062
$25,301 - $30,300	--	324	432	540	750	948
$30,301 - $35,300	--	192	210	264	324	522

(D) For a full-time student enrolled in an eligible institution for a semester or quarter in addition to the portion of the academic year covered by a grant determined under division (C) of this section, the maximum grant

amount shall be a percentage of the maximum prescribed in the applicable table of that division. The maximum grant for a fourth quarter shall be one-third of the maximum amount prescribed under that division. The maximum grant for a third semester shall be one-half of the maximum amount prescribed under that division.

(E) No grant shall be made to any student in a course of study in theology, religion, or other field of preparation for a religious profession unless such course of study leads to an accredited bachelor of arts, bachelor of science, associate of arts, or associate of science degree.

(F)(1) Except as provided in division (F)(2) of this section, no grant shall be made to any student for enrollment during a fiscal year in an institution with a cohort default rate determined by the United States secretary of education pursuant to the "Higher Education Amendments of 1986," 100 Stat. 1278, 1408, 20 U.S.C.A. 1085, as amended, as of the fifteenth day of June preceding the fiscal year, equal to or greater than thirty per cent for each of the preceding two fiscal years.

(2) Division (F)(1) of this section does not apply to the following:

(a) Any student enrolled in an institution that under the federal law appeals its loss of eligibility for federal financial aid and the United States secretary of education determines its cohort default rate after recalculation is lower than the rate specified in division (F)(1) of this section or the secretary determines due to mitigating circumstances the institution may continue to participate in federal financial aid programs. The board shall adopt rules requiring institutions to provide information regarding an appeal to the board.

(b) Any student who has previously received a grant under this section who meets all other requirements of this section.

(3) The board shall adopt rules for the notification of all institutions whose students will be ineligible to participate in the grant program pursuant to division (F)(1) of this section.

(4) A student's attendance at an institution whose students lose eligibility for grants under division (F)(1) of this section shall not affect that student's eligibility to receive a grant when enrolled in another institution.

(G) Institutions of higher education that enroll students receiving instructional grants under this section shall report to the board all students who have received instructional grants but are no longer eligible for all or part of such grants and shall refund any moneys due the state within thirty days after the beginning of the quarter or term immediately following the quarter or term in which the student was no longer eligible to receive all or part of the student's grant. There shall be an interest charge of one per cent

per month on all moneys due and payable after such thirty-day period. The board shall immediately notify the office of budget and management and the legislative service commission of all refunds so received.

Sec. 3333.121. There is hereby established in the state treasury the ~~instructional grant~~ state need-based financial aid reconciliation fund, which shall consist of refunds of instructional grant payments made pursuant to section 3333.12 of the Revised Code and refunds of state need-based financial aid payments made pursuant to section 3333.122 of the Revised Code. Revenues credited to the fund shall be used by the Ohio board of regents to pay to higher education institutions any outstanding obligations from the prior year owed for the Ohio instructional grant program and the Ohio college opportunity grant program that are identified through the annual reconciliation and financial audit. Any amount in the fund that is in excess of the amount certified to the director of budget and management by the board of regents as necessary to reconcile prior year payments under the program shall be transferred to the general revenue fund.

Sec. 3333.122. (A) As used in this section:

(1) "Eligible student" means a student who is:

(a) An Ohio resident who first enrolls in an undergraduate program in the 2006-2007 academic year or thereafter;

(b) Enrolled in either of the following:

(i) An accredited institution of higher education in this state that meets the requirements of Title VI of the Civil Rights Act of 1964 and is state-assisted, is nonprofit and has a certificate of authorization from the Ohio board of regents pursuant to Chapter 1713. of the Revised Code, has a certificate of registration from the state board of career colleges and schools and program authorization to award an associate or bachelor's degree, or is a private institution exempt from regulation under Chapter 3332. of the Revised Code as prescribed in section 3333.046 of the Revised Code. Students who attend an institution that holds a certificate of registration shall be enrolled in a program leading to an associate or bachelor's degree for which associate or bachelor's degree program the institution has program authorization issued under section 3332.05 of the Revised Code.

(ii) A technical education program of at least two years duration sponsored by a private institution of higher education in this state that meets the requirements of Title VI of the Civil Rights Act of 1964.

(2) A student who participated in either the early college high school program administered by the department of education or in the post-secondary enrollment options program pursuant to Chapter 3365. of the Revised Code before the 2006-2007 academic year shall not be excluded

from eligibility for a need based grant under this section.

(3) "Resident," "expected family contribution" or "EFC," "full-time student," "three-quarters-time student," "half-time student," "one-quarter-time student," and "accredited" shall be defined by rules adopted by the board.

(B) The Ohio board of regents shall establish and administer a needs-based financial aid program based on the United States department of education's method of determining financial need and may adopt rules to carry out this section. The program shall be known as the Ohio college opportunity grant program. The general assembly shall support the needs-based financial aid program by such sums and in such manner as it may provide, but the board may also receive funds from other sources to support the program. If the amounts available for support of the program are inadequate to provide grants to all eligible students, preference in the payment of grants shall be given in terms of expected family contribution, beginning with the lowest expected family contribution category and proceeding upward by category to the highest expected family contribution category.

A needs-based financial aid grant shall be paid to an eligible student through the institution in which the student is enrolled, except that no needs-based financial aid grant shall be paid to any person serving a term of imprisonment. Applications for such grants shall be made as prescribed by the board, and such applications may be made in conjunction with and upon the basis of information provided in conjunction with student assistance programs funded by agencies of the United States government or from financial resources of the institution of higher education. The institution shall certify that the student applicant meets the requirements set forth in divisions (A)(1)(a) and (b) of this section. Needs-based financial aid grants shall be provided to an eligible student only as long as the student is making appropriate progress toward a nursing diploma or an associate or bachelor's degree. No student shall be eligible to receive a grant for more than ten semesters, fifteen quarters, or the equivalent of five academic years. A grant made to an eligible student on the basis of less than full-time enrollment shall be based on the number of credit hours for which the student is enrolled and shall be computed in accordance with a formula adopted by the board. No student shall receive more than one grant on the basis of less than full-time enrollment.

A needs-based financial aid grant shall not exceed the total instructional and general charges of the institution.

(C) The tables in this division prescribe the maximum grant amounts

covering two semesters, three quarters, or a comparable portion of one academic year. Grant amounts for additional terms in the same academic year shall be determined under division (D) of this section.

As used in the tables in division (C) of this section:

(1) "Private institution" means an institution that is nonprofit and has a certificate of authorization from the Ohio board of regents pursuant to Chapter 1713. of the Revised Code.

(2) "Career college" means either an institution that holds a certificate of registration from the state board of career colleges and schools or a private institution exempt from regulation under Chapter 3332. of the Revised Code as prescribed in section 3333.046 of the Revised Code.

Full-time students shall be eligible to receive awards according to the following table:

		Full-Time Enrollment		
If the EFC is equal to or greater than:	And if the EFC is no more than:	If the student attends a public institution, the annual award shall be:	If the student attends a private institution, the annual award shall be:	If the student attends a career college, the annual award shall be:
$2,101	$2,190	$300	$600	$480
2,001	2,100	402	798	642
1,901	2,000	498	1,002	798
1,801	1,900	600	1,200	960
1,701	1,800	702	1,398	1,122
1,601	1,700	798	1,602	1,278
1,501	1,600	900	1,800	1,440
1,401	1,500	1,002	1,998	1,602
1,301	1,400	1,098	2,202	1,758
1,201	1,300	1,200	2,400	1,920
1,101	1,200	1,302	2,598	2,082
1,001	1,100	1,398	2,802	2,238
901	1,000	1,500	3,000	2,400
801	900	1,602	3,198	2,562
701	800	1,698	3,402	2,718
601	700	1,800	3,600	2,280
501	600	1,902	3,798	3,042
401	500	1,998	4,002	3,198

301	400	2,100	4,200	3,360
201	300	2,202	4,398	3,522
101	200	2,298	4,602	3,678
1	100	2,400	4,800	3,840
0	0	2,496	4,992	3,996

Three-quarters-time students shall be eligible to receive awards according to the following table:

Three-Quarters-Time Enrollment

If the EFC is equal to or greater than:	And the EFC is no more than:	If the student attends a public institution, the annual award shall be:	If the student attends a private institution, the annual award shall be:	If the student attends a career college, the annual award shall be:
$2,101	$2,190	$228	$450	$360
2,001	2,100	300	600	480
1,901	2,000	372	750	600
1,801	1,900	450	900	720
1,701	1,800	528	1,050	840
1,601	1,700	600	1,200	960
1,501	1,600	678	1,350	1,080
1,401	1,500	750	1,500	1,200
1,301	1,400	822	1,650	1,320
1,201	1,300	900	1,800	1,440
1,101	1,200	978	1,950	1,560
1,001	1,100	1,050	2,100	1,680
901	1,000	1,128	2,250	1,800
801	900	1,200	2,400	1,920
701	800	1,272	2,550	2,040
601	700	1,350	2,700	2,160
501	600	1,428	2,850	2,280
401	500	1,500	3,000	2,400
301	400	1,578	3,150	2,520
201	300	1,650	3,300	2,640
101	200	1,722	3,450	2,760
1	100	1,800	3,600	2,880
0	0	1,872	3,744	3,000

Half-time students shall be eligible to receive awards according to the

following table:

Half-Time Enrollment

If the EFC is equal to or greater than:	And if the EFC is no more than:	If the student attends a public institution, the annual award shall be:	If the student attends a private institution, the annual award shall be:	If the student attends a career college, the annual award shall be:
$2,101	$2,190	$150	$300	$240
2,001	2,100	204	402	324
1,901	2,000	252	504	402
1,801	1,900	300	600	480
1,701	1,800	354	702	564
1,601	1,700	402	804	642
1,501	1,600	450	900	720
1,401	1,500	504	1,002	804
1,301	1,400	552	1,104	882
1,201	1,300	600	1,200	960
1,101	1,200	654	1,302	1,044
1,001	1,100	702	1,404	1,122
901	1,000	750	1,500	1,200
801	900	804	1,602	1,284
701	800	852	1,704	1,362
601	700	900	1,800	1,440
501	600	954	1,902	1,524
401	500	1,002	2,004	1,602
301	400	1,050	2,100	1,680
201	300	1,104	2,202	1,764
101	200	1,152	2,304	1,842
1	100	1,200	2,400	1,920
0	0	1,248	2,496	1,998

One-quarter-time students shall be eligible to receive awards according to the following table:

One-Quarter-Time Enrollment

If the EFC is equal to or greater than:	And if the EFC is no more than:	If the student attends a public	If the student attends a private	If the student attends a career

		institution, the annual award shall be:	institution, the annual award shall be:	college, the annual award shall be:
$2,101	$2,190	$78	$150	$120
2,001	2,100	102	198	162
1,901	2,000	126	252	198
1,801	1,900	150	300	240
1,701	1,800	174	348	282
1,601	1,700	198	402	318
1,501	1,600	228	450	360
1,401	1,500	252	498	402
1,301	1,400	276	552	438
1,201	1,300	300	600	480
1,101	1,200	324	648	522
1,001	1,100	348	702	558
901	1,000	378	750	600
801	900	402	798	642
701	800	426	852	678
601	700	450	900	720
501	600	474	948	762
401	500	498	1,002	798
301	400	528	1,050	840
201	300	552	1,098	882
101	200	576	1,152	918
1	100	600	1,200	960
0	0	624	1,248	1,002

(D) For a full-time student enrolled in an eligible institution for a semester or quarter in addition to the portion of the academic year covered by a grant determined under division (C) of this section, the maximum grant amount shall be a percentage of the maximum prescribed in the applicable table of that division. The maximum grant for a fourth quarter shall be one-third of the maximum amount prescribed under that division. The maximum grant for a third semester shall be one-half of the maximum amount prescribed under that division.

(E) No grant shall be made to any student in a course of study in theology, religion, or other field of preparation for a religious profession unless such course of study leads to an accredited bachelor of arts, bachelor of science, associate of arts, or associate of science degree.

(F)(1) Except as provided in division (F)(2) of this section, no grant

shall be made to any student for enrollment during a fiscal year in an institution with a cohort default rate determined by the United States secretary of education pursuant to the "Higher Education Amendments of 1986," 100 Stat. 1278, 1408, 20 U.S.C.A. 1085, as amended, as of the fifteenth day of June preceding the fiscal year, equal to or greater than thirty per cent for each of the preceding two fiscal years.

(2) Division (F)(1) of this section does not apply to the following:

(a) Any student enrolled in an institution that under the federal law appeals its loss of eligibility for federal financial aid and the United States secretary of education determines its cohort default rate after recalculation is lower than the rate specified in division (F)(1) of this section or the secretary determines due to mitigating circumstances the institution may continue to participate in federal financial aid programs. The board shall adopt rules requiring institutions to provide information regarding an appeal to the board.

(b) Any student who has previously received a grant under this section who meets all other requirements of this section.

(3) The board shall adopt rules for the notification of all institutions whose students will be ineligible to participate in the grant program pursuant to division (F)(1) of this section.

(4) A student's attendance at an institution whose students lose eligibility for grants under division (F)(1) of this section shall not affect that student's eligibility to receive a grant when enrolled in another institution.

(G) Institutions of higher education that enroll students receiving needs-based financial aid grants under this section shall report to the board all students who have received needs-based financial aid grants but are no longer eligible for all or part of such grants and shall refund any moneys due the state within thirty days after the beginning of the quarter or term immediately following the quarter or term in which the student was no longer eligible to receive all or part of the student's grant. There shall be an interest charge of one per cent per month on all moneys due and payable after such thirty-day period. The board shall immediately notify the office of budget and management and the legislative service commission of all refunds so received.

Sec. 3333.123. (A) As used in this section:

(1) "The Ohio college opportunity grant program" means the program established under section 3333.122 of the Revised Code.

(2) "Rules for the Ohio college opportunity grant program" means the rules authorized in division (S) of section 3333.04 of the Revised Code for the implementation of the program.

(B) In adopting rules for the Ohio college opportunity grant program, the Ohio board of regents may include provisions that give preferential or priority funding to low-income students who in their primary and secondary school work participate in or complete rigorous academic coursework, attain passing scores on the tests prescribed in section 3301.0710 of the Revised Code, or meet other high academic performance standards determined by the board to reduce the need for remediation and ensure academic success at the postsecondary education level. Any such rules shall include a specification of procedures needed to certify student achievement of primary and secondary standards as well as the timeline for implementation of the provisions authorized by this section.

Sec. 3333.162. (A) As used in this section, "state institution of higher education" means an institution of higher education as defined in section 3345.12 of the Revised Code.

(B) By April 15, 2007, the Ohio board of regents, in consultation with the department of education, public adult and secondary career-technical education institutions, and state institutions of higher education, shall establish criteria, policies, and procedures that enable students to transfer agreed upon technical courses completed through an adult career-technical education institution, a public secondary career-technical institution, or a state institution of higher education to a state institution of higher education without unnecessary duplication or institutional barriers. The courses to which the criteria, policies, and procedures apply shall be those that adhere to recognized industry standards and equivalent coursework common to the secondary career pathway and adult career-technical education system and regionally accredited state institutions of higher education. Where applicable, the policies and procedures shall build upon the articulation agreement and transfer initiative course equivalency system required by section 3333.16 of the Revised Code.

(C) By April 15, 2006, the board shall report to the general assembly on its progress in establishing these policies and procedures.

Sec. 3333.27. As used in this section:

(A) "Eligible institution" means a nonprofit Ohio institution of higher education that holds a certificate of authorization issued under section 1713.02 of the Revised Code and meets the requirements of Title VI of the Civil Rights Act of 1964.

(B) "Resident" and "full-time student" have the meanings established for purposes of this section by rule of the Ohio board of regents.

The board shall establish and administer a student choice grant program and shall adopt rules for the administration of the program.

The board may make a grant to any resident of this state who is enrolled as a full-time student in a bachelor's degree program at an eligible institution and maintains an academic record that meets or exceeds the standard established pursuant to this section by rule of the board, except that no grant shall be made to any individual who was enrolled as a student in an institution of higher education on or before July 1, 1984, or is serving a term of imprisonment. The grant shall not exceed the lesser of the total instructional and general charges of the institution in which the student is enrolled, or an amount equal to one-fourth of the total of any state instructional subsidy amount distributed by the board in the second fiscal year of the preceding biennium for all full-time students enrolled in bachelor's degree programs at four-year state-assisted institutions of higher education divided by the sum of the actual number of full-time students enrolled in bachelor's degree programs at four-year state-assisted institutions of higher education reported to the board for such year by the institutions to which the subsidy was distributed.

The board shall prescribe the form and manner of application for grants including the manner of certification by eligible institutions that each applicant from such institution is enrolled in a bachelor's degree program as a full-time student and has an academic record that meets or exceeds the standard established by the board.

A grant awarded to an eligible student shall be paid to the institution in which the student is enrolled, and the institution shall reduce the student's instructional and general charges by the amount of the grant. Each grant awarded shall be prorated and paid in equal installments at the time of enrollment for each term of the academic year for which the grant is awarded. No student shall be eligible to receive a grant for more than ten semesters, fifteen quarters, or the equivalent of five academic years.

The receipt of an Ohio student choice grant shall not affect a student's eligibility for assistance, or the amount of such assistance, granted under section 3315.33, 3333.12, 3333.122, 3333.22, 3333.26, 5910.03, 5910.032, or 5919.34 of the Revised Code. If a student receives assistance under one or more of such sections, the student choice grant made to the student shall not exceed the difference between the amount of assistance received under such sections and the total instructional and general charges of the institution in which the student is enrolled.

The general assembly shall support the student choice grant program by such sums and in such manner as it may provide, but the board may also receive funds from other sources to support the program.

No grant shall be made to any student enrolled in a course of study

leading to a degree in theology, religion, or other field of preparation for a religious profession unless the course of study leads to an accredited bachelor of arts or bachelor of science degree.

Institutions of higher education that enroll students receiving grants under this section shall report to the board the name of each student who has received such a grant but who is no longer eligible for all or part of such grant and shall refund all moneys due to the state within thirty days after the beginning of the term immediately following the term in which the student was no longer eligible to receive all or part of the grant. There shall be an interest charge of one per cent per month on all moneys due and payable after such thirty-day period. The board shall immediately notify the office of budget and management and ~~the legislative budget office of~~ the legislative service commission of all refunds received.

Sec. 3333.28. (A) The Ohio board of regents shall establish the nurse education assistance program, the purpose of which shall be to make loans to students enrolled in prelicensure nurse education programs at institutions approved by the board of nursing under section 4723.06 of the Revised Code and postlicensure nurse education programs approved by the board of regents under section 3333.04 of the Revised Code or offered by an institution holding a certificate of authorization issued by the board of regents under Chapter 1713. of the Revised Code. The board of nursing shall assist the board of regents in administering the program.

(B) There is hereby created in the state treasury the nurse education assistance fund, which shall consist of all money transferred to it pursuant to section 4743.05 of the Revised Code. The fund shall be used by the board of regents for loans made under division (A) of this section and for expenses of administering the loan program.

(C) ~~The~~ Between July 1, 2005, and January 1, 2012, the board of regents shall distribute money in the nurse education assistance fund in the following manner:

(1)(a) Fifty per cent of available funds shall be awarded as loans to registered nurses enrolled in postlicensure nurse education programs described in division (A) of this section. To be eligible for a loan, the applicant shall provide the board with a letter of intent to practice as a faculty member at a prelicensure or postlicensure program for nursing in this state upon completion of the applicant's academic program.

(b) If the borrower of a loan under division (C)(1)(a) of this section secures employment as a faculty member of an approved nursing education program in this state within six months following graduation from an approved nurse education program, the board may forgive the principal and

interest of the student's loans received under division (C)(1)(a) of this section at a rate of twenty-five per cent per year, for a maximum of four years, for each year in which the borrower is so employed. A deferment of the service obligation, and other conditions regarding the forgiveness of loans may be granted as provided by the rules adopted under division (D)(7) of this section.

(c) Loans awarded under division (C)(1)(a) of this section shall be awarded on the basis of the student's expected family contribution, with preference given to those applicants with the lowest expected family contribution. However, the board of regents may consider other factors it determines relevant in ranking the applications.

(d) Each loan awarded to a student under division (C)(1)(a) of this section shall be not less than five thousand dollars per year.

(2) Twenty-five per cent of available funds shall be awarded to students enrolled in prelicensure nurse education programs for registered nurses, as defined in section 4723.01 of the Revised Code.

(3) Twenty-five per cent of available funds shall be awarded to students enrolled in prelicensure professional nurse education programs for licensed practical nurses, as defined in section 4723.01 of the Revised Code.

After January 1, 2012, the board of regents shall determine the manner in which to distribute loans under this section.

(D) Subject to the requirements specified in division (C) of this section, the board of regents shall adopt rules in accordance with Chapter 119. of the Revised Code establishing:

(1) Eligibility criteria for receipt of a loan;

(2) Loan application procedures;

(3) The amounts in which loans may be made and the total amount that may be loaned to an individual;

(4) The total amount of loans that can be made each year;

(5) The percentage of the money in the fund that must remain in the fund at all times as a fund balance;

(6) Interest and principal repayment schedules;

(7) Conditions under which a portion of principal and interest obligations incurred by an individual under the program will be forgiven;

(8) Ways that the program may be used to encourage individuals who are members of minority groups to enter the nursing profession;

(9) Any other matters incidental to the operation of the program.

~~(D)~~(E) The obligation to repay a portion of the principal and interest on a loan made under this section shall be forgiven if the recipient of the loan meets the criteria for forgiveness established by division (C)(1)(b) of this

section, in the case of loans awarded under division (C)(1)(a) of this section, or by the board of regents by rule adopted under division ~~(C)~~(D)(7) of this section, in the case of other loans awarded under this section.

~~(E)~~(F) The receipt of a loan under this section shall not affect a student's eligibility for assistance, or the amount of that assistance, granted under section 3333.12, 3333.122, 3333.22, 3333.26, 3333.27, 5910.03, 5910.032, or 5919.34 of the Revised Code, but the rules of the board of regents may provide for taking assistance received under those sections into consideration when determining a student's eligibility for a loan under this section.

Sec. 3333.36. ~~The~~ Provided that sufficient unencumbered and unexpended funds are available from general revenue fund appropriations made to the Ohio board of regents, the chancellor of the Ohio board of regents ~~may~~ shall allocate up to seventy thousand dollars in each fiscal year to make payments to the Columbus program in intergovernmental issues, an Ohio internship program at Kent state university, for scholarships of up to two thousand dollars for each student enrolled in the program. The chancellor may utilize any general revenue funds appropriated to the board of regents that the chancellor determines to be available for purposes of this section.

Sec. 3333.38. (A) As used in this section:

(1) "Institution of higher education" includes all of the following:

(a) A state institution of higher education, as defined in section 3345.011 of the Revised Code;

(b) A nonprofit institution issued a certificate of authorization by the Ohio board of regents under Chapter 1713. of the Revised Code;

(c) A private institution exempt from regulation under Chapter 3332. of the Revised Code, as prescribed in section 3333.046 of the Revised Code;

(d) An institution of higher education with a certificate of registration from the state board of career colleges and schools under Chapter 3332. of the Revised Code.

(2) "Student financial assistance supported by state funds" includes assistance granted under sections 3315.33, 3333.12, 3333.122, 3333.21, 3333.26, 3333.27, 3333.28, 3333.29, 3333.372, 5910.03, 5910.032, and 5919.34 of the Revised Code and any other post-secondary student financial assistance supported by state funds.

(B) An individual who is convicted of, pleads guilty to, or is adjudicated a delinquent child for one of the following violations shall be ineligible to receive any student financial assistance supported by state funds at an institution of higher education for two calendar years from the time the

individual applies for assistance of that nature:

(1) A violation of section 2917.02 or 2917.03 of the Revised Code;

(2) A violation of section 2917.04 of the Revised Code that is a misdemeanor of the fourth degree;

(3) A violation of section 2917.13 of the Revised Code that is a misdemeanor of the fourth or first degree and occurs within the proximate area where four or more others are acting in a course of conduct in violation of section 2917.11 of the Revised Code.

(C) If an individual is convicted of, pleads guilty to, or is adjudicated a delinquent child for committing a violation of section 2917.02 or 2917.03 of the Revised Code, and if the individual is enrolled in a state-supported institution of higher education, the institution in which the individual is enrolled shall immediately dismiss the individual. No state-supported institution of higher education shall admit an individual of that nature for one academic year after the individual applies for admission to a state-supported institution of higher education. This division does not limit or affect the ability of a state-supported institution of higher education to suspend or otherwise discipline its students.

Sec. 3334.01. As used in this chapter:

(A) "Aggregate original principal amount" means the aggregate of the initial offering prices to the public of college savings bonds, exclusive of accrued interest, if any. "Aggregate original principal amount" does not mean the aggregate accreted amount payable at maturity or redemption of such bonds.

(B) "Beneficiary" means:

(1) An individual designated by the purchaser under a tuition payment contract or through a scholarship program as the individual on whose behalf tuition ~~credits~~ units purchased under the contract or awarded through the scholarship program will be applied toward the payment of undergraduate, graduate, or professional tuition; or

(2) An individual designated by the contributor under a variable college savings program contract as the individual whose tuition and other higher education expenses will be paid from a variable college savings program account.

(C) "Capital appreciation bond" means a bond for which the following is true:

(1) The principal amount is less than the amount payable at maturity or early redemption; and

(2) No interest is payable on a current basis.

(D) "Tuition ~~credit~~ unit" means a credit of the Ohio tuition trust

authority purchased under section 3334.09 of the Revised Code. "Tuition unit" includes a tuition credit purchased prior to July 1, 1994.

(E) "College savings bonds" means revenue and other obligations issued on behalf of the state or any agency or issuing authority thereof as a zero-coupon or capital appreciation bond, and designated as college savings bonds as provided in this chapter. "College savings bond issue" means any issue of bonds of which any part has been designated as college savings bonds.

(F) "Institution of higher education" means a state institution of higher education, a private college, university, or other postsecondary institution located in this state that possesses a certificate of authorization issued by the Ohio board of regents pursuant to Chapter 1713. of the Revised Code or a certificate of registration issued by the state board of career colleges and schools under Chapter 3332. of the Revised Code, or an accredited college, university, or other postsecondary institution located outside this state that is accredited by an accrediting organization or professional association recognized by the authority. To be considered an institution of higher education, an institution shall meet the definition of an eligible educational institution under section 529 of the Internal Revenue Code.

(G) "Issuing authority" means any authority, commission, body, agency, or individual empowered by the Ohio Constitution or the Revised Code to issue bonds or any other debt obligation of the state or any agency or department thereof. "Issuer" means the issuing authority or, if so designated under division (B) of section 3334.04 of the Revised Code, the treasurer of state.

(H) "Tuition" means the charges imposed to attend an institution of higher education as an undergraduate, graduate, or professional student and all fees required as a condition of enrollment, as determined by the Ohio tuition trust authority. "Tuition" does not include laboratory fees, room and board, or other similar fees and charges.

(I) "Weighted average tuition" means the tuition cost resulting from the following calculation:

(1) Add the products of the annual undergraduate tuition charged to Ohio residents at each four-year state university multiplied by that institution's total number of undergraduate fiscal year equated students; and

(2) Divide the gross total of the products from division (I)(1) of this section by the total number of undergraduate fiscal year equated students attending four-year state universities.

When making this calculation, the "annual undergraduate tuition charged to Ohio residents" shall not incorporate any tuition reductions that

vary in amount among individual recipients and that are awarded to Ohio residents based upon their particular circumstances, beyond any minimum amount awarded uniformly to all Ohio residents. In addition, any tuition reductions awarded uniformly to all Ohio residents shall be incorporated into this calculation.

(J) "Zero-coupon bond" means a bond which has a stated interest rate of zero per cent and on which no interest is payable until the maturity or early redemption of the bond, and is offered at a substantial discount from its original stated principal amount.

(K) "State institution of higher education" includes the state universities listed in section 3345.011 of the Revised Code, community colleges created pursuant to Chapter 3354. of the Revised Code, university branches created pursuant to Chapter 3355. of the Revised Code, technical colleges created pursuant to Chapter 3357. of the Revised Code, state community colleges created pursuant to Chapter 3358. of the Revised Code, the medical university of Ohio at Toledo, and the northeastern Ohio universities college of medicine.

(L) "Four-year state university" means those state universities listed in section 3345.011 of the Revised Code.

(M) "Principal amount" refers to the initial offering price to the public of an obligation, exclusive of the accrued interest, if any. "Principal amount" does not refer to the aggregate accreted amount payable at maturity or redemption of an obligation.

(N) "Scholarship program" means a program registered with the Ohio tuition trust authority pursuant to section 3334.17 of the Revised Code.

(O) "Internal Revenue Code" means the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 1 et seq., as amended.

(P) "Other higher education expenses" means room and board and books, supplies, equipment, and nontuition-related fees associated with the cost of attendance of a beneficiary at an institution of higher education, but only to the extent that such expenses meet the definition of "qualified higher education expenses" under section 529 of the Internal Revenue Code. "Other higher education expenses" does not include tuition as defined in division (H) of this section.

(Q) "Purchaser" means the person signing the tuition payment contract, who controls the account and acquires tuition ~~credits~~ units for an account under the terms and conditions of the contract.

(R) "Contributor" means a person who signs a variable college savings program contract with the Ohio tuition trust authority and contributes to and owns the account created under the contract.

(S) "Contribution" means any payment directly allocated to an account for the benefit of the designated beneficiary of the account.

Sec. 3334.02. (A) In order to help make higher education affordable and accessible to all citizens of Ohio, to maintain state institutions of higher education by helping to provide a stable financial base to these institutions, to provide the citizens of Ohio with financing assistance for higher education and protection against rising tuition costs, to encourage saving to enhance the ability of citizens of Ohio to obtain financial access to institutions of higher education, to encourage elementary and secondary students in this state to achieve academic excellence, and to promote a well-educated and financially secure population to the ultimate benefit of all citizens of the state of Ohio, there is hereby created the Ohio college savings program. The program shall consist of the issuance of college savings bonds and the sale of tuition ~~credits and, if offered, supplemental credits~~ units.

(B) The provisions of Chapter 1707. of the Revised Code shall not apply to tuition ~~credits~~ units or any agreement or transaction related thereto.

(C) To provide the citizens of Ohio with a choice of tax-advantaged college savings programs and the opportunity to participate in more than one type of college savings program at a time, the Ohio tuition trust authority shall establish and administer a variable college savings program as a qualified state tuition program under section 529 of the Internal Revenue Code. The program shall allow contributors to make cash contributions to variable college savings program accounts created for the purpose of paying future tuition and other higher education expenses and providing variable rates of return on contributions.

(D) A person may participate simultaneously in both the Ohio college savings program and the variable college savings program.

Sec. 3334.03. (A) There is hereby created the Ohio tuition trust authority, which shall have the powers enumerated in this chapter and which shall operate as a qualified state tuition program within the meaning of section 529 of the Internal Revenue Code. The exercise by the authority of its powers shall be and is hereby declared an essential state governmental function. The authority is subject to all provisions of law generally applicable to state agencies which do not conflict with the provisions of this chapter.

(B) The Ohio tuition trust authority shall consist of eleven members, no more than six of whom shall be of the same political party. Six members shall be appointed by the governor with the advice and consent of the senate as follows: one shall represent state institutions of higher education, one shall represent private nonprofit colleges and universities located in Ohio,

one shall have experience in the field of marketing or public relations, one shall have experience in the field of information systems design or management, and two shall have experience in the field of banking, investment banking, insurance, or law. Four members shall be appointed by the speaker of the house of representatives and the president of the senate as follows: the speaker of the house of representatives shall appoint one member of the house from each political party and the president of the senate shall appoint one member of the senate from each political party. The chancellor of the board of regents shall be an ex officio voting member; provided, however, that the chancellor may designate a vice-chancellor of the board of regents to serve as the chancellor's representative. The political party of the chancellor shall be deemed the political party of the designee for purposes of determining that no more than six members are of the same political party.

Initial gubernatorial appointees to the authority shall serve staggered terms, with two terms expiring on January 31, 1991, one term expiring on January 31, 1992, and one term expiring on January 31, 1993. The governor shall appoint two additional members to the authority no later than thirty days after ~~the effective date of this amendment~~ March 30, 1999, and their initial terms shall expire January 31, 2002. Thereafter, terms of office for gubernatorial appointees shall be for four years. The initial terms of the four legislative members shall expire on January 31, 1991. Thereafter legislative members shall serve two-year terms, provided that legislative members may continue to serve on the authority only if they remain members of the general assembly. Any vacancy on the authority shall be filled in the same manner as the original appointment, except that any person appointed to fill a vacancy shall be appointed to the remainder of the unexpired term. Any member is eligible for reappointment.

(C) Any member may be removed by the appointing authority for misfeasance, malfeasance, or willful neglect of duty or for other cause after notice and a public hearing, unless the notice and hearing are waived in writing by the member. Members shall serve without compensation but shall receive their reasonable and necessary expenses incurred in the conduct of authority business.

(D) The speaker of the house of representatives and the president of the senate shall each designate a member of the authority to serve as co-chairpersons. The six gubernatorial appointees and the chancellor of the board of regents or the chancellor's designee shall serve as the executive committee of the authority, and shall elect an executive chairperson from among the executive committee members. The authority and the executive

committee may elect such other officers as determined by the authority or the executive committee respectively. The authority shall meet at least annually at the call of either co-chairperson and at such other times as either co-chairperson or the authority determines necessary. In the absence of both co-chairpersons, the executive chairperson shall serve as the presiding officer of the authority. The executive committee shall meet at the call of the executive chairperson or as the executive committee determines necessary. The authority may delegate to the executive committee such duties and responsibilities as the authority determines appropriate, except that the authority may not delegate to the executive committee the final determination of the annual price of a tuition ~~credit~~ unit, the final designation of bonds as college savings bonds, or the employment of an executive director of the authority. Upon such delegation, the executive committee shall have the authority to act pursuant to such delegation without further approval or action by the authority. A majority of the authority shall constitute a quorum of the authority, and the affirmative vote of a majority of the members present shall be necessary for any action taken by the authority. A majority of the executive committee shall constitute a quorum of the executive committee, and the affirmative vote of a majority of the members present shall be necessary for any action taken by the executive committee. No vacancy in the membership of the authority or the executive committee shall impair the rights of a quorum to exercise all rights and perform all duties of the authority or the executive committee respectively.

Sec. 3334.07. (A) The Ohio tuition trust authority shall develop a plan for the sale of tuition ~~credits~~ units. The Ohio board of regents shall cooperate with the authority and provide technical assistance upon request.

(B) Annually, the authority shall determine the weighted average tuition of four-year state universities in the academic year that begins on or after the first day of August of the current calendar year, and shall establish the price of a tuition ~~credit~~ unit in the ensuing sales period. Such price shall be based on sound actuarial principles, and shall, to the extent actuarially possible, reasonably approximate one per cent of the weighted average tuition for that academic year plus the costs of administering the ~~tuition credit~~ program that are in excess of general revenue fund appropriations for administrative costs. The sales period to which such price applies shall consist of twelve months, and the authority by rule shall establish the date on which the sales period begins. If circumstances arise during a sales period that the authority determines causes the price of tuition ~~credits~~ units to be insufficient to ensure the actuarial soundness of the Ohio tuition trust fund, the authority

may adjust the price of tuition ~~credits~~ units purchased during the remainder of the sales period. To promote the purchase of tuition ~~credits~~ units and in accordance with actuarially sound principles, the authority may adjust the sales price as part of incentive programs, such as discounting for ~~lump-sum~~ lump sum purchases and multi-year installment plans at a fixed rate of purchase.

Sec. 3334.08. (A) Subject to division (B) of this section, in addition to any other powers conferred by this chapter, the Ohio tuition trust authority may do any of the following:

(1) Impose reasonable residency requirements for beneficiaries of tuition ~~credits~~ units;

(2) Impose reasonable limits on the number of tuition ~~credit~~ unit participants;

(3) Impose and collect administrative fees and charges in connection with any transaction under this chapter;

(4) Purchase insurance from insurers licensed to do business in this state providing for coverage against any loss in connection with the authority's property, assets, or activities or to further ensure the value of tuition ~~credits~~ units;

(5) Indemnify or purchase policies of insurance on behalf of members, officers, and employees of the authority from insurers licensed to do business in this state providing for coverage for any liability incurred in connection with any civil action, demand, or claim against a director, officer, or employee by reason of an act or omission by the director, officer, or employee that was not manifestly outside the scope of the employment or official duties of the director, officer, or employee or with malicious purpose, in bad faith, or in a wanton or reckless manner;

(6) Make, execute, and deliver contracts, conveyances, and other instruments necessary to the exercise and discharge of the powers and duties of the authority;

(7) Promote, advertise, and publicize the Ohio college savings program and the variable college savings program;

(8) Adopt rules under section 111.15 of the Revised Code for the implementation of the Ohio college savings program;

(9) Contract, for the provision of all or part of the services necessary for the management and operation of the Ohio college savings program and the variable college savings program, with a bank, trust company, savings and loan association, insurance company, or licensed dealer in securities if the bank, company, association, or dealer is authorized to do business in this state and information about the contract is filed with the controlling board

pursuant to division (D)(6) of section 127.16 of the Revised Code;

(10) Contract for other services, or for goods, needed by the authority in the conduct of its business, including but not limited to credit card services;

(11) Employ an executive director and other personnel as necessary to carry out its responsibilities under this chapter, and fix the compensation of these persons. All employees of the authority shall be in the unclassified civil service and shall be eligible for membership in the public employees retirement system.

(12) Contract with financial consultants, actuaries, auditors, and other consultants as necessary to carry out its responsibilities under this chapter;

(13) Enter into agreements with any agency of the state or its political subdivisions or with private employers under which an employee may agree to have a designated amount deducted in each payroll period from the wages or salary due the employee for the purpose of purchasing tuition ~~credits~~ units pursuant to a tuition payment contract or making contributions pursuant to a variable college savings program contract;

(14) Enter into an agreement with the treasurer of state under which the treasurer of state will receive, and credit to the Ohio tuition trust fund or variable college savings program fund, from any bank or savings and loan association authorized to do business in this state, amounts that a depositor of the bank or association authorizes the bank or association to withdraw periodically from the depositor's account for the purpose of purchasing tuition ~~credits~~ units pursuant to a tuition payment contract or making contributions pursuant to a variable college savings program contract;

(15) Solicit and accept gifts, grants, and loans from any person or governmental agency and participate in any governmental program;

(16) Impose limits on the number of ~~credits~~ units which may be purchased on behalf of or assigned or awarded to any beneficiary and on the total amount of contributions that may be made on behalf of a beneficiary;

(17) Impose restrictions on the substitution of another individual for the original beneficiary under the Ohio college savings program;

(18) Impose a limit on the age of a beneficiary, above which tuition ~~credits~~ units may not be purchased on behalf of that beneficiary;

(19) Enter into a cooperative agreement with the treasurer of state to provide for the direct disbursement of payments under tuition payment or variable college savings program contracts;

(20) Determine the other higher education expenses for which tuition ~~credits~~ units or contributions may be used;

(21) Terminate any tuition payment or variable college savings program contract if no purchases or contributions are made for a period of three years

or more and there are fewer than a total of five tuition units ~~or tuition credits~~ or less than a dollar amount set by rule on account, provided that notice of a possible termination shall be provided in advance, explaining any options to prevent termination, and a reasonable amount of time shall be provided within which to act to prevent a termination;

(22) Maintain a separate account for each tuition payment or variable college savings program contract;

(23) Perform all acts necessary and proper to carry out the duties and responsibilities of the authority pursuant to this chapter.

(B) The authority shall adopt rules under section 111.15 of the Revised Code for the implementation and administration of the variable college savings program. The rules shall provide taxpayers with the maximum tax advantages and flexibility consistent with section 529 of the Internal Revenue Code and regulations adopted thereunder with regard to disposition of contributions and earnings, designation of beneficiaries, and rollover of account assets to other programs.

(C) Except as otherwise specified in this chapter, the provisions of Chapters 123., 125., and 4117. of the Revised Code shall not apply to the authority. The department of administrative services shall, upon the request of the authority, act as the authority's agent for the purchase of equipment, supplies, insurance, or services, or the performance of administrative services pursuant to Chapter 125. of the Revised Code.

Sec. 3334.09. (A) Except in the case of a scholarship program established in accordance with section 3334.17 of the Revised Code, the Ohio tuition trust authority may enter into a tuition payment contract with any person for the purchase of tuition ~~credits~~ units if either the purchaser or the beneficiary is a resident of this state at the time the contract is entered into. A tuition payment contract shall allow any person to purchase tuition ~~credits~~ units at the price determined by the authority pursuant to section 3334.07 or 3334.12 of the Revised Code for the year in which the tuition ~~credit~~ unit is purchased. The purchaser shall name in the payment contract one specific individual as the beneficiary for the tuition ~~credits~~ units.

In accordance with rules of the authority, ~~credits~~ units may be transferred to the credit of another beneficiary and a new beneficiary may be substituted for the beneficiary originally named in the contract.

(B) Each tuition ~~credit~~ unit shall entitle the beneficiary to an amount equal to one per cent of the weighted average tuition.

(C) Nothing in this chapter or in any tuition payment contract entered into pursuant to this chapter shall be construed as a guarantee by the state, the authority, or any institution of higher education that a beneficiary will be

admitted to an institution of higher education, or, upon admission to an institution of higher education, will be permitted to continue to attend or will receive a degree from an institution of higher education. Nothing in this chapter or in any tuition payment contract entered into pursuant to this chapter shall be considered a guarantee that the beneficiary's cost of tuition at an institution of higher education other than a state institution of higher education will be covered in full by the proceeds of the beneficiary's tuition ~~credits~~ units.

(D) The following information shall be disclosed in writing to each purchaser of tuition ~~credits~~ units and, where appropriate, to each entity establishing a scholarship program under section 3334.17 of the Revised Code:

(1) The terms and conditions for the purchase and use of tuition ~~credits~~ units;

(2) In the case of a contract described by division (A) of this section, any restrictions on the substitution of another individual for the original beneficiary and any restrictions on the transfer of ownership of ~~credits~~ units in the payment account;

(3) The person or entity entitled to terminate the contract;

(4) The terms and conditions under which the contract may be terminated and the amount of the refund, if any, to which the person or entity terminating the contract, or that person's or entity's designee, is entitled upon termination;

(5) The obligation of the authority to make payments to a beneficiary, or an institution of higher education on behalf of a beneficiary, under division (B) of this section based upon the number of tuition ~~credits~~ units purchased on behalf of the beneficiary or awarded to the beneficiary pursuant to a scholarship program;

(6) The method by which tuition ~~credits~~ units shall be applied toward payment of tuition and other higher education expenses if in any academic term the beneficiary is a part-time student;

(7) The period of time during which a beneficiary may receive benefits under the contract;

(8) The terms and conditions under which money may be wholly or partially withdrawn from the program, including, but not limited to, any reasonable charges and fees that may be imposed for withdrawal;

(9) All other rights and obligations of the purchaser and the authority, including the provisions of division (A) of section 3334.12 of the Revised Code, and any other terms, conditions, and provisions the authority considers necessary and appropriate.

(E) A tuition payment contract may provide that the authority will pay directly to the institution of higher education in which a beneficiary is enrolled during a term the amount represented by the tuition ~~credits~~ units being used that term.

(F) A tuition payment contract described by division (A) of this section may provide that if the contract has not been terminated or ~~credits~~ units purchased under the contract have not been applied toward the payment of tuition or other higher education expenses within a specified period of time, the authority may, after making a reasonable effort to locate the purchaser of the tuition ~~credits~~ units, the beneficiary, and any person designated in the contract to act on behalf of the purchaser of the ~~credits~~ units or the beneficiary, terminate the contract and retain the amounts payable under the contract.

(G) If, at any time after tuition ~~credits~~ units are purchased on behalf of a beneficiary or awarded to a beneficiary or pursuant to a scholarship program, the beneficiary becomes a nonresident of this state, or, if the beneficiary was not a resident of this state at the time the tuition payment contract was entered into, the purchaser becomes a nonresident of this state, ~~credits~~ units purchased or awarded while the beneficiary was a resident may be applied on behalf of the beneficiary toward the payment of tuition at an institution of higher education and other higher education expenses in the manner specified in division (B) of this section, except that if the beneficiary enrolls in a state institution of higher education, the beneficiary shall be responsible for payment of all nonresident fees charged to out-of-state residents by the institution in which the beneficiary is enrolled.

Sec. 3334.10. Divisions (A)~~,~~ and (B)~~, (C), and (D)~~ of this section do not apply to scholarship programs established under section 3334.17 of the Revised Code.

(A) Unless otherwise provided for in the ~~contract, a~~ tuition payment contract ~~may be terminated by the purchaser under any of the following circumstances upon the written request of the purchaser to the authority:~~

~~(1) Upon the death or permanent disability of the beneficiary;~~

~~(2) Upon notification to the Ohio tuition trust authority in writing that the beneficiary is age eighteen or older, has decided not to attend an institution of higher education, and requests that the contract be terminated;~~

~~(3) Upon the beneficiary's completion of the degree requirements at an institution of higher education;~~

~~(4) Upon the rollover of all amounts in a tuition credit account to an equivalent account in another state;~~

~~(5) Upon the occurrence of other circumstances determined by the~~

~~authority to be grounds for termination.~~

~~(B) The authority shall determine the method and schedule for payment of refunds upon termination of a tuition payment contract.~~ , the purchaser may rollover amounts to another qualified tuition program under section 529 of the Internal Revenue Code or terminate the contract for any reason by filing written notice with the Ohio tuition trust authority.

(1) ~~In cases described by division (A)(2) or (3) of this section,~~ If the contract is terminated and the beneficiary is under eighteen years of age, the authority shall use actuarially sound principles to determine the amount of the refund ~~shall be equal to not less than one per cent of the weighted average tuition in the academic year the refund is paid, multiplied by the number of tuition credits purchased and not used, minus any reasonable charges and fees provided for by the authority, or such other lesser sum as shall be determined by the authority but only to the extent that such a lesser sum is necessary to meet the refund penalty requirements for qualified state tuition programs under section 529 of the Internal Revenue Code~~.

(2) ~~In cases described by division (A)(1) of this section~~ If the contract is terminated because of the death or permanent disability of the beneficiary, the amount of the refund shall be equal to the greater of the following:

(a) One per cent of the weighted average tuition in the academic year the refund is paid, multiplied by the number of tuition ~~credits~~ units purchased and not used;

(b) The total purchase price of all tuition ~~credits~~ units purchased for the beneficiary and not used.

(3) ~~In cases described by division (A)(5) of this section, the amount of the refund shall be either of the following as determined by the authority:~~

~~(a) The refund provided by division (B)(1) of this section;~~

~~(b) The refund provided by division (B)(2) of this section, or such other lesser sum as shall be determined by the authority but only to the extent that such a lesser sum is necessary to meet the refund penalty requirements for qualified state tuition programs under section 529 of the Internal Revenue Code~~ If all or part of the amount accrued under the contract is liquidated for a rollover to another qualified tuition program under section 529 of the Internal Revenue Code, the rollover amount shall be determined in an actuarially sound manner.

~~(C) Unless otherwise provided for in the contract, a~~ (B) The contributor of a variable college savings program account may ~~be terminated by~~ rollover amounts to another qualified tuition program under section 529 of the Internal Revenue Code or terminate the ~~contributor~~ account for any reason ~~upon the written request of the contributor to the authority. Termination of a~~

~~variable college savings program account shall occur no earlier than a maturity period set by the authority after the first contribution is made to the account.~~

~~(D) The authority shall determine the method and schedule for payment of refunds upon termination of a variable savings program account~~ by filing written notice with the Ohio tuition trust authority.

~~(1)~~ The contributor ~~under a variable savings program contract~~ may receive ~~a refund of the~~ an amount equal to the account balance ~~in an account~~, less any applicable administrative fees~~, if the account is terminated upon the death or permanent disability of the beneficiary or, to the extent allowed under rules of the authority, upon the rollover of all amounts in a variable college savings program account to an equivalent account in another state~~.

~~(2) If a variable college savings program account is terminated for any reason other than those set forth in division (D)(1) of this section, the contributor may receive a refund of the balance in the account, less any administrative fees, and less any additional amount necessary to meet the minimum refund penalty requirements for a qualified state tuition program under section 529 of the Internal Revenue Code.~~

~~(3) Earnings shall be calculated as the total value of the variable savings program account less the aggregate contributions, or in such other manner as prescribed by section 529 of the Internal Revenue Code.~~

~~(E) In the case of a~~ (C) A scholarship program~~,~~ may request a refund of tuition ~~credits~~ units in the program's account ~~may be made only for just cause with the approval of~~ by filing a written request with the authority. The refund shall be paid to the entity that established the scholarship program or, with that entity's approval, to the authority if this is authorized by federal tax law. The amount of any refund shall be determined by the authority and shall meet the requirements for refunds made on account of scholarships under section 529 of the Internal Revenue Code.

~~(F) If a beneficiary is awarded a scholarship other than under a scholarship program, a waiver of tuition, or similar subvention that the authority determines cannot be converted into money by the beneficiary, the authority shall, during each academic term that the beneficiary furnishes the authority such information about the scholarship, waiver, or similar subvention as the authority requires, refund to the person designated in the contract, or, in the case of a beneficiary under a scholarship program, to the beneficiary an amount equal to the value that the tuition credits or the amounts in the variable college savings program account that are not needed on account of the scholarship, waiver, or similar subvention would~~

~~otherwise have to the beneficiary that term at the institution of higher education where the beneficiary is enrolled. The authority may, at its sole option, designate the institution of higher education at which the beneficiary is enrolled as the agent of the authority for purposes of refunds pursuant to this division.~~

~~(G) If, in any academic term for which tuition credits or any amounts in a variable college savings program account have been used to pay all or part of a beneficiary's tuition, the beneficiary withdraws from the institution of higher education at which the beneficiary is enrolled prior to the end of the academic term, a pro rata share of any refund of tuition as a result of the withdrawal equal to that portion of the tuition paid with tuition credits or the amounts in a variable college savings program account shall be made to the authority, unless the authority designates a different procedure. The authority shall credit any refund received, less any reasonable charges and fees provided for by the authority, to the appropriate account established under division (F)(1) or (2) of section 3334.11 of the Revised Code or division (H) of this section.~~

~~(H)~~(D) The authority shall maintain a separate account for each variable college savings contract entered into pursuant to division (A) of section 3334.18 of the Revised Code for contributions made on behalf of a beneficiary, showing the name of the beneficiary of that contract and the amount of contributions made pursuant to that contract. Upon request of any beneficiary or contributor, the authority shall provide a statement indicating, in the case of a beneficiary, the amount of contributions made pursuant to that contract on behalf of the beneficiary, or, in the case of a contributor, contributions made, disbursed, or refunded pursuant to that contract.

Sec. 3334.11. (A) The assets of the Ohio tuition trust authority reserved for payment of the obligations of the authority pursuant to tuition payment contracts shall be placed in a fund, which is hereby created and shall be known as the Ohio tuition trust fund. The fund shall be in the custody of the treasurer of state, but shall not be part of the state treasury. That portion of payments received by the authority or the treasurer of state from persons purchasing tuition ~~credits~~ units under tuition payment contracts that the authority determines is actuarially necessary for the payment of obligations of the authority pursuant to tuition payment contracts, all interest and investment income earned by the fund, and all other receipts of the authority from any other source that the authority determines appropriate, shall be deposited in the fund. No purchaser or beneficiary of tuition ~~credits~~ units shall have any claim against the funds of any state institution of higher education. All investment fees and other costs incurred in connection with

the exercise of the investment powers of the authority pursuant to divisions (D) and (E) of this section shall be paid from the assets of the fund.

(B) Unless otherwise provided by the authority, the assets of the Ohio tuition trust fund shall be expended in the following order:

(1) To make payments to beneficiaries, or institutions of higher education on behalf of beneficiaries, under division (B) of section 3334.09 of the Revised Code;

(2) To make refunds as provided in divisions ~~(B), (E),~~(A) and ~~(F)~~(C) of section 3334.10 of the Revised Code;

(3) To pay the investment fees and other costs of administering the fund.

(C)(1) Except as may be provided in an agreement under division (A)(19) of section 3334.08 of the Revised Code, all disbursements from the Ohio tuition trust fund shall be made by the treasurer of state on order of a designee of the authority.

(2) The treasurer of state shall deposit any portion of the Ohio tuition trust fund not needed for immediate use in the same manner as state funds are deposited.

(D) The authority is the trustee of the Ohio tuition trust fund. The authority shall have full power to invest the assets of the fund and in exercising this power shall be subject to the limitations and requirements contained in divisions (K) to (M) of this section and sections 145.112 and 145.113 of the Revised Code. The evidences of title of all investments shall be delivered to the treasurer of state or to a qualified trustee designated by the treasurer of state as provided in section 135.18 of the Revised Code. Assets of the fund shall be administered by the authority in a manner designed to be actuarially sound so that the assets of the fund will be sufficient to satisfy the obligations of the authority pursuant to tuition payment contracts and defray the reasonable expenses of administering the fund.

(E) The public employees retirement board shall, with the approval of the authority, exercise the investment powers of the authority as set forth in division (D) of this section until the authority determines that assumption and exercise by the authority of the investment powers is financially and administratively feasible. The investment powers shall be exercised by the public employees retirement board in a manner agreed upon by the authority that maximizes the return on investment and minimizes the administrative expenses.

(F)(1) The authority shall maintain a separate account for each tuition payment contract entered into pursuant to division (A) of section 3334.09 of the Revised Code for the purchase of tuition ~~credits~~ units on behalf of a

beneficiary or beneficiaries showing the beneficiary or beneficiaries of that contract and the number of tuition ~~credits~~ units purchased pursuant to that contract. Upon request of any beneficiary or person who has entered into a tuition payment contract, the authority shall provide a statement indicating, in the case of a beneficiary, the number of tuition ~~credits~~ units purchased on behalf of the beneficiary, or in the case of a person who has entered into a tuition payment contract, the number of tuition ~~credits~~ units purchased, used, or refunded pursuant to that contract. A beneficiary and person that have entered into a tuition payment contract each may file only one request under this division in any year.

(2) The authority shall maintain an account for each scholarship program showing the number of tuition ~~credits~~ units that have been purchased for or donated to the program and the number of tuition ~~credits~~ units that have been used. Upon the request of the entity that established the scholarship program, the authority shall provide a statement indicating these numbers.

(G) In addition to the Ohio tuition trust fund, there is hereby established a reserve fund that shall be in the custody of the treasurer of state but shall not be part of the state treasury, and shall be known as the Ohio tuition trust reserve fund, and an operating fund that shall be part of the state treasury, and shall be known as the Ohio tuition trust operating fund. That portion of payments received by the authority or the treasurer of state from persons purchasing tuition ~~credits~~ units under tuition payment contracts that the authority determines is not actuarially necessary for the payment of obligations of the authority pursuant to tuition payment contracts, any interest and investment income earned by the reserve fund, any administrative charges and fees imposed by the authority on transactions under this chapter or on purchasers or beneficiaries of tuition ~~credits~~ units, and all other receipts from any other source that the authority determines appropriate, shall be deposited in the reserve fund to pay the operating expenses of the authority and the costs of administering the program. The assets of the reserve fund may be invested in the same manner and subject to the same limitations set forth in divisions (D), (E), and (K) to (M) of this section and sections 145.112 and 145.113 of the Revised Code. All investment fees and other costs incurred in connection with the exercise of the investment powers shall be paid from the assets of the reserve fund. Except as otherwise provided for in this chapter, all operating expenses of the authority and costs of administering the program shall be paid from the operating fund. The treasurer shall, upon request of the authority, transfer funds from the reserve fund to the operating fund as the authority

determines appropriate to pay those current operating expenses of the authority and costs of administering the program as the authority designates. Any interest or investment income earned on the assets of the operating fund shall be deposited in the operating fund.

(H) In January of each year the authority shall report to each person who received any payments or refunds from the authority during the preceding year information relative to the value of the payments or refunds to assist in determining that person's tax liability.

(I) The authority shall report to the tax commissioner any information, and at the times, as the tax commissioner requires to determine any tax liability that a person may have incurred during the preceding year as a result of having received any payments or refunds from the authority.

(J) All records of the authority indicating the identity of purchasers and beneficiaries of tuition ~~credits~~ units or college savings bonds, the number of tuition ~~credits~~ units purchased, used, or refunded under a tuition payment contract, and the number of college savings bonds purchased, held, or redeemed are not public records within the meaning of section 149.43 of the Revised Code.

(K) The authority and other fiduciaries shall discharge their duties with respect to the funds with care, skill, prudence, and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims; and by diversifying the investments of the assets of the funds so as to minimize the risk of large losses, unless under the circumstances it is clearly prudent not to do so.

To facilitate investment of the funds, the authority may establish a partnership, trust, limited liability company, corporation, including a corporation exempt from taxation under the Internal Revenue Code, 100 Stat. 2085, 26 U.S.C. 1, as amended, or any other legal entity authorized to transact business in this state.

(L) In exercising its fiduciary responsibility with respect to the investment of the assets of the funds, it shall be the intent of the authority to give consideration to investments that enhance the general welfare of the state and its citizens where the investments offer quality, return, and safety comparable to other investments currently available to the authority. In fulfilling this intent, equal consideration shall also be given to investments otherwise qualifying under this section that involve minority owned and controlled firms and firms owned and controlled by women, either alone or in joint venture with other firms.

The authority shall adopt, in regular meeting, policies, objectives, or

criteria for the operation of the investment program that include asset allocation targets and ranges, risk factors, asset class benchmarks, time horizons, total return objectives, and performance evaluation guidelines. In adopting policies and criteria for the selection of agents with whom the authority may contract for the administration of the assets of the funds, the authority shall give equal consideration to minority owned and controlled firms, firms owned and controlled by women, and ventures involving minority owned and controlled firms and firms owned and controlled by women that otherwise meet the policies and criteria established by the authority. Amendments and additions to the policies and criteria shall be adopted in regular meeting. The authority shall publish its policies, objectives, and criteria under this provision no less often than annually and shall make copies available to interested parties.

When reporting on the performance of investments, the authority shall comply with the performance presentation standards established by the association for investment management and research.

(M) All investments shall be purchased at current market prices and the evidences of title of the investments shall be placed in the hands of the treasurer of state, who is hereby designated as custodian thereof, or in the hands of the treasurer of state's authorized agent. The treasurer of state or the agent shall collect the principal, dividends, distributions, and interest thereon as they become due and payable and place them when so collected into the custodial funds.

The treasurer of state shall pay for investments purchased by the authority on receipt of written or electronic instructions from the authority or the authority's designated agent authorizing the purchase and pending receipt of the evidence of title of the investment by the treasurer of state or the treasurer of state's authorized agent. The authority may sell investments held by the authority, and the treasurer of state or the treasurer of state's authorized agent shall accept payment from the purchaser and deliver evidence of title of the investment to the purchaser on receipt of written or electronic instructions from the authority or the authority's designated agent authorizing the sale, and pending receipt of the moneys for the investments. The amount received shall be placed in the custodial funds. The authority and the treasurer of state may enter into agreements to establish procedures for the purchase and sale of investments under this division and the custody of the investments.

No purchase or sale of any investment shall be made under this section except as authorized by the authority.

Any statement of financial position distributed by the authority shall

include fair value, as of the statement date, of all investments held by the authority under this section.

Sec. 3334.12. Notwithstanding anything to the contrary in sections 3334.07 and 3334.09 of the Revised Code:

(A) Annually, the Ohio tuition trust authority shall have the actuarial soundness of the Ohio tuition trust fund evaluated by a nationally recognized actuary and shall determine whether additional assets are necessary to defray the obligations of the authority. If, after the authority sets the price for tuition ~~credits~~ units, circumstances arise that the executive director determines necessitate an additional evaluation of the actuarial soundness of the fund, the executive director shall have a nationally recognized actuary conduct the necessary evaluation. If the assets of the fund are insufficient to ensure the actuarial soundness of the fund, the authority shall adjust the price of subsequent purchases of tuition ~~credits~~ units to the extent necessary to help restore the actuarial soundness of the fund. If, at any time, the adjustment is likely, in the opinion of the authority, to diminish the marketability of tuition ~~credits~~ units to an extent that the continued sale of the ~~credits~~ units likely would not restore the actuarial soundness of the fund and external economic factors continue to negatively impact the soundness of the program, the authority may suspend sales, either permanently or temporarily, of tuition ~~credits~~ units. During any suspension, the authority shall continue to service existing college savings program accounts.

(B) Upon termination of the program or liquidation of the Ohio tuition trust fund, the Ohio tuition trust reserve fund, and the Ohio tuition trust operating fund, any remaining assets of the funds after all obligations of the funds have been satisfied pursuant to division (B) of section 3334.11 of the Revised Code shall be transferred to the general revenue fund of the state.

(C) The authority shall prepare and cause to have audited an annual financial report on all financial activity of the Ohio tuition trust authority within ninety days of the end of the fiscal year. The authority shall transmit a copy of the audited financial report to the governor, the president of the senate, the speaker of the house of representatives, and the minority leaders of the senate and the house of representatives. Copies of the audited financial report also shall be made available, upon request, to the persons entering into contracts with the authority and to prospective purchasers of tuition ~~credits~~ units and prospective contributors to variable college savings program accounts.

Sec. 3334.15. (A) The right of a person to a tuition ~~credit~~ unit or a payment under section 3334.09 of the Revised Code pursuant to a tuition

~~credit~~ payment contract, a scholarship program, or a variable college savings program account shall not be subject to execution, garnishment, attachment, the operation of bankruptcy or the insolvency laws, or other process of law.

(B) The right of a person to a tuition ~~credit~~ unit or a payment under section 3334.09 of the Revised Code pursuant to a tuition ~~credit~~ payment contract, a scholarship program, or a variable college savings program account shall not be used as security or collateral for a loan.

Sec. 3334.16. The general assembly hereby finds that the prepaid tuition program providing for the sale of tuition credits units by the Ohio tuition trust authority is an official state function, offered through an agency of this state, which agency receives state appropriations. Therefore, the authority is directed by the state of Ohio to assume it is exempt from federal tax liability.

Sec. 3334.17. (A) The state, any political subdivision of the state, and any organization that is exempt from federal income taxation under section 501 (a) and described in section 501 (c)(3) of the Internal Revenue Code, including the Ohio tuition trust authority if this is authorized under federal tax law, may establish a scholarship program to award scholarships consisting of contributions made to any college savings program for students. Any scholarship program established under this section shall be registered with the authority. The authority shall be notified of the name and address of each scholarship beneficiary under the program, the amounts awarded, and the institution of higher education in which the beneficiary is enrolled. Scholarship beneficiaries shall be selected by the entity establishing the scholarship program, in accordance with criteria established by the entity.

(B) Any person or governmental entity may purchase tuition ~~credits~~ units on behalf of a scholarship program that is or is to be established in accordance with division (A) of this section at the same price as is established for the purchase of ~~credits~~ units for named beneficiaries pursuant to this chapter. Tuition ~~credits~~ units shall have the same value to the beneficiary of a scholarship awarded pursuant to this section as they would have to any other beneficiary pursuant to division (B) of section 3334.09 of the Revised Code.

(C) The entity establishing and maintaining a scholarship program shall specify whether a scholarship beneficiary may receive a refund or payment for the amount awarded under the scholarship program directly from the authority, or whether the amount awarded shall be paid by the authority only to the institution of higher education in which the student is enrolled.

(D) If a scholarship beneficiary does not use the amount awarded within

a length of time specified under the scholarship program, the amount may be awarded to another beneficiary.

Sec. 3334.18. (A) A variable college savings program established by the Ohio tuition trust authority shall include provisions for a contract to be entered into between a contributor and the authority that will authorize the contributor to open an account for a beneficiary and authorize the contributor to substitute a new beneficiary for one originally named in the contract, to the extent permitted by section 529 of the Internal Revenue Code.

(B) The authority shall provide adequate safeguards to prevent total contributions to a variable college savings program account or purchases of tuition ~~credits~~ units, either separately or combined, that are made on behalf of a beneficiary from exceeding the amount necessary to provide for the tuition and other higher education expenses of the beneficiary, consistent with the maximum contributions permitted by section 529 of the Internal Revenue Code. However, in no event shall contributions or purchases exceed the allowable limit for a qualified ~~state~~ tuition program under section 529 of the Internal Revenue Code.

(C)(1) Participation in the variable college savings program does not guarantee that contributions and the investment return on contributions, if any, will be adequate to cover future tuition and other higher education expenses or that a beneficiary will be admitted to or permitted to continue to attend an institution of higher education.

(2) Returns on contributors' investments in the variable college savings program are not guaranteed by the state and the contributors to the variable college savings program assume all investment risk, including the potential loss of principal and liability for penalties such as those levied for noneducational withdrawals.

(3) The state shall have no debt or obligation to any contributor, beneficiary, or any other person as a result of the establishment of the program, and the state assumes no risk or liability for funds invested in the variable college savings program.

(4) Informational materials about the variable college savings program prepared by the authority or its agents and provided to prospective contributors shall state clearly the information set forth in division (C) of this section.

Sec. 3334.19. (A) The Ohio tuition trust authority shall adopt an investment plan that sets forth investment policies and guidelines to be utilized in administering the variable college savings program. Except as provided in section 3334.20 of the Revised Code, the authority shall contract

with one or more insurance companies, banks, or other financial institutions to act as its investment agents and to provide such services as the authority considers appropriate to the investment plan, including:

(1) Purchase, control, and safekeeping of assets;

(2) Record keeping and accounting for individual accounts and for the program as a whole;

(3) Provision of consolidated statements of account.

(B) The authority or its investment agents shall maintain a separate account for the beneficiary of each contract entered into under the variable college savings program. If a beneficiary has more than one such account, the authority or its agents shall track total contributions and earnings and provide a consolidated system of account distributions to institutions of higher education.

(C) The authority or its investment agents may place assets of the program in savings accounts and may purchase fixed or variable life insurance or annuity contracts, securities, evidence of indebtedness, or other investment products pursuant to the investment plan.

(D) Contributors shall not direct the investment of their contributions under the investment plan. The authority shall impose other limits on contributors' investment discretion to the extent required under section 529 of the Internal Revenue Code.

(E) The investment agents with which the authority contracts shall discharge their duties with respect to program funds with the care and diligence that a prudent person familiar with such matters and with the character and aims of the program would use.

(F) The assets of the program shall be preserved, invested, and expended solely for the purposes of this chapter and shall not be loaned or otherwise transferred or used by the state for any other purpose. This section shall not be construed to prohibit the investment agents of the authority from investing, by purchase or otherwise, in bonds, notes, or other obligations of the state or any agency or instrumentality of the state. Unless otherwise specified by the authority, assets of the program shall be expended in the following order of priority:

(1) To make payments on behalf of beneficiaries;

(2) To make refunds upon termination of variable college savings program contracts;

(3) To pay the authority's costs of administering the program;

(4) To pay or cover any other expenditure or disbursement the authority determines necessary or appropriate.

(G) Fees, charges, and other costs imposed or collected by the authority

in connection with the variable college savings program, including any fees or other payments that the authority requires an investment agent to pay to the authority, shall be credited to either the variable operating fund or the index operating fund at the discretion of the authority. ~~The fund shall be~~ These funds are hereby created in the ~~custody of the treasurer of state, but shall not be part of the~~ state treasury. Expenses incurred in the administration of the variable college savings program, as well as other expenses, disbursements, or payments the authority considers appropriate for the benefit of any college savings programs administered by the authority, the state of Ohio and its citizens, shall be paid from the variable operating fund or the index operating fund at the discretion of the authority.

(H) No records of the authority indicating the identity of purchasers, contributors, and beneficiaries under the program or amounts contributed to, earned by, or distributed from program accounts are public records within the meaning of section 149.43 of the Revised Code.

Sec. 3335.02. (A) The government of the Ohio state university shall be vested in a board of ~~eleven~~ fourteen trustees in 2005, and seventeen trustees beginning in 2006, who shall be appointed by the governor, with the advice and consent of the senate. Two of the ~~eleven~~ seventeen trustees shall be students at the Ohio state university, and their selection and terms shall be in accordance with division (B) of this section. Except as provided in division (C) of this section and except for the terms of student members, terms of office shall be for nine years, commencing on the fourteenth day of May and ending on the thirteenth day of May. Each trustee shall hold office from the date of appointment until the end of the term for which the trustee was appointed. Any trustee appointed to fill a vacancy occurring prior to the expiration of the term for which the trustee's predecessor was appointed shall hold office for the remainder of such term. Any trustee shall continue in office subsequent to the expiration date of the trustee's term until the trustee's successor takes office, or until a period of sixty days has elapsed, whichever occurs first. No person who has served a full nine-year term or more than six years of such a term shall be eligible for reappointment until a period of four years has elapsed since the last day of the term for which the person previously served. The trustees shall not receive compensation for their services, but shall be paid their reasonable necessary expenses while engaged in the discharge of their official duties.

(B) The student members of the board of trustees of the Ohio state university have no voting power on the board. Student members shall not be considered as members of the board in determining whether a quorum is present. Student members shall not be entitled to attend executive sessions

of the board. The student members of the board shall be appointed by the governor, with the advice and consent of the senate, from a group of five candidates selected pursuant to a procedure adopted by the university's student governments and approved by the university's board of trustees. The initial term of office of one of the student members shall commence on May 14, 1988 and shall expire on May 13, 1989, and the initial term of office of the other student member shall commence on May 14, 1988 and expire on May 13, 1990. Thereafter, terms of office of student members shall be for two years, each term ending on the same day of the same month of the year as the term it succeeds. In the event a student member cannot fulfill a two-year term, a replacement shall be selected to fill the unexpired term in the same manner used to make the original selection.

(C)(1) The initial terms of office for the three additional trustees appointed in 2005 shall commence on a date in 2005 that is selected by the governor with one term of office expiring on May 13, 2009, one term of office expiring on May 13, 2010, and one term of office expiring on May 13, 2011, as designated by the governor upon appointment. Thereafter terms of office shall be for nine years, as provided in division (A) of this section.

(2) The initial terms of office for the three additional trustees appointed in 2006 shall commence on May 14, 2006, with one term of office expiring on May 13, 2012, one term of office expiring on May 13, 2013, and one term of office expiring on May 13, 2014, as designated by the governor upon appointment. Thereafter terms of office shall be for nine years, as provided in division (A) of this section.

Sec. 3345.10. (A) As used in this section~~:~~

~~(A),~~ "~~Institution~~ state institution of higher education" ~~means a state university, municipal university, state medical college, community college, technical college, or state community college~~ has the same meaning as in section 3345.011 of the Revised Code.

(B) Each state institution of higher education shall establish competitive bidding procedures for the purchase of printed material and shall award all ~~such~~ contracts for the purchase of printed material in accordance with ~~such~~ those procedures. ~~Notwithstanding any other provision of law,~~ The procedures shall require the institution to evaluate all bids received for all contracts for the purchase of printed material ~~shall be let by an institution to vendors who have manufacturing facilities within this state, except as provided in division (C) of this section.~~

~~(C) If the required printed products are not available from a vendor who has manufacturing facilities within this state, the institution shall be permitted to purchase from an out-of-state vendor.~~

~~(D) No vendor with manufacturing facilities within this state who would execute the printing covered by the proposal shall be prohibited from submitting a proposal for consideration and any such proposal properly submitted shall be considered~~ in accordance with the criteria and procedures established pursuant to divisions (C)(1) and (2) of section 125.09 of the Revised Code for determining whether bidders will produce the printed material at manufacturing facilities within this state or in accordance with the criteria and procedures established pursuant to division (C)(4) or (5) of that section for determining whether bidders are otherwise qualified.

An institution shall select, in accordance with the procedures it establishes under this section, a bid from among bidders that fulfill the criteria specified in the applicable divisions of section 125.09 of the Revised Code where sufficient competition can be generated within this state to ensure that compliance with this requirement will not result in paying an excessive price or acquiring a disproportionately inferior product. If there are two or more bids from among those bidders, it shall be deemed that there is sufficient competition to prevent paying an excessive price or acquiring a disproportionately inferior product.

Sec. 3345.19. In the exercise of their respective powers of government conferred by Chapter 3345. of the Revised Code and other pertinent provisions of law, the boards of trustees of Bowling Green state university, Kent state university, Miami university, Ohio university, and the Ohio state university shall observe the following enrollment limitations insofar as the autumn quarter enrollment or any other quarter enrollment on a full-time ~~equivalent~~ basis as defined by the Ohio board of regents is concerned:

Bowling Green central campus	17,000
Kent central campus	22,000
Miami central campus	17,000
Ohio university central campus	22,000
The Ohio state central campus	42,000

Campus student housing facilities shall only be authorized by boards of trustees within these limitations.

Sec. 3345.32. (A) As used in this section:

(1) "State university or college" means the institutions described in section 3345.27 of the Revised Code, the northeastern Ohio universities college of medicine, and the medical university of Ohio at Toledo.

(2) "Resident" has the meaning specified by rule of the Ohio board of regents.

(3) "Statement of selective service status" means a statement certifying one of the following:

(a) That the individual filing the statement has registered with the selective service system in accordance with the "Military Selective Service Act," 62 Stat. 604, 50 U.S.C. App. 453, as amended;

(b) That the individual filing the statement is not required to register with the selective service for one of the following reasons:

(i) The individual is under eighteen or over twenty-six years of age;

(ii) The individual is on active duty with the armed forces of the United States other than for training in a reserve or national guard unit;

(iii) The individual is a nonimmigrant alien lawfully in the United States in accordance with section 101 (a)(15) of the "Immigration and Nationality Act," 8 U.S.C. 1101, as amended;

(iv) The individual is not a citizen of the United States and is a permanent resident of the Trust Territory of the Pacific Islands or the Northern Mariana Islands.

(4) "Institution of higher education" means any eligible institution approved by the United States department of education pursuant to the "Higher Education Act of 1965," 79 Stat. 1219, as amended, or any institution whose students are eligible for financial assistance under any of the programs described by division (E) of this section.

(B) The Ohio board of regents shall, by rule, specify the form of statements of selective service status to be filed in compliance with divisions (C) to (F) of this section. Each statement of selective service status shall contain a section wherein a male student born after December 31, 1959, certifies that the student has registered with the selective service system in accordance with the "Military Selective Service Act," 62 Stat. 604, 50 U.S.C. App. 453, as amended. For those students not required to register with the selective service, as specified in divisions (A)(2)(b)(i) to (iv) of this section, a section shall be provided on the statement of selective service status for the certification of nonregistration and for an explanation of the reason for the exemption. The board of regents may require that such statements be accompanied by documentation specified by rule of the board.

(C) A state university or college that enrolls in any course, class, or program a male student born after December 31, 1959, who has not filed a statement of selective service status with the university or college shall, regardless of the student's residency, charge the student any tuition surcharge charged students who are not residents of this state.

(D) No male born after December 31, 1959, shall be eligible to receive any loan, grant, scholarship, or other financial assistance for educational expenses under section 3315.33, 3333.12, 3333.122, 3333.21, 3333.22, 3333.26, 3333.27, 5910.03, 5910.032, or 5919.34 of the Revised Code

unless that person has filed a statement of selective service status with that person's institution of higher education.

(E) If an institution of higher education receives a statement from an individual certifying that the individual has registered with the selective service system in accordance with the "Military Selective Service Act," 62 Stat. 604, 50 U.S.C. App. 453, as amended or that the individual is exempt from registration for a reason other than that the individual is under eighteen years of age, the institution shall not require the individual to file any further statements. If it receives a statement certifying that the individual is not required to register because the individual is under eighteen years of age, the institution shall require the individual to file a new statement of selective service status each time the individual seeks to enroll for a new academic term or makes application for a new loan or loan guarantee or for any form of financial assistance for educational expenses, until it receives a statement certifying that the individual has registered with the selective service system or is exempt from registration for a reason other than that the individual is under eighteen years of age.

Sec. 3353.01. As used in ~~sections 3353.01 to 3353.05 of the Revised Code~~ this chapter:

(A) "Educational television or radio" means television or radio programs which serve the educational needs of the community and which meet the requirements of the federal communications commission for noncommercial educational television or radio.

(B) "Educational telecommunications network" means a system of connected educational television, radio, or radio reading service facilities and coordinated programs established and operated or controlled by the eTech Ohio ~~educational telecommunications network~~ commission, pursuant to ~~sections 3353.01 to 3353.04 of the Revised Code~~ this chapter.

(C) "Transmission" means the sending out of television, radio, or radio reading service programs, either directly to the public, or to broadcasting stations or services for simultaneous broadcast or rebroadcast.

(D) "Transmission facilities" means structures, equipment, material, and services used in the transmission of educational television, radio, or radio reading service programs.

(E) "Interconnection facilities" means the equipment, material, and services used to link one location to another location or to several locations by means of telephone line, coaxial cable, microwave relays, or other available technologies.

(F) "Broadcasting station" means a properly licensed noncommercial educational television or radio station, appropriately staffed and equipped to

produce programs or lessons and to broadcast programs.

(G) ~~"Production center" means a television, radio, or radio reading service production studio, staffed and equipped with equipment, material, and supplies necessary to produce a program or a lesson for broadcast or for recording on film, video tape, or audio tape.~~

~~(H)~~ "Radio reading service" means a nonprofit organization that disseminates news and other information to blind and physically handicapped persons.

(H) "Affiliate" means an educational telecommunication entity, including a television or radio broadcasting station or radio reading service.

Sec. 3353.02. (A) There is hereby created the eTech Ohio commission as an independent agency to advance education and accelerate the learning of the citizens of this state through technology. The commission shall provide leadership and support in extending the knowledge of the citizens of this state by promoting access to and use of all forms of educational technology, including educational television and radio, radio reading services, broadband networks, videotapes, compact discs, digital video on demand (DVD), and the internet. The commission also shall administer programs to provide financial and other assistance to school districts and other educational institutions for the acquisition and utilization of educational technology.

The commission is a body corporate and politic, an agency of the state performing essential governmental functions of the state.

(B) The commission shall consist of thirteen members, nine of whom shall be voting members. Six of the voting members shall be representatives of the public. Of the representatives of the public, four shall be appointed by the governor with the advice and consent of the senate, one shall be appointed by the speaker of the house of representatives, and one shall be appointed by the president of the senate. The superintendent of public instruction or a designee of the superintendent, the chancellor of the Ohio board of regents or a designee of the chancellor, and the director of administrative services or a designee of the director shall be ex officio voting members. Of the nonvoting members, two shall be members of the house of representatives appointed by the speaker of the house of representatives and two shall be members of the senate appointed by the president of the senate. The members appointed from each chamber shall not be members of the same political party.

(C) Initial terms of office for members appointed by the governor shall be one year for one member, two years for one member, three years for one member, and four years for one member. At the first meeting of the

commission, members appointed by the governor shall draw lots to determine the length of the term each member will serve. Thereafter, terms of office for members appointed by the governor shall be for four years. Terms of office for voting members appointed by the speaker of the house of representatives and the president of the senate shall be for four years. Any member who is a representative of the public may be reappointed by the member's respective appointing authority, but no such member may serve more than two consecutive four-year terms. Such a member may be removed by the member's respective appointing authority for cause.

Any legislative member appointed by the speaker of the house of representatives or the president of the senate who ceases to be a member of the legislative chamber from which the member was appointed shall cease to be a member of the commission. The speaker of the house of representatives and the president of the senate may remove their respective appointments to the commission at any time.

(D) Vacancies among appointed members shall be filled in the manner provided for original appointments. Any member appointed to fill a vacancy occurring prior to the expiration of the term for which the member's predecessor was appointed shall hold office for the remainder of that term. Any appointed member shall continue in office subsequent to the expiration of that member's term until the member's successor takes office or until a period of sixty days has elapsed, whichever occurs first.

(E) Members of the commission shall serve without compensation. The members who are representatives of the public shall be reimbursed, pursuant to office of budget and management guidelines, for actual and necessary expenses incurred in the performance of official duties.

(F) The governor shall appoint the chairperson of the commission from among the commission's voting members. The chairperson shall serve a term of two years and may be reappointed. The commission shall elect other officers as necessary from among its voting members and shall prescribe its rules of procedure.

(G) The commission shall establish advisory groups as needed to address topics of interest and to provide guidance to the commission regarding educational technology issues and the technology needs of educators, learners, and the public. Members of each advisory group shall be appointed by the commission and shall include representatives of individuals or organizations with an interest in the topic addressed by the advisory group.

Sec. 3353.03. (A) The eTech Ohio commission shall appoint an executive director, who shall serve at the pleasure of the commission. The

executive director shall have no authority other than that provided by law or delegated to the executive director by the commission. The executive director shall do all of the following:

(1) Direct commission employees in the administration of all programs of the commission;

(2) Provide leadership and support in extending the knowledge of the citizens of this state by promoting equal access to and use of all forms of educational technology, as directed by the commission;

(3) Provide financial and other assistance to school districts and other educational institutions, affiliates, and, if approved by the commission, educational technology organizations for the acquisition and utilization of educational technology;

(4) Implement policies and directives issued by the commission;

(5) Perform other duties authorized by the commission.

(B) The commission shall fix the compensation of the executive director. The executive director shall employ and fix the compensation for such employees as necessary to facilitate the activities and purposes of the commission. The employees shall serve at the pleasure of the executive director.

(C) The employees of the commission shall be placed in the unclassified service.

(D)(1) Except as provided in division (D)(2) of this section, the employees of the commission shall be exempt from Chapter 4117. of the Revised Code and shall not be public employees as defined in section 4117.01 of the Revised Code.

(2) All employees of the commission who transferred to the commission from one of the commission's predecessor agencies upon the commission's creation and, when employed by the predecessor agency were included in a bargaining unit established under Chapter 4117. of the Revised Code, shall continue to be included in that bargaining unit, are public employees as defined in section 4117.01 of the Revised Code, and may collectively bargain with the commission in accordance with that chapter. Otherwise, any employee hired by the commission after the effective date of this section, either to fill vacancies or to fill new positions, shall be exempt from Chapter 4117. of the Revised Code and shall not be public employees as defined in section 4117.10 of the Revised Code.

Sec. 3353.04. (A) The eTech Ohio ~~educational telecommunications network~~ commission may perform any act necessary to carry out the functions of this chapter, including any of the following:

~~(A)~~ (1) Make grants to institutions and other organizations as prescribed

by the general assembly for the provision of technical assistance, professional development, and other support services to enable school districts, community schools established under Chapter 3314. of the Revised Code, other educational institutions, and affiliates to utilize educational technology;

(2) Establish a reporting system for school districts, community schools, other educational institutions, affiliates, and educational technology organizations that receive financial assistance from the commission. The system may require the reporting of information regarding the manner in which the assistance was expended, the manner in which the equipment or services purchased with the assistance is being utilized, the results or outcome of the utilization, the manner in which the utilization is compatible with the statewide academic standards adopted by the state board of education pursuant to section 3301.079 of the Revised Code, and any other information determined by the commission.

(3) Ensure that, where appropriate, products produced by any entity to which the commission provides financial assistance for use in elementary and secondary education are aligned with the statewide academic standards adopted by the state board pursuant to section 3301.079 of the Revised Code;

(4) Promote accessibility to educational products aligned with the statewide academic standards, adopted by the state board pursuant to section 3301.079 of the Revised Code, for school districts, community schools, and other entities serving grades kindergarten through twelve;

(5) Own ~~and~~ or operate transmission facilities and interconnection facilities, or contract for transmission facilities and interconnection facilities, for an educational television, radio, or radio reading service network;

~~(B)~~(6) Establish standards for interconnection facilities used by the commission in the transmission of educational television, radio, or radio reading service programming ~~by the commission~~;

~~(C)~~ (7) Enter into agreements with noncommercial educational television or radio broadcasting stations or radio reading services for the ~~transmission to the broadcasting stations or services of identical programs for broadcasting either simultaneously or through the use of transcription discs, video tapes, film, or audio tapes~~ operation of the interconnection;

~~(D)~~(8) Enter into agreements with noncommercial educational television~~, radio,~~ or radio ~~reading service production centers and with~~ broadcasting stations ~~and~~ or radio reading services for the production and use of educational television, radio, or radio reading service programs to be

transmitted by the educational telecommunications network;

~~(E)~~(9) Execute contracts and other agreements necessary and desirable to carry out the purposes of ~~sections 3353.01 to 3353.04 of the Revised Code~~ this chapter and other duties prescribed to the commission by law or authorize the executive director of the commission to execute such contracts and agreements on the commission's behalf;

~~(F) Determine programs to be distributed through the Ohio educational telecommunications network;~~

~~(G)~~(10) Act as consultant with educational television and educational radio stations and radio reading services toward coordination within the state of the distribution of federal funds that may become available for ~~the development of~~ equipment for educational broadcasting or radio reading services;

~~(H)~~(11) Make payments to noncommercial Ohio educational television or radio broadcasting stations or radio reading services to sustain the operation of such stations or services~~, and may consign equipment to them in exchange for services rendered~~;

(12) In consultation with participants in programs administered by the commission, establish guidelines governing purchasing and procurement that facilitate the timely and effective implementation of such programs;

(13) In consultation with participants in programs administered by the commission, consider the efficiency and cost savings of statewide procurement prior to allocating and releasing funds for such programs;

(14) In consultation with participants in programs administered by the commission, establish a systems support network to facilitate the timely implementation of the programs and other projects and activities for which the commission provides assistance.

(B) Chapters 123., 124., 125., and 153. of the Revised Code and sections 9.331, 9.332, and 9.333 of the Revised Code do not apply to contracts, programs, projects, or activities of the commission.

Sec. 3353.06. (A) The affiliates services fund is hereby created in the state treasury. The eTech Ohio ~~educational telecommunications network~~ commission shall deposit any money it receives for services provided to affiliates to the credit of the fund, including:

(1) Reimbursements for services provided to stations;

(2) Charges levied for maintenance of telecommunications, broadcasting, or transmission equipment;

(3) Contract or grant payments from affiliates.

(B) The commission shall use money credited to the affiliates services fund for any commission operating purposes, including:

(1) The purchase, repair, or maintenance of telecommunications, broadcasting, or transmission equipment;

(2) The purchase or lease of educational programming;

(3) The purchase of tape and maintenance of a media library;

(4) Professional development programs and services;

(5) Administrative expenses ~~and legal fees~~.

Sec. 3353.07. (A) ~~As used in this section, "broadcasting station" has the same meaning as in section 3353.01 of the Revised Code.~~

~~(B)~~ Ohio government telecommunications shall be funded through the eTech Ohio ~~educational telecommunications network~~ commission and shall be managed by a broadcasting station under a contract. The contract shall not take effect until the program committee of Ohio government telecommunications approves the contract. The broadcasting station shall manage the staff of Ohio government telecommunications.

~~(C)~~(B)(1) There is hereby created the program committee of Ohio government telecommunications that shall consist of the president of the senate, speaker of the house of representatives, minority leader of the senate, and minority leader of the house of representatives, or their designees. By a vote of a majority of its members, the program committee may add additional members to the committee.

(2) The program committee shall adopt rules that govern the operation of Ohio government telecommunications and the coverage and distribution of official governmental activities by Ohio government telecommunications.

Sec. 3354.25. (A) The provisions of this section prevail over conflicting provisions of this chapter; however, except as provided in this section, the community college district and its board of trustees created by this section shall comply with the provisions of this chapter.

(B)(1) The territory of Warren county is hereby added to the territory of the community college district of Montgomery county, creating the Warren county Montgomery county community college district and replacing the former community college district of Montgomery county. The district created in this section may be known as and operate under the name of the Sinclair community college district.

(2) The community college district created by this section shall be divided into separate taxing subdistricts, one consisting of the territory of Warren county, and another consisting of the territory of Montgomery county.

Taxes for the benefit of the community college district shall be levied and the benefits from the revenues of those taxes shall be apportioned among the subdistricts only in accordance with this section.

(C) The board of trustees of the two-county community college district created by this section shall consist of eleven members.

(1) Nine members of the board of trustees shall be residents of Montgomery county. The initial Montgomery county members shall be the same members of the board of trustees of the former community college district of Montgomery county, as it existed prior to the effective date of this section, whose terms shall expire and whose successors shall be appointed as they would have otherwise under division (B) of section 3354.05 of the Revised Code.

(2) Two members of the board of trustees shall be residents of Warren county, one of whom shall be appointed by the board of county commissioners of Warren county, and one of whom shall be appointed by the governor with the advice and consent of the senate. Each of the initial appointments under division (C)(2) of this section shall be made within ninety days after the effective date of this section. At the time of the initial meeting of the trustees of the community college district created by this section, a drawing among the Warren county appointees shall be held to determine the initial term of each appointee, one trustee to serve for a term ending three years after the expiration date of the Montgomery county trustee's term that is the first to expire after the effective date of this section, and the other trustee to serve for a term ending five years after the expiration date of the Montgomery county trustee's term that is the first to expire after the effective date of this section. Thereafter, the successive terms of the Warren county members of the board of trustees shall be for five years, each term ending on the same day of the same month of the year as did the term which it succeeds. Each trustee shall hold office from the date of the trustee's appointment until the end of the term for which appointed. Any trustee appointed to fill a vacancy occurring prior to the expiration of the term for which the trustee's predecessor was appointed shall hold office for the remainder of that term. Any trustee shall continue in office subsequent to the expiration date of the trustee's term until the trustee's successor takes office, or until a period of sixty days has elapsed, whichever occurs first.

(D) The board of trustees of the community college district created by this section shall continue to comply with division (G) of section 3354.09 of the Revised Code, regarding tuition for students who are residents of Ohio but not of the district, and for students who are nonresidents of Ohio. The tuition rate shall be based on the student's county of residence and shall apply to all Sinclair community college classes in all Sinclair community college locations. Except as provided in division (G)(2) of this section, students who are residents of Warren county shall continue to be charged tuition at the

same rate as Ohio residents who are not residents of the district.

(E)(1) Unless the conditions prescribed in division (F) of this section are satisfied, the trustees from each respective county of the community college district created by this section shall have no vote on any of the following matters pertaining to the other county:

(a) Tax levies;

(b) The expenditure of revenue from tax levies;

(c) Levy-subsidized tuition rates.

(2) As long as either of the conditions prescribed in division (F)(1) or (2) of this section are satisfied, each member of the board of trustees shall have full voting rights on all matters coming before the board.

(3) At all times, on any matter related to community college programming or facilities within one county or the other, both of the following are necessary:

(a) The affirmative vote of a majority of the full membership of the board of trustees;

(b) The affirmative vote of at least fifty per cent of the trustees from the affected county.

(4) If the millage rate of the Warren county tax levy described in division (F) of this section is subsequently reduced by a vote of the electors of Warren county to the extent that it no longer satisfies a condition prescribed in either division (F)(1) or (2) of this section, the voting restrictions prescribed in division (E)(1) of this section again apply to the board effective on the first day of the tax year that begins after the reduction is approved by the electors.

(F) The voting restrictions of division (E)(1) of this section apply until the electors of Warren county approve a tax levy, in accordance with division (G)(3) of this section, equivalent to the tax levy approved by the electors of Montgomery county for the support of the former community college district of Montgomery county prior to the effective date of this section. For this purpose, an equivalent tax levy is a tax levied in Warren county that either:

(1) In the first tax year for which the tax is collected, yields revenue per capita equal to or greater than the yield per capita of levies of the community college district in effect that tax year in Montgomery county, as jointly determined by the county auditors of Montgomery and Warren counties;

(2) In the first tax year for which the tax is collected, imposes a millage rate that is equal to or greater than the effective tax rate of levies of the community college district in effect that tax year in Montgomery county, as

jointly determined by the county auditors of Montgomery and Warren counties.

As used in division (F)(2) of this section, "effective tax rate" means the quotient obtained by dividing the total taxes charged and payable for the taxing subdistrict for a tax year, after the reduction prescribed by section 319.301 of the Revised Code but before the reduction prescribed by section 319.302 or 323.152 of the Revised Code, by the taxable value for the taxing subdistrict for that tax year.

(G)(1) The board of trustees may propose to levy a tax on taxable property in Montgomery county to be voted on by the electors of Montgomery county as provided in division (G)(3) of this section. Any money raised by a tax levied by the former community college district of Montgomery county or a subsequent tax levied in Montgomery county in accordance with division (G)(3) of this section shall be used solely for the benefit of Montgomery county residents attending Sinclair community college in the form of student tuition subsidy, student scholarships, and instructional facilities, equipment and support services located within Montgomery county, shall be deposited into a separate fund from all other revenues of the district, and shall be budgeted separately.

(2) The board of trustees may propose to levy a tax on taxable property in Warren county to be voted on by electors of Warren county as provided in division (G)(3) of this section. Any money raised by the tax shall be used solely for the benefit of Warren county residents attending Sinclair community college in the form of student tuition subsidy, student scholarships, and instructional facilities, equipment and support services located within Warren county, shall be deposited into a separate fund from all other revenues of the district, and shall be budgeted separately. If the tax is approved in accordance with division (G)(3)(c) of this section, the board of trustees may adjust the rate of tuition charged to Warren county residents commensurate with the amount of that tax the board of trustees dedicates for instructional and general services provided to Warren county residents.

(3) For each taxing subdistrict of the community college district created by this section, the board of trustees may propose to levy a tax in accordance with the procedures prescribed in section 3354.12 of the Revised Code, except as provided in divisions (G)(3)(a) to (c) of this section.

(a) Wherein section 3354.12 of the Revised Code the terms "district" and "community college district" are used, those terms shall be construed to mean the appropriate taxing subdistrict described in division (B)(2) of this section, except that the "board of trustees of the community college district" means the board of trustees for the entire community college district as

described in division (C) of this section. That board of trustees may propose separate levies for either of the two taxing subdistricts.

(b) "Tax duplicate," as used in section 3354.12 of the Revised Code, means the tax duplicate of only the appropriate taxing subdistrict and not the tax duplicate of the entire community college district.

(c) The resolution of the board of trustees proposing a tax levy in the Warren county taxing subdistrict is subject to approval of a two-thirds vote of the board of county commissioners of Warren county. If so approved by the board of county commissioners of Warren county, that board shall certify the resolution to the Warren county board of elections, which shall place on the ballot for the electors of Warren county the question of levying the tax proposed in the resolution on all taxable property of the county. If approved by the electors of the county, the tax shall be levied as provided in section 3354.12 of the Revised Code and anticipation notes may be issued by the board of trustees in accordance with that section.

(H)(1) The board of trustees of the community college district created by this section may issue bonds in accordance with section 3354.11 of the Revised Code; however, the board may limit the question of approval of the issue of those bonds to the electors of only one of the two taxing subdistricts described in division (B)(2) of this section, in which case the board also may limit the use of the property or improvements to the residents of that subdistrict.

(2) A resolution of the board of trustees proposing the issuance of bonds for only the Warren county taxing subdistrict is subject to approval of a two-thirds vote of the board of county commissioners of Warren county. If so approved by the board of county commissioners of Warren county, that board shall certify the resolution to the Warren county board of elections which shall place on the ballot for the electors of Warren county the question of issuing bonds as proposed in the resolution.

Sec. 3362.02. The board of trustees of Shawnee state university shall annually elect from their members a ~~chairman~~ chairperson and ~~vice-chairman~~ vice-chairperson; and they may also appoint a secretary of the board, a treasurer, and such other officers of the university as the interests of the university require, who may be members of the board. The treasurer, before entering upon the discharge of ~~his~~ official duties, shall give bond to the state or be insured for the faithful performance of ~~his~~ the treasurer's duties and the proper accounting for all moneys coming into ~~his~~ the treasurer's care. The amount of said bond or insurance shall be determined by the board, but shall not be for a sum less than the estimated amount which may come into the treasurer's sole control at any time, less

any reasonable deductible. ~~Said bond shall be approved by the attorney general.~~

Sec. 3365.01. As used in ~~sections 3365.01 to 3365.10 of the Revised Code~~ this chapter:

(A) "College" means any state-assisted college or university described in section 3333.041 of the Revised Code, any nonprofit institution holding a certificate of authorization pursuant to Chapter 1713. of the Revised Code, any private institution exempt from regulation under Chapter 3332. of the Revised Code as prescribed in section 3333.046 of the Revised Code, and any institution holding a certificate of registration from the state board of career colleges and schools and program authorization for an associate or bachelor's degree program issued under section 3332.05 of the Revised Code.

(B) "School district," except as specified in division (G) of this section, means any school district to which a student is admitted under section 3313.64, 3313.65, 3313.98, or 3317.08 of the Revised Code and does not include a joint vocational or cooperative education school district.

(C) "Parent" has the same meaning as in section 3313.64 of the Revised Code.

(D) "Participant" means a student enrolled in a college under the post-secondary enrollment options program established by this chapter.

(E) "Secondary grade" means the ninth through twelfth grades.

(F) "School foundation payments" means the amount required to be paid to a school district for a fiscal year under Chapter 3317. of the Revised Code.

(G) "Tuition base" means, with respect to a participant's school district, the greater of the following:

(1) The fiscal year 2005 formula amount defined in ~~division (B) of~~ section 3317.02 of the Revised Code multiplied by the district's fiscal year 2005 cost-of-doing-business factor defined in ~~division (N) of~~ that section ~~3317.02 of the Revised Code. The~~;

(2) The sum of (the current formula amount times the current cost-of-doing-business factor defined in section 3317.02 of the Revised Code) plus the per pupil amount of the base funding supplements specified in divisions (C)(1) to (4) of section 3317.012 of the Revised Code.

The participant's "school district" in the case of a participant enrolled in a community school shall be the school district in which the student is entitled to attend school under section 3313.64 or 3313.65 of the Revised Code.

(H) "Educational program" means enrollment in one or more school

districts, in a nonpublic school, or in a college under division (B) of section 3365.04 of the Revised Code.

(I) "Nonpublic school" means a chartered or nonchartered school for which minimum standards are prescribed by the state board of education pursuant to division (D) of section 3301.07 of the Revised Code.

(J) "School year" means the year beginning on the first day of July and ending on the thirtieth day of June.

(K) "Community school" means any school established pursuant to Chapter 3314. of the Revised Code that includes secondary grades.

(L) "Community school payments" means payments made by the department of education to a community school pursuant to division (D) of section 3314.08 of the Revised Code.

Sec. 3365.02. There is hereby established the post-secondary enrollment options program under which a secondary grade student who is a resident of this state may enroll at a college, on a full- or part-time basis, and complete nonsectarian courses for high school and college credit. The purpose of the program is to provide enriched education opportunites to secondary grade students that are beyond the opportunities offered by the high school in which they are enrolled.

Secondary grade students in a nonpublic school may participate in the post-secondary enrollment options program if the chief administrator of such school notifies the department of education by the first day of April prior to the school year in which the school's students will participate.

The state board of education, after consulting with the board of regents, shall adopt rules governing the program. The rules shall include:

(A) Requirements for school districts, community schools, or participating nonpublic schools to provide information about the program prior to the first day of March of each year to all students enrolled in grades eight through eleven;

(B) A requirement that a student or the student's parent inform the district board of education, the governing authority of a community school, or the nonpublic school administrator by the thirtieth day of March of the student's intent to participate in the program during the following school year. The rule shall provide that any student who fails to notify a district board, the governing authority of a community school, or the nonpublic school administrator by the required date may not participate in the program during the following school year without the written consent of the district superintendent, the governing authority of a community school, or the nonpublic school administrator.

(C) Requirements that school districts and community schools provide

counseling services to students in grades eight through eleven and to their parents before the students participate in the program under this chapter to ensure that students and parents are fully aware of the possible risks and consequences of participation. Counseling information shall include without limitation:

(1) Program eligibility;

(2) The process for granting academic credits;

(3) Financial arrangements for tuition, books, materials, and fees;

(4) Criteria for any transportation aid;

(5) Available support services;

(6) Scheduling;

(7) The consequences of failing or not completing a course in which the student enrolls and the effect of the grade attained in the course being included in the student's grade point average, if applicable;

(8) The effect of program participation on the student's ability to complete the district's, community school's, or nonpublic school's graduation requirements;

(9) The academic and social responsibilities of students and parents under the program;

(10) Information about and encouragement to use the counseling services of the college in which the student intends to enroll.

(D) A requirement that the student and the student's parent sign a form, provided by the school district or school, stating that they have received the counseling required by division (C) of this section and that they understand the responsibilities they must assume in the program;

(E) The options required by section 3365.04 of the Revised Code;

(F) A requirement that a student may not enroll in any specific college course through the program if the student has taken high school courses in the same subject area as that college course and has failed to attain a cumulative grade point average of at least 3.0 on a 4.0 scale, or the equivalent, in such completed high school courses;

(G) A requirement that a student or the student's parent will reimburse the state for the amount of state funds paid to a college for a course in which the student is enrolled under this chapter if the student does not attain a passing final grade in that course.

Sec. 3365.04. The rules adopted under section 3365.02 of the Revised Code shall provide for students to enroll in courses under either of the following options:

(A) The student may elect at the time of enrollment to ~~receive only college credit for~~ be responsible for payment of all tuition and the cost of all

textbooks, materials, and fees associated with the course. The college shall notify the student about payment of tuition and fees in the customary manner followed by the college~~, and the student shall be responsible for payment of all tuition and the cost of all textbooks, materials, and fees associated with the course~~. ~~If~~ A student electing this option also shall elect, at the time of enrollment, whether to receive only college credit or high school credit and college credit for the course.

(1) The student may elect to receive only college credit for the course. Except as provided in section 3365.041 of the Revised Code, if the student successfully completes the course, the college shall award the student full credit for the course, but the board of education, community school governing authority, or nonpublic participating school shall not award the high school credit.

(2) The student may elect to receive both high school credit and college credit for the course. Except as provided in section 3365.041 of the Revised Code, if the student successfully completes the course, the college shall award the student full credit for the course and the board of education, community school governing authority, or nonpublic school shall award the student high school credit.

(B) The student may elect at the time of enrollment for each course to ~~receive both~~ have the college ~~credit and high school credit~~ reimbursed under section 3365.07 of the Revised Code. Except as provided in section 3365.041 of the Revised Code, if the student successfully completes the course, the college shall award the student full credit for the course, the board of education, community school governing authority, or nonpublic school shall award the student high school credit, and the college shall be reimbursed in accordance with section 3365.07 of the Revised Code.

When determining a school district's formula ADM under section 3317.03 of the Revised Code, the time a participant is attending courses under division (A) of this section shall be considered as time the participant is not attending or enrolled in school anywhere, and the time a participant is attending courses under division (B) of this section shall be considered as time the participant is attending or enrolled in the district's schools.

Sec. 3365.041. (A) When a school district superintendent or governing authority of a community school expels a student under division (B) of section 3313.66 of the Revised Code, the district superintendent or board shall send a written notice of the expulsion to any college in which the expelled student is enrolled under section 3365.03 of the Revised Code at the time the expulsion is imposed. The notice shall indicate the date the expulsion is scheduled to expire. The notice also shall indicate whether the

district board of education or community school governing authority has adopted a policy under section 3313.613 of the Revised Code to deny high school credit for post-secondary courses taken during an expulsion. If the expulsion is extended under division (F) of section 3313.66 of the Revised Code, the district superintendent or governing authority shall notify the college of the extension.

(B) A college may withdraw its acceptance under section 3365.03 of the Revised Code of a student who is expelled from school under division (B) of section 3313.66 of the Revised Code. As provided in section 3365.03 of the Revised Code, regardless of whether the college withdraws its acceptance of the student for the college term in which the student is expelled, the student is ineligible to enroll in a college under that section for subsequent college terms during the period of the expulsion, unless the student enrolls in another school district or community school, or participating nonpublic school during that period.

If a college withdraws its acceptance of an expelled student who elected ~~the~~ either option of division (A)(1) or (2) of section 3365.04 of the Revised Code, the college shall refund tuition and fees paid by the student in the same proportion that it refunds tuition and fees to students who voluntarily withdraw from the college at the same time in the term.

If a college withdraws its acceptance of an expelled student who elected the option of division (B) of section 3365.04 of the Revised Code, the school district or community school shall not award high school credit for the college courses in which the student was enrolled at the time the college withdrew its acceptance, and any reimbursement under section 3365.07 of the Revised Code for the student's attendance prior to the withdrawal shall be the same as would be paid for a student who voluntarily withdrew from the college at the same time in the term. If the withdrawal results in the college's receiving no reimbursement, the college may require the student to return or pay for the textbooks and materials it provided the student free of charge under section 3365.08 of the Revised Code.

(C) When a student who elected the option of division (B) of section 3365.04 of the Revised Code is expelled under division (B) of section 3313.66 of the Revised Code from a school district or community school that has adopted a policy under section 3313.613 of the Revised Code, that election is automatically revoked for all college courses in which the student is enrolled during the college term in which the expulsion is imposed. Any reimbursement under section 3365.07 of the Revised Code for the student's attendance prior to the expulsion shall be the same as would be paid for a student who voluntarily withdrew from the college at the same time in the

term. If the revocation results in the college's receiving no reimbursement, the college may require the student to return or pay for the textbooks and materials it provided the student free of charge under section 3365.08 of the Revised Code.

No later than five days after receiving an expulsion notice from the superintendent of a district or the governing authority of a community school that has adopted a policy under section 3313.613 of the Revised Code, the college shall send a written notice to the expelled student that the student's election of division (B) of section 3365.04 of the Revised Code is revoked. If the college elects not to withdraw its acceptance of the student, the student shall pay all applicable tuition and fees for the college courses and shall pay for the textbooks and materials that the college provided under section 3365.08 of the Revised Code.

Sec. 3365.05. High school credit awarded for courses successfully completed under this chapter shall count toward the graduation requirements and subject area requirements of the school district, community school, or nonpublic school. If a course comparable to one a student completed at a college is offered by the district, community school, or nonpublic school, the board or school shall award comparable credit for the course completed at the college. If no comparable course is offered by the district, community school, or nonpublic school, the board or school shall grant an appropriate number of credits in a similar subject area to the student.

If there is a dispute between a school district board or a community school governing authority and a student regarding high school credits granted for a course, the student may appeal the board's or governing authority's decision to the state board of education. The state board's decision regarding any high school credits granted under this ~~division~~ section is final.

Evidence of successful completion of each course and the high school credits awarded by the district, community school, or participating nonpublic school shall be included in the student's record. The record shall indicate that the credits were earned as a participant under this chapter and shall include the name of the college at which the credits were earned. The district board, community school governing authority, or nonpublic school shall determine whether and the manner in which the grade achieved in a course completed at a college under division (A)(2) or (B) of section 3365.04 of the Revised Code will be counted in any cumulative grade point average maintained for the student.

Sec. 3365.08. (A) A college that expects to receive or receives reimbursement under section 3365.07 of the Revised Code shall furnish to a

participant all textbooks and materials directly related to a course taken by the participant under division (B) of section 3365.04 of the Revised Code. No college shall charge such participant for tuition, textbooks, materials, or other fees directly related to any such course.

(B) No student enrolled under this chapter in a course for which credit toward high school graduation is awarded shall receive direct financial aid through any state or federal program.

(C) If a school district provides transportation for resident school students in grades eleven and twelve under section 3327.01 of the Revised Code, a parent of a pupil enrolled in a course under division (A)(2) or (B) of section 3365.04 of the Revised Code may apply to the board of education for full or partial reimbursement for the necessary costs of transporting the student between the secondary school the student attends and the college in which the student is enrolled. Reimbursement may be paid solely from funds received by the district under division (D) of section 3317.022 of the Revised Code. The state board of education shall establish guidelines, based on financial need, under which a district may provide such reimbursement.

(D) If a community school provides or arranges transportation for its pupils in grades nine through twelve under section 3314.091 of the Revised Code, a parent of a pupil of the community school who is enrolled in a course under division (A)(2) or (B) of section 3365.04 of the Revised Code may apply to the governing authority of the community school for full or partial reimbursement of the necessary costs of transporting the student between the community school and the college. The governing authority may pay the reimbursement in accordance with the state board's rules adopted under division (C) of this section solely from funds paid to it under section 3314.091 of the Revised Code.

Sec. 3365.11. If the superintendent of the school district or the chief administrator of the community school or nonpublic school in which the student is enrolled notifies the superintendent of public instruction that the student has not attained a passing final grade in a college course in which the student is enrolled under this chapter, the superintendent of public instruction shall initiate proceedings to seek reimbursement from the student or the student's parent for the amount of state funds calculated for payment to the college on behalf of the student for enrollment in that college course. In seeking reimbursement, the superintendent of public instruction may request that the attorney general bring a civil action in the court of common pleas of the county in which the school district, community school, or nonpublic school is located, if the superintendent of public instruction determines it appropriate to bring such an action.

Upon the collection of any funds from a student or student's parent under this section, the superintendent of public instruction shall credit the amount collected to the school district or community school from which an amount was deducted under division (D) of section 3365.07 of the Revised Code for the course or, if the student is enrolled in a nonpublic school, to the general revenue fund.

Sec. 3375.40. Each board of library trustees appointed pursuant to section 3375.06, 3375.10, 3375.12, 3375.15, 3375.22, or 3375.30 of the Revised Code may do the following:

(A) Hold title to and have the custody of all real and personal property of the free public library under its jurisdiction;

(B) Expend for library purposes, and in the exercise of the power enumerated in this section, all moneys, whether derived from the county library and local government support fund or otherwise, credited to the free public library under its jurisdiction and generally do all things it considers necessary for the establishment, maintenance, and improvement of the free public library under its jurisdiction;

(C) Purchase, lease, construct, remodel, renovate, or otherwise improve, equip, and furnish buildings or parts of buildings and other real property, and purchase, lease, or otherwise acquire motor vehicles and other personal property, necessary for the proper maintenance and operation of the free public library under its jurisdiction, and pay their costs in installments or otherwise. Financing of these costs may be provided through the issuance of notes, through an installment sale, or through a lease-purchase agreement. Any such notes shall be issued pursuant to section 3375.404 of the Revised Code.

(D) Purchase, lease, lease with an option to purchase, or erect buildings or parts of buildings to be used as main libraries, branch libraries, or library stations pursuant to section 3375.41 of the Revised Code;

(E) Establish and maintain a main library, branches, library stations, and traveling library service within the territorial boundaries of the political subdivision or district over which it has jurisdiction of free public library service;

(F) Except as otherwise provided in this division, establish and maintain branches, library stations, and traveling library service in any school district, outside the territorial boundaries of the political subdivision or district over which it has jurisdiction of free public library service, upon application to and approval of the state library board, pursuant to section 3375.05 of the Revised Code. The board of library trustees of any free public library maintaining branches, stations, or traveling library service, outside the

territorial boundaries of the political subdivision or district over which it has jurisdiction of free public library service, on September 4, 1947, may continue to maintain and operate those branches, those stations, and that traveling library service without the approval of the state library board.

(G) Appoint and fix the compensation of all of the employees of the free public library under its jurisdiction, pay the reasonable cost of tuition for any of its employees who enroll in a course of study the board considers essential to the duties of the employee or to the improvement of the employee's performance, and reimburse applicants for employment for any reasonable expenses they incur by appearing for a personal interview;

(H) Make and publish rules for the proper operation and management of the free public library and facilities under its jurisdiction, including rules pertaining to the provision of library services to individuals, corporations, or institutions that are not inhabitants of the county;

(I) Assess uniform fees for the provision of services to patrons of the library, but no fee shall be assessed for the circulation of printed materials held by the library except for the assessment of fines for materials not returned in accordance with the board's rules;

(J) Establish and maintain a museum in connection with and as an adjunct to the free public library under its jurisdiction;

~~(J)~~(K) By the adoption of a resolution, accept any bequest, gift, or endowment upon the conditions connected with the bequest, gift, or endowment. No such bequest, gift, or endowment shall be accepted by the board if its conditions remove any portion of the free public library under the board's jurisdiction from the control of the board or if the conditions, in any manner, limit the free use of the library or any part of it by the residents of the counties in which the library is located.

~~(K)~~(L) At the end of any fiscal year, by a two-thirds vote of its full membership, set aside any unencumbered surplus remaining in the general fund of the free public library under its jurisdiction for any purpose, including creating or increasing a special building and repair fund, or for operating the library or acquiring equipment and supplies;

~~(L)~~(M) Procure and pay all or part of the cost of group term life, hospitalization, surgical, major medical, disability benefit, dental care, eye care, hearing aids, or prescription drug insurance or coverage, or a combination of any of those types of insurance or coverage, whether issued by an insurance company or a health insuring corporation duly licensed by the state, covering its employees, and, in the case of group term life, hospitalization, surgical, major medical, dental care, eye care, hearing aids, or prescription drug insurance or coverage, also covering the dependents and

spouses of its employees, and, in the case of disability benefits, also covering the spouses of its employees.

~~(M)~~(N) Pay reasonable dues and expenses for the free public library and library trustees in library associations.

Any instrument by which real property is acquired pursuant to this section shall identify the agency of the state that has the use and benefit of the real property as specified in section 5301.012 of the Revised Code.

~~Section~~ **Sec. 3375.48.** ~~The judges of the court of common pleas of any county in which there is a~~ A law library association ~~which furnishes~~ that receives fines and penalties, and moneys arising from forfeited bail, under sections 3375.50 to 3375.53 of the Revised Code shall furnish to all of the members of the ~~Ohio~~ general assembly, the ~~county~~ officers of the county in which the association is located, and the judges of the ~~several~~ courts in ~~the~~ that county admission to ~~its~~ the associations's law library and the use of its books, materials, and equipment free of charge~~, upon the appointment by the~~. The association's board of trustees ~~of such association of~~ may appoint a person to act as librarian ~~thereof, or of a person to act as librarian~~ and ~~not more than two~~ additional persons to act as assistant ~~law~~ librarians ~~thereof,~~ of the law library. The board shall ~~fix~~ be responsible for fixing and paying the compensation of ~~such~~ those persons, ~~which shall be paid from the county treasury~~ subject to section 3375.49 of the Revised Code.

Sec. 3375.49. ~~For~~ (A) Subject to divisions (B) and (C) of this section, for the use of the law library referred to in section 3375.48 of the Revised Code, the board of county commissioners shall provide~~, at the expense of the county, suitable rooms with sufficient and suitable bookcases~~ space in the county courthouse or~~, if there are no suitable rooms in the courthouse, any other suitable rooms at~~ in any other building located in the county seat ~~with sufficient,~~ and ~~suitable bookcases~~ utilities for that space. ~~The~~

(B)(1) Subject to division (C) of this section, through calendar year 2006, the board of county commissioners shall be responsible for paying the compensation of the librarian and up to two assistant librarians of the law library appointed by the board of trustees of the law library association under section 3375.48 of the Revised Code and the costs of the space in the county courthouse or other building that the board provides for the use of the law library under division (A) of this section, the utilities for that space, and furniture and fixtures for the law library.

(2) In calendar years 2007 through 2010, the board of county commissioners and the board of trustees shall be responsible for paying the compensation of the librarian and up to two assistant librarians appointed under section 3375.48 of the Revised Code and the costs of the space in the

county courthouse or other building that the board of county commissioners provides for the use of the law library under division (A) of this section, the utilities for that space, and furniture and fixtures for the law library as follows:

(a) In calendar year 2007, the board of county commissioners shall pay eighty per cent, and the board of trustees shall pay twenty per cent.

(b) In calendar year 2008, the board of county commissioners shall pay sixty per cent, and the board of trustees shall pay forty per cent.

(c) In calendar year 2009, the board of county commissioners shall pay forty per cent, and the board of trustees shall pay sixty per cent.

(d) In calendar year 2010, the board of county commissioners shall pay twenty per cent, and the board of trustees shall pay eighty per cent.

(3) Beginning in calendar year 2011 and thereafter, the board of trustees shall be responsible for paying the compensation of the librarian and all assistant librarians appointed under section 3375.48 of the Revised Code as well as the costs of the space in the county courthouse or other building that the board of county commissioners provides for the use of the law library under division (A) of this section, the utilities for that space, and the law library's furniture and fixtures.

(C) If the board of trustees of a law library association referred to in section 3375.48 of the Revised Code rents, leases, lease-purchases, or otherwise acquires space for the use of the law library, or constructs, enlarges, renovates, or otherwise modifies buildings or other structures to provide space for the use of the law library, the board of county commissioners of the county in which the association is located has no further obligation under division (A) of this section to provide space in the county courthouse or any other building located in the county seat for the use of the law library and utilities for that space, and has no further obligation under division (B) of this section to make payments for the compensation of the librarian and up to two assistant librarians of the law library appointed under section 3375.48 of the Revised Code and for the costs of space in the county courthouse or an other building for the use of the law library, the utilities for that space, and the law library's furniture and fixtures.

(D) The librarian ~~or person in charge~~ of the law library shall receive and safely keep in ~~these rooms~~ the law library the law reports and other books furnished by the state for use of the court and bar. ~~The board of county commissioners shall heat and light any such rooms. The~~

(E) The books, computer communications console that is a means of access to a system of computerized legal research, microform materials and

equipment, videotape materials and equipment, audio or visual materials and equipment, other materials and equipment utilized in conducting legal research, ~~and~~ furniture, and fixtures of the law library association that are owned by, and used exclusively in, the law library are exempt from taxation.

Sec. 3375.54. The money that is paid to the board of trustees of a law library association under sections 3375.50 to 3375.53 of the Revised Code shall be expended in the support and operation of the law library association ~~and~~; in the purchase, lease, or rental of lawbooks, a computer communications console that is a means of access to a system of computerized legal research, microform materials and equipment, videotape materials and equipment, audio or visual materials and equipment, ~~and~~ other ~~services,~~ materials~~,~~ and equipment ~~that provide legal information or facilitate~~ utilized in conducting legal research, furniture, and fixtures used in the association's law library; and to pay the compensation of any librarian and assistant librarians of the law library appointed under section 3375.48 of the Revised Code.

Sec. 3375.55. ~~Judges of the county court in the county and officers~~ Officers of the townships and municipal corporations ~~therein~~ in a county in which a law library association that receives fines and penalties, and moneys arising from forfeited bail, under sections 3375.50 to 3375.53 of the Revised Code is located shall have the same free use of the books, materials, and equipment of the association's law library ~~receiving moneys under sections 3375.50 to 3375.53, inclusive, of the Revised Code,~~ as general assembly members and the judges and county officers mentioned in section 3375.48 of the Revised Code.

Sec. 3381.02. A regional arts and cultural district may be created ~~under section 3381.03 or 3381.04 of the Revised Code~~ for any of the following purposes: making grants to support the operating or capital expenses of arts or cultural organizations located within its district, or acquiring, constructing, equipping, furnishing, repairing, remodeling, renovating, enlarging, improving, or administering artistic or cultural facilities. A regional arts and cultural district is a political subdivision of the state and a body corporate, comprised of the territory of a county, or two or more counties, municipal corporations, townships, or any combination thereof~~, provided, that if~~. If more than one county is in a regional arts and cultural district, each county shall be contiguous to a county in ~~its~~ the district~~;~~, and, ~~provided~~ also in the case of a combination of political subdivisions, ~~that~~ each municipal corporation or township shall either be contiguous to a county, municipal corporation, or township in ~~its~~ the regional arts and cultural district, or each municipal corporation or township shall be located

in a county that is contiguous to a county in ~~its~~ the district.

Sec. 3381.04. (A) In lieu of the procedure set forth in section 3381.03 of the Revised Code, any county with a population of five hundred thousand or more ~~may,~~ at any time ~~prior to~~ before the creation of a regional arts and cultural district ~~pursuant to~~ under that section ~~3381.03 of the Revised Code~~, may create a regional arts and cultural district by adoption of a resolution ~~or ordinance~~ by the board of county commissioners of ~~such~~ that county. ~~Such~~ The resolution shall state all of the following:

~~(A)~~(1) The purposes for the creation of the district;

~~(B)~~(2) That the territory of the district shall be coextensive with the territory of ~~such~~ the county;

~~(C)~~(3) The official name by which the district shall be known;

~~(D)~~(4) The location of the principal office of the district or the manner in which the location shall be selected.

(B) The district provided for in ~~such~~ the resolution ~~or ordinance~~ shall be created upon the adoption of ~~such~~ the resolution ~~or ordinance~~ by the board of county commissioners of ~~such~~ that county. Upon the adoption of ~~such~~ the resolution ~~or ordinance~~, ~~such~~ the county and the municipal corporations and townships contained ~~therein~~ in the county shall not thereafter be a part of any other regional arts and cultural district.

(C) The board of trustees of any regional arts and cultural district formed in accordance with this section shall be comprised of three members appointed by the ~~same persons who comprise such county's~~ board of county commissioners.

Sec. 3381.05. Within sixty days after a regional arts and cultural district has been created ~~under section 3381.03 of the Revised Code~~, the board of trustees of the district shall be appointed as provided in this section.

Members of a board of trustees of a regional arts and cultural district created by the exclusive action of a county shall be appointed by the board of county commissioners of ~~such~~ the county. A board of trustees of a district created by two or more political subdivisions shall consist of ~~such~~ the number of members~~,~~ and shall be appointed by ~~such~~ the public officers or bodies~~,~~ as shall be provided in the resolutions or ordinances creating ~~such~~ the district, or any amendments ~~thereto~~ to them. ~~All~~

All members of a board of trustees of a regional arts and cultural district ~~created under section 3381.03 of the Revised Code~~ shall be persons who have broad knowledge and experience in the arts or cultural heritage and shall have other qualifications as are specified in the ~~resolution~~ resolutions or ~~ordinance~~ ordinances creating the district, or any amendments ~~thereto~~ to them; provided~~,~~ that at least two members of the board of trustees shall be

persons who devote a major portion of their time to practicing, performing, or teaching any of the arts or who are professional administrators in any field of the arts or cultural heritage, and the ~~resolution~~ resolutions or ~~ordinance~~ ordinances creating ~~such regional arts and cultural~~ the district shall so provide. All members of the board of trustees also shall be qualified electors in the district's territory. ~~The~~

The appointing authority shall consider for appointment as members of the board of trustees, but need not appoint, ~~such~~ persons ~~as are~~ nominated by area arts councils, as defined in section 757.03 of the Revised Code, located within the district; provided that all ~~such~~ those persons shall meet the qualifications specified in this section and the ~~resolution~~ resolutions or ~~ordinance~~ ordinances creating the district. The ~~resolution~~ resolutions or ~~ordinance~~ ordinances creating the district may, but need not, provide that the members of an area arts council located within the district shall constitute the board of trustees of the district. ~~The~~

The appointing authority ~~may~~, at any time, may remove a ~~trustee~~ member of the board of trustees for misfeasance, nonfeasance, or malfeasance in office.

The initially appointed members of the board of trustees of any regional arts and cultural district ~~created under section 3381.03 of the Revised Code~~ shall serve staggered terms of one, two, and three years. Thereafter, each ~~trustee~~ member shall serve ~~terms~~ a term of three years, except that any person appointed to fill a vacancy shall be appointed to only the unexpired term. Any ~~appointed trustee~~ member is eligible for reappointment, except as otherwise provided in the ~~resolution~~ resolutions or ~~ordinance~~ ordinances creating ~~such~~ the district, or any amendment ~~thereto~~ to them.

Sec. 3381.06. All the power and authority granted to a regional arts and cultural district ~~created under section 3381.03 or 3381.04 of the Revised Code~~ shall be vested in and exercised by its board of trustees, which shall manage and conduct its affairs. The board ~~shall~~, within the limitations of this chapter, shall provide, by rules, the procedure for its actions, the manner of selection of its president, vice-president, executive director, and other officers and employees, their titles, terms of office, compensation, duties, number, and qualifications, and any other lawful subject necessary or desirable to the operation and administration of the district and the exercise of the powers granted to it.

Sec. 3381.07. Upon the creation of a regional arts and cultural district ~~under section 3381.03 or 3381.04 of the Revised Code~~ and upon the qualifying of its board of trustees and the election of a president and a vice-president, the district shall exercise in its own name all the rights,

powers, and duties vested in and conferred upon it by this chapter. A regional arts and cultural district:

(A) May sue or be sued in its corporate name;

(B) May make contracts in the exercise of the rights, powers, and duties conferred upon it;

(C) May adopt and alter a seal and use ~~such~~ that seal by causing it to be impressed, affixed, reproduced, or otherwise used, but failure to affix the seal shall not affect the validity of any instrument;

(D) May make, adopt, amend, and repeal bylaws for the administration of its affairs and rules for the administration and operation of any artistic or cultural facilities under its control and for the exercise of all of its rights of ownership ~~therein~~ in those facilities, provided, however, that it may not be directly involved in any programatic activities;

(E) May make grants, on such terms and conditions as it may deem advisable, to any arts or cultural organization within its district as provided in section 3381.17 of the Revised Code;

(F) May fix, alter, and collect rentals and other charges for the use of any artistic or cultural facilities under its control, to be determined exclusively by it for the purpose of providing for the payment of the expenses of the district, the acquisition, construction, equipping, improvement, extension, repair, maintenance, renovation, enlargement, administration, and operation of artistic or cultural facilities under its control, and the payment of principal and interest on its obligations, and ~~to fulfill~~ fulfilling the terms of any agreements made with the purchasers or holders of any such obligations, or with any person or political subdivision;

(G) Shall have jurisdiction, control, possession, and supervision over the use and disposition of all property, rights, licenses, moneys, contracts, accounts, liens, books, records, or other property rights and interests conveyed, delivered, transferred, or assigned to it;

(H) May acquire, construct, improve, extend, repair, remodel, renovate, furnish, equip, enlarge, lease, or maintain artistic or cultural facilities within its territory as it considers necessary to accomplish the purposes of this chapter, and make charges for the use of artistic or cultural facilities;

(I) May levy and collect taxes as provided in section 3381.16 of the Revised Code;

(J) May issue bonds secured by its general credit as provided in section 3381.08 of the Revised Code;

(K) May hold, encumber, control, acquire by donation, purchase, construct, own, lease as lessee or lessor, use, and sell real and personal property, or any interest or right ~~therein~~ in real or personal property, within

or without its territory;

(L) May employ or retain and fix the compensation of ~~such~~ employees, ~~agent~~ agents, accountants, attorneys, and consultants or advisors ~~as may be~~ necessary or desirable for the accomplishment of its purposes;

(M) May procure insurance against loss to it by reason of damages to its properties resulting from fire, theft, accident, or other casualties or by reason of its liability for any damages to persons or property;

(N) May maintain ~~such~~ funds as it determines necessary or desirable for the efficient performance of its duties;

(O) May procure a policy or policies insuring members of its board of trustees, and its officers, employees, and agents, against liability on account of damages or injury to persons and property resulting from any act or omission of such person in ~~his~~ the person's official capacity or resulting solely out of ~~his~~ the person's service to ~~such~~ the district;

(P) May receive and expend gifts, grants, bequests, or devices, or grants, including, but not limited to, grants of public funds.

Sec. 3381.15. (A) The board of county commissioners of any county, the legislative authority of any municipal corporation, and the board of township trustees of any township, included within a regional arts and cultural district may appropriate annually, from moneys to the credit of the general fund of the county, the municipal corporation, or the township and not otherwise appropriated, that portion of the expense of the district to be paid by ~~such~~ the county, municipal corporation, or township as provided in the resolution creating or enlarging the district adopted under section 3381.03 of the Revised Code, or by any amendment ~~thereto~~ to the resolution.

(B) In addition to the authority granted to a board of county commissioners under division (A) of this section, a board of county commissioners in a county with a population of one million two hundred thousand or more may establish and provide local funding options for the support of arts and cultural organizations operating within the regional arts and cultural district in which the county is included.

Sec. 3383.02. (A) There is hereby created the Ohio cultural facilities commission. The commission shall engage in and provide for the development, performance, and presentation or making available of culture and professional sports and athletics to the public in this state, and the provision of training or education in culture, by the exercise of its powers under this chapter, including the provision, operation, management, and cooperative use of Ohio cultural facilities and Ohio sports facilities. The commission is a body corporate and politic, an agency of state government

and an instrumentality of the state, performing essential governmental functions of this state. The carrying out of the purposes and the exercise by the commission of its powers conferred by this chapter are essential public functions and public purposes of the state and of state government. The commission may, in its own name, sue and be sued, enter into contracts, and perform all the powers and duties given to it by this chapter; however, it does not have and shall not exercise the power of eminent domain.

(B) The commission shall consist of ~~ten~~ twelve members, ~~seven~~ nine of whom shall be voting members and three of whom shall be nonvoting members. The ~~seven~~ nine voting members shall be appointed by the governor, with the advice and consent of the senate, from different geographical regions of the state. In addition, one of the voting members shall represent the state architect. Not more than ~~four~~ five of the members appointed by the governor shall be affiliated with the same political party. The nonvoting members shall be the staff director of the Ohio arts council, a member of the senate appointed by the president of the senate, and a member of the house of representatives appointed by the speaker of the house.

(C) Of the five initial appointments made by the governor, one shall be for a term expiring December 31, 1989, two shall be for terms expiring December 31, 1990, and two shall be for terms expiring December 31, 1991. Of the initial appointments of the sixth and seventh voting members made by the governor, one shall be for a term expiring December 31, 2003, and one shall be for a term expiring December 31, 2004. Of the initial appointments of the eighth and ninth voting members made by the governor, one shall be for a term expiring December 31, 2007, and one shall be for a term expiring December 31, 2008. These voting members shall be appointed within sixty days after the effective date of this amendment. Thereafter, each such term shall be for three years, commencing on the first day of January and ending on the thirty-first day of December. Each appointment by the president of the senate and by the speaker of the house of representatives shall be for the balance of the then legislative biennium. Each member shall hold office from the date of the member's appointment until the end of the term for which the member was appointed. Any member appointed to fill a vacancy occurring prior to the expiration of the term for which the member's predecessor was appointed shall hold office for the remainder of 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.

(D) Members of the commission shall serve without compensation.

(E) Organizational meetings of the commission shall be held at the first meeting of each calendar year. At each organizational meeting, the commission shall elect from among its voting members a chairperson, a vice-chairperson, and a secretary-treasurer, who shall serve until the next annual meeting. The commission shall adopt rules pursuant to section 111.15 of the Revised Code for the conduct of its internal business and shall keep a journal of its proceedings.

(F) ~~Four~~ Five voting members of the commission constitute a quorum, and the affirmative vote of ~~four~~ five members is necessary for approval of any action taken by the commission. A vacancy in the membership of the commission does not impair a quorum from exercising all the rights and performing all the duties of the commission. Meetings of the commission may be held anywhere in the state, and shall be held in compliance with section 121.22 of the Revised Code.

(G) All expenses incurred in carrying out this chapter are payable solely from money accrued under this chapter or appropriated for these purposes by the general assembly, and the commission shall incur no liability or obligation beyond such money.

(H) The commission shall file an annual report of its activities and finances with the governor, director of budget and management, speaker of the house of representatives, president of the senate, and chairpersons of the house and senate finance committees.

(I) There is hereby established in the state treasury the Ohio cultural facilities commission administration fund. All revenues of the commission shall be credited to that fund and to any accounts created in ~~the~~ that fund with the commission's approval. All expenses of the commission, including reimbursement of, or payment to, any other fund or any governmental agency for advances made or services rendered to or on behalf of the commission, shall be paid from ~~the Ohio cultural facilities commission administration~~ that fund as determined by or pursuant to directions of the commission. All investment earnings of ~~the administration~~ that fund shall be credited to ~~the fund~~ it and shall be allocated among any accounts created in the fund in the manner determined by the commission.

(J) Title to all real property and lesser interests in real property acquired by the commission, including leasehold and other interests, pursuant to this chapter shall be taken in the name of the state and shall be held for the use and benefit of the commission. The commission shall not mortgage such real property and interests in real property. Title to other property and interests in it acquired by the commission pursuant to this chapter shall be taken in its name.

Sec. 3383.09. (A) There is hereby created in the state treasury the cultural and sports facilities building fund, which shall consist of proceeds of obligations authorized to pay costs of Ohio cultural facilities and Ohio sports facilities for which appropriations are made by the general assembly. All investment earnings of the fund shall be credited to the fund.

(B) The director of budget and management may transfer~~,~~ to the Ohio cultural facilities commission administration fund~~,~~ investment earnings credited, or the premium paid on any bonds issued on behalf of the commission and credited, to the cultural and sports facilities building fund that exceed the amounts required to meet estimated federal arbitrage rebate requirements when requested of the director of budget and management by the chairperson or executive director of the commission.

Sec. 3501.141. (A) The board of elections of any county may contract, purchase, or otherwise procure and pay all or any part of the cost of group insurance policies that may provide benefits for hospitalization, surgical care, major medical care, disability, dental care, eye care, medical care, hearing aids, or prescription drugs, and that may provide sickness and accident insurance, or group life insurance, or a combination of any of the foregoing types of insurance or coverage for the full-time employees of such board and their immediate dependents, whether issued by an insurance company or a health insuring corporation, duly authorized to do business in this state. The authority granted under this division applies only when the board of county commissioners, by resolution, denies coverage described in this division to full-time employees of the board of elections.

(B) The board of elections of any county, with the approval of the board of county commissioners, may procure and pay all or any part of the cost of group hospitalization, surgical, major medical, or sickness and accident insurance or a combination of any of the foregoing types of insurance or coverage for the members appointed to the board of elections under section 3501.06 of the Revised Code and their immediate dependents when each member's term begins, whether issued by an insurance company or a health insuring corporation, duly authorized to do business in this state.

Sec. 3501.17. (A) The expenses of the board of elections shall be paid from the county treasury, in pursuance of appropriations by the board of county commissioners, in the same manner as other county expenses are paid. If the board of county commissioners fails to appropriate an amount sufficient to provide for the necessary and proper expenses of the board of elections pertaining to the conduct of elections, other than expenses for employee compensation and benefits incurred in the conduct of elections, ~~such~~ the board of elections may apply to the court of common pleas within

the county, which shall fix the amount necessary to be appropriated and ~~such~~ the amount shall be appropriated. Payments shall be made upon vouchers of the board of elections certified to by its chairperson or acting chairperson and the director or deputy director, upon warrants of the county auditor. ~~The~~

The board of elections shall not incur any obligation involving the expenditure of money unless there are moneys sufficient in the funds appropriated therefor to meet ~~such obligations~~ the obligation as required in division (D) of section 5705.41 of the Revised Code. ~~Such~~ If the board of elections requests a transfer of funds from one of its appropriation items to another, the board of county commissioners shall adopt a resolution providing for the transfer except as otherwise provided in section 5705.40 of the Revised Code. The expenses of the board of elections shall be apportioned among the county and the various subdivisions as provided in this section, and the amount chargeable to each subdivision shall be withheld by the auditor from the moneys payable thereto at the time of the next tax settlement. At the time of submitting budget estimates in each year, the board of elections shall submit to the taxing authority of each subdivision, upon the request of the subdivision, an estimate of the amount to be withheld ~~therefrom~~ from the subdivision during the next fiscal year.

(B) Except as otherwise provided in division (F) of this section, the entire compensation of the members of the board of elections and of the director, deputy director, and other employees in the board's offices; the expenditures for the rental, furnishing, and equipping of the office of the board and for the necessary office supplies for the use of the board; the expenditures for the acquisition, repair, care, and custody of the polling places, booths, guardrails, and other equipment for polling places; the cost of pollbooks, tally sheets, maps, flags, ballot boxes, and all other permanent records and equipment; the cost of all elections held in and for the state and county; and all other expenses of the board which are not chargeable to a political subdivision in accordance with this section shall be paid in the same manner as other county expenses are paid.

(C) The compensation of judges and clerks of elections; the cost of renting, moving, heating, and lighting polling places and of placing and removing ballot boxes and other fixtures and equipment thereof; the cost of printing and delivering ballots, cards of instructions, and other election supplies; and all other expenses of conducting primaries and elections in the odd-numbered years shall be charged to the subdivisions in and for which such primaries or elections are held. The charge for each primary or general election in odd-numbered years for each subdivision shall be determined in

the following manner: first, the total cost of all chargeable items used in conducting such elections shall be ascertained; second, the total charge shall be divided by the number of precincts participating in such election, in order to fix the cost per precinct; third, the cost per precinct shall be prorated by the board of elections to the subdivisions conducting elections for the nomination or election of offices in such precinct; fourth, the total cost for each subdivision shall be determined by adding the charges prorated to it in each precinct within the subdivision.

(D) The entire cost of special elections held on a day other than the day of a primary or general election, both in odd-numbered or in even-numbered years, shall be charged to the subdivision. Where a special election is held on the same day as a primary or general election in an even-numbered year, the subdivision submitting the special election shall be charged only for the cost of ballots and advertising. Where a special election is held on the same day as a primary or general election in an odd-numbered year, the subdivision submitting the special election shall be charged for the cost of ballots and advertising for such special election, in addition to the charges prorated to such subdivision for the election or nomination of candidates in each precinct within the subdivision, as set forth in the preceding paragraph.

(E) Where a special election is held on the day specified by division (E) of section 3501.01 of the Revised Code for the holding of a primary election, for the purpose of submitting to the voters of the state constitutional amendments proposed by the general assembly, and a subdivision conducts a special election on the same day, the entire cost of the special election shall be divided proportionally between the state and the subdivision based upon a ratio determined by the number of issues placed on the ballot by each, except as otherwise provided in division (G) of this section. Such proportional division of cost shall be made only to the extent funds are available for such purpose from amounts appropriated by the general assembly to the secretary of state. If a primary election is also being conducted in the subdivision, the costs shall be apportioned as otherwise provided in this section.

(F) When a precinct is open during a general, primary, or special election solely for the purpose of submitting to the voters a statewide ballot issue, the state shall bear the entire cost of the election in that precinct and shall reimburse the county for all expenses incurred in opening the precinct.

(G) The state shall bear the entire cost of advertising in newspapers statewide ballot issues, explanations of those issues, and arguments for or against those issues, as required by Section 1g of Article II and Section 1 of Article XVI, Ohio Constitution, and any other section of law and shall

reimburse the counties for all expenses they incur for such advertising.

(H) The cost of renting, heating, and lighting registration places; the cost of the necessary books, forms, and supplies for the conduct of registration; and the cost of printing and posting precinct registration lists shall be charged to the subdivision in which such registration is held.

(I) As used in this section, "statewide ballot issue" means any ballot issue, whether proposed by the general assembly or by initiative or referendum, that is submitted to the voters throughout the state.

Sec. 3513.04. Candidates for party nominations to state, district, county, and municipal offices or positions, for which party nominations are provided by law, and for election as members of party controlling committees shall have their names printed on the official primary ballot by filing a declaration of candidacy and paying the fees specified for the office under divisions (A) and (B) of section 3513.10 of the Revised Code, except that the joint candidates for party nomination to the offices of governor and lieutenant governor shall, for the two of them, file one declaration of candidacy. The joint candidates also shall pay the fees specified for the joint candidates under divisions (A) and (B) of section 3513.10 of the Revised Code.

The secretary of state shall not accept for filing the declaration of candidacy of a candidate for party nomination to the office of governor unless the declaration of candidacy also shows a joint candidate for the same party's nomination to the office of lieutenant governor, shall not accept for filing the declaration of candidacy of a candidate for party nomination to the office of lieutenant governor unless the declaration of candidacy also shows a joint candidate for the same party's nomination to the office of governor, and shall not accept for filing a declaration of candidacy that shows a candidate for party nomination to the office of governor or lieutenant governor who, for the same election, has already filed a declaration of candidacy or a declaration of intent to be a write-in candidate, or has become a candidate by the filling of a vacancy under section 3513.30 of the Revised Code for any other state office or any federal or county office.

No person who seeks party nomination for an office or position at a primary election by declaration of candidacy or by declaration of intent to be a write-in candidate and no person who is a first choice for president of candidates seeking election as delegates and alternates to the national conventions of the different major political parties who are chosen by direct vote of the electors as provided in this chapter shall be permitted to become a candidate by nominating petition or by declaration of intent to be a write-in candidate at the following general election for any office other than the office of member of the state board of education, office of member of a

city, local, or exempted village board of education, office of member of a governing board of an educational service center, or office of township trustee.

Sec. 3513.041. A write-in space shall be provided on the ballot for every office, except in an election for which the board of elections has received no valid declarations of intent to be a write-in candidate under this section. Write-in votes shall not be counted for any candidate who has not filed a declaration of intent to be a write-in candidate pursuant to this section. A qualified person who has filed a declaration of intent may receive write-in votes at either a primary or general election. Any candidate~~, except one whose candidacy is to be submitted to electors throughout the entire state,~~ shall file a declaration of intent to be a write-in candidate before four p.m. of the fiftieth day preceding the election at which such candidacy is to be considered. If the election is to be determined by electors of a county or a district or subdivision within the county, such declaration shall be filed with the board of elections of that county. If the election is to be determined by electors of a subdivision located in more than one county, such declaration shall be filed with the board of elections of the county in which the major portion of the population of such subdivision is located. If the election is to be determined by electors of a district comprised of more than one county but less than all of the counties of the state, such declaration shall be filed with the board of elections of the most populous county in such district. Any candidate for an office to be voted upon by electors throughout the entire state shall file a declaration of intent to be a write-in candidate with the secretary of state before four p.m. of the fiftieth day preceding the election at which such candidacy is to be considered. In addition, candidates for president and vice-president of the United States shall also file with the secretary of state by said fiftieth day a slate of presidential electors sufficient in number to satisfy the requirements of the United States constitution.

A board of elections shall not accept for filing the declaration of intent to be a write-in candidate of a person seeking to become a candidate if that person, for the same election, has already filed a declaration of candidacy, a declaration of intent to be a write-in candidate, or a nominating petition, or has become a candidate through party nomination at a primary election or by the filling of a vacancy under section 3513.30 or 3513.31 of the Revised Code, for any federal, state, or county office, if the declaration of intent to be a write-in candidate is for a state or county office, or for any municipal or township office, for member of a city, local, or exempted village board of education, or for member of a governing board of an educational service center, if the declaration of intent to be a write-in candidate is for a

municipal or township office, or for member of a city, local, or exempted village board of education, or for member of a governing board of an educational service center.

No person shall file a declaration of intent to be a write-in candidate for the office of governor unless the declaration also shows the intent of another person to be a write-in candidate for the office of lieutenant governor. No person shall file a declaration of intent to be a write-in candidate for the office of lieutenant governor unless the declaration also shows the intent of another person to be a write-in candidate for the office of governor. No person shall file a declaration of intent to be a write-in candidate for the office of governor or lieutenant governor if the person has previously filed a declaration of intent to be a write-in candidate to the office of governor or lieutenant governor at the same primary or general election. A write-in vote for the two candidates who file such a declaration shall be counted as a vote for them as joint candidates for the offices of governor and lieutenant governor.

The secretary of state shall not accept for filing the declaration of intent to be a write-in candidate of a person for the office of governor unless the declaration also shows the intent of another person to be a write-in candidate for the office of lieutenant governor, shall not accept for filing the declaration of intent to be a write-in candidate of a person for the office of lieutenant governor unless the declaration also shows the intent of another person to be a write-in candidate for the office of governor, and shall not accept for filing the declaration of intent to be a write-in candidate of a person to the office of governor or lieutenant governor if that person, for the same election, has already filed a declaration of candidacy, a declaration of intent to be a write-in candidate, or a nominating petition, or has become a candidate through party nomination at a primary election or by the filling of a vacancy under section 3513.30 or 3513.31 of the Revised Code, for any other state office or any federal or county office.

Protests against the candidacy of any person filing a declaration of intent to be a write-in candidate may be filed by any qualified elector who is eligible to vote in the election at which the candidacy is to be considered. The protest shall be in writing and shall be filed not later than four p.m. of the forty-fifth day before the day of the election. The protest shall be filed with the board of elections with which the declaration of intent to be a write-in candidate was filed. Upon the filing of the protest, the board with which it is filed shall promptly fix the time for hearing it and shall proceed in regard to the hearing in the same manner as for hearings set for protests filed under section 3513.05 of the Revised Code. At the time fixed, the

board shall hear the protest and determine the validity or invalidity of the declaration of intent to be a write-in candidate. If the board finds that the candidate is not an elector of the state, district, county, or political subdivision in which the candidate seeks election to office or has not fully complied with the requirements of Title XXXV of the Revised Code in regard to the candidate's candidacy, the candidate's declaration of intent to be a write-in candidate shall be determined to be invalid and shall be rejected; otherwise, it shall be determined to be valid. The determination of the board is final.

The secretary of state shall prescribe the form of the declaration of intent to be a write-in candidate.

Sec. 3513.05. Each person desiring to become a candidate for a party nomination or for election to an office or position to be voted for at a primary election, except persons desiring to become joint candidates for the offices of governor and lieutenant governor and except as otherwise provided in section 3513.051 of the Revised Code, shall, not later than four p.m. of the seventy-fifth day before the day of the primary election, or if the primary election is a presidential primary election, not later than four p.m. of the sixtieth day before the day of the presidential primary election, file a declaration of candidacy and petition and pay the fees required under divisions (A) and (B) of section 3513.10 of the Revised Code. The declaration of candidacy and all separate petition papers shall be filed at the same time as one instrument. When the offices are to be voted for at a primary election, persons desiring to become joint candidates for the offices of governor and lieutenant governor shall, not later than four p.m. of the seventy-fifth day before the day of the primary election, comply with section 3513.04 of the Revised Code. The prospective joint candidates' declaration of candidacy and all separate petition papers of candidacies shall be filed at the same time as one instrument. The secretary of state or a board of elections shall not accept for filing a declaration of candidacy and petition of a person seeking to become a candidate if that person, for the same election, has already filed a declaration of candidacy or a declaration of intent to be a write-in candidate, or has become a candidate by the filling of a vacancy under section 3513.30 of the Revised Code for any federal, state, or county office, if the declaration of candidacy is for a state or county office, or for any municipal or township office, if the declaration of candidacy is for a municipal or township office.

If the declaration of candidacy declares a candidacy which is to be submitted to electors throughout the entire state, the petition, including a petition for joint candidates for the offices of governor and lieutenant

governor, shall be signed by at least one thousand qualified electors who are members of the same political party as the candidate or joint candidates, and the declaration of candidacy and petition shall be filed with the secretary of state; provided that the secretary of state shall not accept or file any such petition appearing on its face to contain signatures of more than three thousand electors.

Except as otherwise provided in this paragraph, if the declaration of candidacy is of one that is to be submitted only to electors within a district, political subdivision, or portion thereof, the petition shall be signed by not less than fifty qualified electors who are members of the same political party as the political party of which the candidate is a member. If the declaration of candidacy is for party nomination as a candidate for member of the legislative authority of a municipal corporation elected by ward, the petition shall be signed by not less than twenty-five qualified electors who are members of the political party of which the candidate is a member.

No such petition, except the petition for a candidacy that is to be submitted to electors throughout the entire state, shall be accepted for filing if it appears to contain on its face signatures of more than three times the minimum number of signatures. When a petition of a candidate has been accepted for filing by a board of elections, the petition shall not be deemed invalid if, upon verification of signatures contained in the petition, the board of elections finds the number of signatures accepted exceeds three times the minimum number of signatures required. A board of elections may discontinue verifying signatures on petitions when the number of verified signatures equals the minimum required number of qualified signatures.

If the declaration of candidacy declares a candidacy for party nomination or for election as a candidate of an intermediate or minor party, the minimum number of signatures on such petition is one-half the minimum number provided in this section, except that, when the candidacy is one for election as a member of the state central committee or the county central committee of a political party, the minimum number shall be the same for an intermediate or minor party as for a major party.

If a declaration of candidacy is one for election as a member of the state central committee or the county central committee of a political party, the petition shall be signed by five qualified electors of the district, county, ward, township, or precinct within which electors may vote for such candidate. The electors signing such petition shall be members of the same political party as the political party of which the candidate is a member.

For purposes of signing or circulating a petition of candidacy for party nomination or election, an elector is considered to be a member of a political

party if the elector voted in that party's primary election within the preceding two calendar years, or if the elector did not vote in any other party's primary election within the preceding two calendar years.

If the declaration of candidacy is of one that is to be submitted only to electors within a county, or within a district or subdivision or part thereof smaller than a county, the petition shall be filed with the board of elections of the county. If the declaration of candidacy is of one that is to be submitted only to electors of a district or subdivision or part thereof that is situated in more than one county, the petition shall be filed with the board of elections of the county within which the major portion of the population thereof, as ascertained by the next preceding federal census, is located.

A petition shall consist of separate petition papers, each of which shall contain signatures of electors of only one county. Petitions or separate petition papers containing signatures of electors of more than one county shall not thereby be declared invalid. In case petitions or separate petition papers containing signatures of electors of more than one county are filed, the board shall determine the county from which the majority of signatures came, and only signatures from such county shall be counted. Signatures from any other county shall be invalid.

Each separate petition paper shall be circulated by one person only, who shall be the candidate or a joint candidate or a member of the same political party as the candidate or joint candidates, and each separate petition paper shall be governed by the rules set forth in section 3501.38 of the Revised Code.

The secretary of state shall promptly transmit to each board such separate petition papers of each petition accompanying a declaration of candidacy filed with the secretary of state as purport to contain signatures of electors of the county of such board. The board of the most populous county of a district shall promptly transmit to each board within such district such separate petition papers of each petition accompanying a declaration of candidacy filed with it as purport to contain signatures of electors of the county of each such board. The board of a county within which the major portion of the population of a subdivision, situated in more than one county, is located, shall promptly transmit to the board of each other county within which a portion of such subdivision is located such separate petition papers of each petition accompanying a declaration of candidacy filed with it as purport to contain signatures of electors of the portion of such subdivision in the county of each such board.

All petition papers so transmitted to a board and all petitions accompanying declarations of candidacy filed with ~~such~~ a board shall, under

proper regulations, be open to public inspection until four p.m. of the seventieth day before the day of the next primary election, or if that next primary election is a presidential primary election, the fifty-fifth day before that presidential primary election. Each board shall, not later than the sixty-eighth day before the day of ~~such~~ that primary election, or if the primary election is a presidential primary election, not later than the fifty-third day before such presidential primary election, examine and determine the validity or invalidity of the signatures on the petition papers so transmitted to or filed with it and shall return to the secretary of state all petition papers transmitted to it by the secretary of state, together with its certification of its determination as to the validity or invalidity of signatures thereon, and shall return to each other board all petition papers transmitted to it by such board, together with its certification of its determination as to the validity or invalidity of the signatures thereon. All other matters affecting the validity or invalidity of such petition papers shall be determined by the secretary of state or the board with whom such petition papers were filed.

Protests against the candidacy of any person filing a declaration of candidacy for party nomination or for election to an office or position, as provided in this section, may be filed by any qualified elector who is a member of the same political party as the candidate and who is eligible to vote at the primary election for the candidate whose declaration of candidacy the elector objects to, or by the controlling committee of ~~such~~ that political party. ~~Such~~ The protest ~~must~~ shall be in writing, and ~~must~~ shall be filed not later than four p.m. of the sixty-fourth day before the day of the primary election, or if the primary election is a presidential primary election, not later than four p.m. of the forty-ninth day before the day of the presidential primary election. ~~Such~~ The protest shall be filed with the election officials with whom the declaration of candidacy and petition was filed. Upon the filing of ~~such~~ the protest, the election officials with whom it is filed shall promptly fix the time for hearing it, and shall forthwith mail notice of the filing of ~~such~~ the protest and the time fixed for hearing to the person whose candidacy is so protested. They shall also forthwith mail notice of the time fixed for such hearing to the person who filed the protest. At the time fixed, such election officials shall hear the protest and determine the validity or invalidity of the declaration of candidacy and petition. If they find that such candidate is not an elector of the state, district, county, or political subdivision in which the candidate seeks a party nomination or election to an office or position, or has not fully complied with this chapter, the candidate's declaration of candidacy and petition shall be determined to

be invalid and shall be rejected~~,~~; otherwise, it shall be determined to be valid. ~~Such~~ That determination shall be final.

A protest against the candidacy of any persons filing a declaration of candidacy for joint party nomination to the offices of governor and lieutenant governor shall be filed, heard, and determined in the same manner as a protest against the candidacy of any person filing a declaration of candidacy singly.

The secretary of state shall, on the sixtieth day before the day of a primary election, or if the primary election is a presidential primary election, on the forty-fifth day before the day of the presidential primary election, certify to each board in the state the forms of the official ballots to be used at ~~such~~ the primary election, together with the names of the candidates to be printed ~~thereon~~ on the ballots whose nomination or election is to be determined by electors throughout the entire state and who filed valid declarations of candidacy and petitions.

The board of the most populous county in a district comprised of more than one county but less than all of the counties of the state shall, on the sixtieth day before the day of a primary election, or if the primary election is a presidential primary election, on the forty-fifth day before the day of a presidential primary election, certify to the board of each county in the district the names of the candidates to be printed on the official ballots to be used at ~~such~~ the primary election, whose nomination or election is to be determined only by electors within ~~such~~ the district and who filed valid declarations of candidacy and petitions.

The board of a county within which the major portion of the population of a subdivision smaller than the county and situated in more than one county is located shall, on the sixtieth day before the day of a primary election, or if the primary election is a presidential primary election, on the forty-fifth day before the day of a presidential primary election, certify to the board of each county in which a portion of ~~such~~ that subdivision is located the names of the candidates to be printed on the official ballots to be used at ~~such~~ the primary election, whose nomination or election is to be determined only by electors within ~~such~~ that subdivision and who filed valid declarations of candidacy and petitions.

Sec. 3513.052. (A) No person shall seek nomination or election to any of the following offices or positions at the same election by filing a declaration of candidacy and petition, a declaration of intent to be a write-in candidate, or a nominating petition, or by becoming a candidate through party nomination in a primary election, or by the filling of a vacancy under section 3513.30 or 3513.31 of the Revised Code:

(1) Two or more state offices;

(2) Two or more county offices;

(3) A state office and a county office;

(4) A federal office and a state or county office;

(5) Any combination of two or more municipal or township offices, positions as a member of a city, local, or exempted village board of education, or positions as a member of a governing board of an educational service center.

(B) The secretary of state or a board of elections shall not accept for filing a declaration of candidacy and petition, a declaration of intent to be a write-in candidate, or a nominating petition of a person seeking to become a candidate if that person, for the same election, has already filed a declaration of candidacy, a declaration of intent to be a write-in candidate, or a nominating petition, or has become a candidate through party nomination at a primary election or by the filling of a vacancy under section 3513.30 or 3513.31 of the Revised Code for:

(1) Any federal, state, or county office, if the declaration of candidacy, declaration of intent to be a write-in candidate, or nominating petition is for a state or county office;

(2) Any municipal or township office, or for member of a city, local, or exempted village board of education, or for member of a governing board of an educational service center, if the declaration of candidacy, declaration of intent to be a write-in candidate, or nominating petition is for a municipal or township office, or for member of a city, local, or exempted village board of education, or for member of a governing board of an educational service center.

(C)(1) If the secretary of state determines, before the day of the primary election, that a person is seeking nomination to more than one office at that election in violation of division (A) of this section, the secretary of state shall do one of the following:

(a) If each office or the district for each office for which the person is seeking nomination is wholly within a single county and none of those offices is a federal office, the secretary of state shall notify the board of elections of that county. The board then shall determine the date on which the person first sought to become a candidate for each of those offices by filing a declaration of candidacy or a declaration of intent to be a write-in candidate or by the filling of a vacancy under section 3513.30 of the Revised Code. The board shall vote promptly to disqualify that person as a candidate for each office for which the person sought to become a candidate after the date on which the person first sought to become a candidate for any

of those offices. If the board determines that the person sought to become a candidate for more than one of those offices on the same date, the board shall vote promptly to disqualify that person as a candidate for each office that would be listed on the ballot below the highest office for which that person seeks nomination, according to the ballot order prescribed under section 3505.03 of the Revised Code.

(b) If one or more of the offices for which the person is seeking nomination is a state office or an office with a district larger than a single county and none of the offices for which the person is seeking nomination is a federal office, the secretary of state shall determine the date on which the person first sought to become a candidate for each of those offices by filing a declaration of candidacy or a declaration of intent to be a write-in candidate or by the filling of a vacancy under section 3513.30 of the Revised Code. The secretary of state shall order the board of elections of each county in which the person is seeking to appear on the ballot to disqualify that person as a candidate for each office for which the person sought to become a candidate after the date on which the person first sought to become a candidate for any of those offices. If the secretary of state determines that the person sought to become a candidate for more than one of those offices on the same date, the secretary of state shall order the board of elections of each county in which the person is seeking to appear on the ballot to disqualify that person as a candidate for each office that would be listed on the ballot below the highest office for which that person seeks nomination, according to the ballot order prescribed under section 3505.03 of the Revised Code. Each board of elections so notified shall vote promptly to disqualify the person as a candidate in accordance with the order of the secretary of state.

(c) If each office or the district for each office for which the person is seeking nomination is wholly within a single county and any of those offices is a federal office, the secretary of state shall notify the board of elections of that county. The board then shall vote promptly to disqualify that person as a candidate for each office that is not a federal office.

(d) If one or more of the offices for which the person is seeking nomination is a state office and any of the offices for which the person is seeking nomination is a federal office, the secretary of state shall order the board of elections of each county in which the person is seeking to appear on the ballot to disqualify that person as a candidate for each office that is not a federal office. Each board of elections so notified shall vote promptly to disqualify the person as a candidate in accordance with the order of the secretary of state.

(2) If a board of elections determines, before the day of the primary election, that a person is seeking nomination to more than one office at that election in violation of division (A) of this section, the board shall do one of the following:

(a) If each office or the district for each office for which the person is seeking nomination is wholly within that county and none of those offices is a federal office, the board shall determine the date on which the person first sought to become a candidate for each of those offices by filing a declaration of candidacy or a declaration of intent to be a write-in candidate or by the filling of a vacancy under section 3513.30 of the Revised Code. The board shall vote promptly to disqualify that person as a candidate for each office for which the person sought to become a candidate after the date on which the person first sought to become a candidate for any of those offices. If the board determines that the person sought to become a candidate for more than one of those offices on the same date, the board shall vote promptly to disqualify that person as a candidate for each office that would be listed on the ballot below the highest office for which that person seeks nomination, according to the ballot order prescribed under section 3505.03 of the Revised Code.

(b) If one or more of the offices for which the person is seeking nomination is a state office or an office with a district larger than a single county and none of the offices for which the person is seeking nomination is a federal office, the board shall notify the secretary of state. The secretary of state then shall determine the date on which the person first sought to become a candidate for each of those offices by filing a declaration of candidacy or a declaration of intent to be a write-in candidate or by the filling of a vacancy under section 3513.30 of the Revised Code. The secretary of state shall order the board of elections of each county in which the person is seeking to appear on the ballot to disqualify that person as a candidate for each office for which the person sought to become a candidate after the date on which the person first sought to become a candidate for any of those offices. If the secretary of state determines that the person sought to become a candidate for more than one of those offices on the same date, the secretary of state shall order the board of elections of each county in which the person is seeking to appear on the ballot to disqualify that person as a candidate for each office that would be listed on the ballot below the highest office for which that person seeks nomination, according to the ballot order prescribed under section 3505.03 of the Revised Code. Each board of elections so notified shall vote promptly to disqualify the person as a candidate in accordance with the order of the secretary of state.

(c) If each office or the district for each office for which the person is seeking nomination is wholly within a single county and any of those offices is a federal office, the board shall vote promptly to disqualify that person as a candidate for each office that is not a federal office.

(d) If one or more of the offices for which the person is seeking nomination is a state office and any of the offices for which the person is seeking nomination is a federal office, the board shall notify the secretary of state. The secretary of state then shall order the board of elections of each county in which the person is seeking to appear on the ballot to disqualify that person as a candidate for each office that is not a federal office. Each board of elections so notified shall vote promptly to disqualify the person as a candidate in accordance with the order of the secretary of state.

(D)(1) If the secretary of state determines, after the day of the primary election and before the day of the general election, that a person is seeking election to more than one office at that election in violation of division (A) of this section, the secretary of state shall do one of the following:

(a) If each office or the district for each office for which the person is seeking election is wholly within a single county and none of those offices is a federal office, the secretary of state shall notify the board of elections of that county. The board then shall determine the offices for which the person seeks to appear as a candidate on the ballot. The board shall vote promptly to disqualify that person as a candidate for each office that would be listed on the ballot below the highest office for which that person seeks election, according to the ballot order prescribed under section 3505.03 of the Revised Code. If the person sought nomination at a primary election and has not yet been issued a certificate of nomination, the board shall not issue that certificate for that person for any office that would be listed on the ballot below the highest office for which that person seeks election, according to the ballot order prescribed under section 3505.03 of the Revised Code.

(b) If one or more of the offices for which the person is seeking election is a state office or an office with a district larger than a single county and none of the offices for which the person is seeking election is a federal office, the secretary of state shall promptly investigate and determine the offices for which the person seeks to appear as a candidate on the ballot. The secretary of state shall order the board of elections of each county in which the person is seeking to appear on the ballot to disqualify that person as a candidate for each office that would be listed on the ballot below the highest office for which that person seeks election, according to the ballot order prescribed under section 3505.03 of the Revised Code. Each board of elections so notified shall vote promptly to disqualify the person as a

candidate in accordance with the order of the secretary of state. If the person sought nomination at a primary election and has not yet been issued a certificate of nomination, the board shall not issue that certificate for that person for any office that would be listed on the ballot below the highest office for which that person seeks election, according to the ballot order prescribed under section 3505.03 of the Revised Code.

(c) If each office or the district for each office for which the person is seeking election is wholly within a single county and any of those offices is a federal office, the secretary of state shall notify the board of elections of that county. The board then shall vote promptly to disqualify that person as a candidate for each office that is not a federal office. If the person sought nomination at a primary election and has not yet been issued a certificate of nomination, the board shall not issue that certificate for that person for any office that is not a federal office.

(d) If one or more of the offices for which the person is seeking election is a state office and any of the offices for which the person is seeking election is a federal office, the secretary of state shall order the board of elections of each county in which the person is seeking to appear on the ballot to disqualify that person as a candidate for each office that is not a federal office. Each board of elections so notified shall vote promptly to disqualify the person as a candidate in accordance with the order of the secretary of state. If the person sought nomination at a primary election and has not yet been issued a certificate of nomination, the board shall not issue that certificate for that person for any office that is not a federal office.

(2) If a board of elections determines, after the day of the primary election and before the day of the general election, that a person is seeking election to more than one office at that election in violation of division (A) of this section, the board of elections shall do one of the following:

(a) If each office or the district for each office for which the person is seeking election is wholly within that county and none of those offices is a federal office, the board shall determine the offices for which the person seeks to appear as a candidate on the ballot. The board shall vote promptly to disqualify that person as a candidate for each office that would be listed on the ballot below the highest office for which that person seeks election, according to the ballot order prescribed under section 3505.03 of the Revised Code. If the person sought nomination at a primary election and has not yet been issued a certificate of nomination, the board shall not issue that certificate for that person for any office that would be listed on the ballot below the highest office for which that person seeks election, according to the ballot order prescribed under section 3505.03 of the Revised Code.

(b) If one or more of the offices for which the person is seeking election is a state office or an office with a district larger than a single county and none of the offices for which the person is seeking election is a federal office, the board shall notify the secretary of state. The secretary of state promptly shall investigate and determine the offices for which the person seeks to appear as a candidate on the ballot. The secretary of state shall order the board of elections of each county in which the person is seeking to appear on the ballot to disqualify that person as a candidate for each office that would be listed on the ballot below the highest office for which that person seeks election, according to the ballot order prescribed under section 3505.03 of the Revised Code. Each board of elections so notified shall vote promptly to disqualify the person as a candidate in accordance with the order of the secretary of state. If the person sought nomination at a primary election and has not yet been issued a certificate of nomination, the board shall not issue that certificate for that person for any office that would be listed on the ballot below the highest office for which that person seeks election, according to the ballot order prescribed under section 3505.03 of the Revised Code.

(c) If each office or the district for each office for which the person is seeking election is wholly within that county and any of those offices is a federal office, the board shall vote promptly to disqualify that person as a candidate for each office that is not a federal office. If the person sought nomination at a primary election and has not yet been issued a certificate of nomination, the board shall not issue that certificate for that person for any office that is not a federal office.

(d) If one or more of the offices for which the person is seeking election is a state office and any of the offices for which the person is seeking election is a federal office, the board shall notify the secretary of state. The secretary of state shall order the board of elections of each county in which the person is seeking to appear on the ballot to disqualify that person as a candidate for each office that is not a federal office. Each board of elections so notified shall vote promptly to disqualify the person as a candidate in accordance with the order of the secretary of state. If the person sought nomination at a primary election and has not yet been issued a certificate of nomination, the board shall not issue that certificate for that person for any office that is not a federal office.

(E) When a person is disqualified as a candidate under division (C) or (D) of this section, that person's name shall not appear on the ballots for any office for which that person has been disqualified as a candidate. If the ballots have already been prepared, the board of elections shall remove the

name of the disqualified candidate from the ballots to the extent practicable in the time remaining before the election and according to the directions of the secretary of state. If the name is not removed from the ballots before the day of the election, the votes for the disqualified candidate are void and shall not be counted.

(F) Any vacancy created by the disqualification of a person as a candidate under division (C) or (D) of this section may be filled in the manner provided for in sections 3513.30 and 3513.31 of the Revised Code.

(G) Nothing in this section or section 3513.04, 3513.041, 3513.05, 3513.251, 3513.253, 3513.254, 3513.255, 3513.257, 3513.259, or 3513.261 of the Revised Code prohibits, and the secretary of state or a board of elections shall not disqualify, a person from being a candidate for an office, if that person timely withdraws as a candidate for any offices specified in division (A) of this section for which that person first sought to become a candidate by filing a declaration of candidacy and petition, a declaration of intent to be a write-in candidate, or a nominating petition, by party nomination in a primary election, or by the filling of a vacancy under section 3513.30 or 3513.31 of the Revised Code.

(H) As used in this section:

(1) "State office" means the offices of governor, lieutenant governor, secretary of state, auditor of state, treasurer of state, attorney general, member of the state board of education, member of the general assembly, chief justice of the supreme court, and justice of the supreme court.

(2) "Timely withdraws" means either of the following:

(a) Withdrawing as a candidate before the applicable deadline for filing a declaration of candidacy, declaration of intent to be a write-in candidate, or nominating petition for the subsequent office for which the person is seeking to become a candidate at the same election;

(b) Withdrawing as a candidate before the applicable deadline for the filling of a vacancy under section 3513.30 or 3513.31 of the Revised Code, if the person is seeking to become a candidate for a subsequent office at the same election under either of those sections.

Sec. 3513.257. Each person desiring to become an independent candidate for an office for which candidates may be nominated at a primary election, except persons desiring to become independent joint candidates for the offices of governor and lieutenant governor and for the offices of president and vice-president of the United States, shall file no later than four p.m. of the day before the day of the primary election immediately preceding the general election at which such candidacy is to be voted for by the voters, a statement of candidacy and nominating petition as provided in

section 3513.261 of the Revised Code. Persons desiring to become independent joint candidates for the offices of governor and lieutenant governor shall file, not later than four p.m. of the day before the day of the primary election, one statement of candidacy and one nominating petition for the two of them. Persons desiring to become independent joint candidates for the offices of president and vice-president of the United States shall file, not later than four p.m. of the seventy-fifth day before the day of the general election at which the president and vice-president are to be elected, one statement of candidacy and one nominating petition for the two of them. The prospective independent joint candidates' statement of candidacy shall be filed with the nominating petition as one instrument.

The statement of candidacy and separate petition papers of each candidate or pair of joint candidates shall be filed at the same time as one instrument.

The nominating petition shall contain signatures of qualified electors of the district, political subdivision, or portion of a political subdivision in which the candidacy is to be voted on in an amount to be determined as follows:

(A) If the candidacy is to be voted on by electors throughout the entire state, the nominating petition, including the nominating petition of independent joint candidates for the offices of governor and lieutenant governor, shall be signed by no less than five thousand qualified electors, provided that no petition shall be accepted for filing if it purports to contain more than fifteen thousand signatures.

(B) If the candidacy is to be voted on by electors in any district, political subdivision, or part thereof in which less than five thousand electors voted for the office of governor at the most recent election for that office, the nominating petition shall contain signatures of not less than twenty-five qualified electors of the district, political subdivision, or part thereof, or a number of qualified signatures equal to at least five per cent of that vote, if this number is less than twenty-five.

(C) If the candidacy is to be voted on by electors in any district, political subdivision, or part thereof in which five thousand or more electors voted for the office of governor at the most recent election for that office, the nominating petition shall contain a number of signatures equal to at least one per cent of those electors.

All nominating petitions of candidates for offices to be voted on by electors throughout the entire state shall be filed in the office of the secretary of state. No nominating petition for the offices of president and vice-president of the United States shall be accepted for filing unless there is

submitted to the secretary of state, at the time of filing the petition, a slate of presidential electors sufficient in number to satisfy the requirement of the United States Constitution. The secretary of state shall not accept for filing the statement of candidacy of a person who desires to be an independent candidate for the office of governor unless it also shows the joint candidacy of a person who desires to be an independent candidate for the office of lieutenant governor, shall not accept for filing the statement of candidacy of a person who desires to be an independent candidate for the office of lieutenant governor unless it also shows the joint candidacy of a person who desires to be an independent candidate for the office of governor, and shall not accept for filing the statement of candidacy of a person who desires to be an independent candidate to the office of governor or lieutenant governor who, for the same election, has already filed a declaration of candidacy, a declaration of intent to be a write-in candidate, or a statement of candidacy, or has become a candidate by the filling of a vacancy under section 3513.30 of the Revised Code for any other state office or any federal or county office.

Nominating petitions of candidates for offices to be voted on by electors within a district or political subdivision comprised of more than one county but less than all counties of the state shall be filed with the boards of elections of that county or part of a county within the district or political subdivision which had a population greater than that of any other county or part of a county within the district or political subdivision according to the last federal decennial census.

Nominating petitions for offices to be voted on by electors within a county or district smaller than a county shall be filed with the board of elections for such county.

No petition other than the petition of a candidate whose candidacy is to be considered by electors throughout the entire state shall be accepted for filing if it appears on its face to contain more than three times the minimum required number of signatures. A board of elections shall not accept for filing a nominating petition of a person seeking to become a candidate if that person, for the same election, has already filed a declaration of candidacy, a declaration of intent to be a write-in candidate, or a nominating petition, or has become a candidate by the filling of a vacancy under section 3513.30 of the Revised Code for any federal, state, or county office, if the nominating petition is for a state or county office, or for any municipal or township office, for member of a city, local, or exempted village board of education, or for member of a governing board of an educational service center, if the nominating petition is for a municipal or township office, or for member of

a city, local, or exempted village board of education, or for member of a governing board of an educational service center. When a petition of a candidate has been accepted for filing by a board of elections, the petition shall not be deemed invalid if, upon verification of signatures contained in the petition, the board of elections finds the number of signatures accepted exceeds three times the minimum number of signatures required. A board of elections may discontinue verifying signatures when the number of verified signatures on a petition equals the minimum required number of qualified signatures.

Any nonjudicial candidate who files a nominating petition may request, at the time of filing, that the candidate be designated on the ballot as a nonparty candidate or as an other-party candidate, or may request that the candidate's name be placed on the ballot without any designation. Any such candidate who fails to request a designation either as a nonparty candidate or as an other-party candidate shall have the candidate's name placed on the ballot without any designation.

The purpose of establishing a filing deadline for independent candidates prior to the primary election immediately preceding the general election at which the candidacy is to be voted on by the voters is to recognize that the state has a substantial and compelling interest in protecting its electoral process by encouraging political stability, ensuring that the winner of the election will represent a majority of the community, providing the electorate with an understandable ballot, and enhancing voter education, thus fostering informed and educated expressions of the popular will in a general election. The filing deadline for independent candidates required in this section prevents splintered parties and unrestrained factionalism, avoids political fragmentation, and maintains the integrity of the ballot. The deadline, one day prior to the primary election, is the least drastic or restrictive means of protecting these state interests. The general assembly finds that the filing deadline for independent candidates in primary elections required in this section is reasonably related to the state's purpose of ensuring fair and honest elections while leaving unimpaired the political, voting, and associational rights secured by the first and fourteenth amendments to the United States Constitution.

Sec. 3513.259. Nominations of candidates for the office of member of the state board of education shall be made only by nominating petition. The nominating petition of a candidate for the office of member of the state board of education shall be signed by not less than one hundred qualified electors.

No such nominating petition shall be accepted for filing if it appears on

its face to contain signatures aggregating in number more than three times the minimum number of signatures required by this section. A board of elections shall not accept for filing a nominating petition of a person if that person, for the same election, has already filed a declaration of candidacy, a declaration of intent to be a write-in candidate, or a nominating petition, or has become a candidate through party nomination at a primary election or by the filling of a vacancy under section 3513.30 or 3513.31 of the Revised Code, to be a candidate for any other state office or any federal or county office. When a petition of a candidate has been accepted for filing by a board of elections, the petition shall not be deemed invalid if, upon verification of signatures contained in the petition, the board of elections finds the number of signatures accepted exceeds three times the minimum number of signatures required. A board of elections may discontinue verifying signatures when the number of verified signatures equals the minimum required number of signatures. Such petition shall be filed with the board of elections of the most populous county in such district not later than four p.m. of the seventy-fifth day before the day of the general election at which state board of education members are elected.

Each nominating petition shall be signed by qualified electors residing in the district in which the candidate designated therein would be a candidate for election to the office of member of the state board of education. Each candidate shall be a qualified elector residing in the district in which the candidate seeks election to such office.

As the word "district" is used in this section, it refers to a district created under section 3301.01 of the Revised Code.

Sec. 3513.261. A nominating petition may consist of one or more separate petition papers, each of which shall be substantially in the form prescribed in this section. If the petition consists of more than one separate petition paper, the statement of candidacy of the candidate or joint candidates named need be signed by the candidate or joint candidates on only one of such separate petition papers, but the statement of candidacy so signed shall be copied on each other separate petition paper before the signatures of electors are placed on it. Each nominating petition containing signatures of electors of more than one county shall consist of separate petition papers each of which shall contain signatures of electors of only one county; provided that petitions containing signatures of electors of more than one county shall not thereby be declared invalid. In case petitions containing signatures of electors of more than one county are filed, the board of elections shall determine the county from which the majority of the signatures came, and only signatures from this county shall be counted.

Signatures from any other county shall be invalid.

All signatures on nominating petitions shall be written in ink or indelible pencil.

At the time of filing a nominating petition, the candidate designated in the nominating petition, and joint candidates for governor and lieutenant governor, shall pay to the election officials with whom it is filed the fees specified for the office under divisions (A) and (B) of section 3513.10 of the Revised Code. The fees shall be disposed of by those election officials in the manner that is provided in section 3513.10 of the Revised Code for the disposition of other fees, and in no case shall a fee required under that section be returned to a candidate.

Candidates or joint candidates whose names are written on the ballot, and who are elected, shall pay the same fees under section 3513.10 of the Revised Code that candidates who file nominating petitions pay. Payment of these fees shall be a condition precedent to the granting of their certificates of election.

Each nominating petition shall contain a statement of candidacy that shall be signed by the candidate or joint candidates named in it. Such statement of candidacy shall contain a declaration made under penalty of election falsification that the candidate desires to be a candidate for the office named in it, and that the candidate is an elector qualified to vote for the office the candidate seeks.

The form of the nominating petition and statement of candidacy shall be substantially as follows:

"STATEMENT OF CANDIDACY

I, ... (Name of candidate), the undersigned, hereby declare under penalty of election falsification that my voting residence is in .... Precinct of the ..... (Township) or (Ward and City, or Village) in the county of ..... Ohio; that my post-office address is ..... (Street and Number, if any, or Rural Route and Number) of the ..... (City, Village, or post office) of ....., Ohio; and that I am a qualified elector in the precinct in which my voting residence is located. I hereby declare that I desire to be a candidate for election to the office of ..... in the ..... (State, District, County, City, Village, Township, or School District) for the ..... (Full term or unexpired term ending .....) at the General Election to be held on the ..... day of ....., ...

I further declare that I am an elector qualified to vote for the office I seek. Dated this ..... day of ....., ...

.....

(Signature of candidate)

WHOEVER COMMITS ELECTION FALSIFICATION IS GUILTY OF A FELONY OF THE FIFTH DEGREE.

I, ..., hereby constitute the persons named below a committee to represent me:

Name Residence

.....
.....
.....
.....
.....

NOMINATING PETITION

We, the undersigned, qualified electors of the state of Ohio, whose voting residence is in the County, City, Village, Ward, Township or Precinct set opposite our names, hereby nominate ..... as a candidate for election to the office of ..... in the ..... (State, District, County, City, Village, Township, or School District) for the ..... (Full term or unexpired term ending .....) to be voted for at the general election next hereafter to be held, and certify that this person is, in our opinion, well qualified to perform the duties of the office or position to which the person desires to be elected.

Signature	Street Address or R.F.D. (Must use address on file with the board of elections)	City, Village or Township	Ward	Precinct	County	Date of Signing
.....						
.....						
.....						

....., declares under penalty of election falsification that such person is a qualified elector of the state of Ohio and resides at the address appearing below such person's signature hereto; that such person is the circulator of the foregoing petition paper containing ..... signatures; that such person witnessed the affixing of every signature; that all signers were to the best of such person's knowledge and belief qualified to sign; and that every signature is to the best of such person's knowledge and belief the signature of the person whose signature it purports to be.

.....
(Signature of circulator)
.....
(Address)
.....
(If petition is for a statewide candidate, the name and address of person employing circulator to circulate petition, if any)

WHOEVER COMMITS ELECTION FALSIFICATION IS GUILTY OF A FELONY OF THE FIFTH DEGREE."

The secretary of state shall prescribe a form of nominating petition for a group of candidates for the office of member of a board of education, township office, and offices of municipal corporations of under two thousand population.

The secretary of state shall prescribe a form of statement of candidacy and nominating petition, which shall be substantially similar to the form of statement of candidacy and nominating petition set forth in this section, that will be suitable for joint candidates for the offices of governor and lieutenant governor.

If such petition nominates a candidate whose election is to be determined by the electors of a county or a district or subdivision within the county, it shall be filed with the board of such county. If the petition nominates a candidate whose election is to be determined by the voters of a subdivision located in more than one county, it shall be filed with the board of the county in which the major portion of the population of such subdivision is located.

If the petition nominates a candidate whose election is to be determined by the electors of a district comprised of more than one county but less than all of the counties of the state, it shall be filed with the board of elections of the most populous county in such district. If the petition nominates a candidate whose election is to be determined by the electors of the state at large, it shall be filed with the secretary of state.

The secretary of state or a board of elections shall not accept for filing a nominating petition of a person seeking to become a candidate if that person, for the same election, has already filed a declaration of candidacy, a declaration of intent to be a write-in candidate, or a nominating petition, or has become a candidate through party nomination at a primary election or by the filling of a vacancy under section 3513.30 or 3513.31 of the Revised Code for any federal, state, or county office, if the nominating petition is for

a state or county office, or for any municipal or township office, for member of a city, local, or exempted village board of education, or for member of a governing board of an educational service center, if the nominating petition is for a municipal or township office, or for member of a city, local, or exempted village board of education, or for member of a governing board of an educational service center.

Sec. 3517.13. (A)(1) No campaign committee of a statewide candidate shall fail to file a complete and accurate statement required under division (A)(1) of section 3517.10 of the Revised Code.

(2) No campaign committee of a statewide candidate shall fail to file a complete and accurate monthly statement, and no campaign committee of a statewide candidate or a candidate for the office of chief justice or justice of the supreme court shall fail to file a complete and accurate two-business-day statement, as required under section 3517.10 of the Revised Code.

As used in this division, "statewide candidate" has the same meaning as in division (F)(2) of section 3517.10 of the Revised Code.

(B) No campaign committee shall fail to file a complete and accurate statement required under division (A)(1) of section 3517.10 of the Revised Code.

(C) No campaign committee shall fail to file a complete and accurate statement required under division (A)(2) of section 3517.10 of the Revised Code.

(D) No campaign committee shall fail to file a complete and accurate statement required under division (A)(3) or (4) of section 3517.10 of the Revised Code.

(E) No person other than a campaign committee shall knowingly fail to file a statement required under section 3517.10 or 3517.107 of the Revised Code.

(F) No person shall make cash contributions to any person totaling more than one hundred dollars in each primary, special, or general election.

(G)(1) No person shall knowingly conceal or misrepresent contributions given or received, expenditures made, or any other information required to be reported by a provision in sections 3517.08 to 3517.13 and 3517.17 of the Revised Code.

(2)(a) No person shall make a contribution to a campaign committee, political action committee, political contributing entity, legislative campaign fund, political party, or person making disbursements to pay the direct costs of producing or airing electioneering communications in the name of another person.

(b) A person does not make a contribution in the name of another when

either of the following applies:

(i) An individual makes a contribution from a partnership or other unincorporated business account, if the contribution is reported by listing both the name of the partnership or other unincorporated business and the name of the partner or owner making the contribution as required under division (I) of section 3517.10 of the Revised Code.

(ii) A person makes a contribution in that person's spouse's name or in both of their names.

(H) No person within this state, publishing a newspaper or other periodical, shall charge a campaign committee for political advertising a rate in excess of the rate such person would charge if the campaign committee were a general rate advertiser whose advertising was directed to promoting its business within the same area as that encompassed by the particular office that the candidate of the campaign committee is seeking. The rate shall take into account the amount of space used, as well as the type of advertising copy submitted by or on behalf of the campaign committee. All discount privileges otherwise offered by a newspaper or periodical to general rate advertisers shall be available upon equal terms to all campaign committees.

No person within this state, operating a radio or television station or network of stations in this state, shall charge a campaign committee for political broadcasts a rate that exceeds:

(1) During the forty-five days preceding the date of a primary election and during the sixty days preceding the date of a general or special election in which the candidate of the campaign committee is seeking office, the lowest unit charge of the station for the same class and amount of time for the same period;

(2) At any other time, the charges made for comparable use of that station by its other users.

(I) Subject to divisions (K), (L), (M), and (N) of this section, no agency or department of this state or any political subdivision shall award any contract, other than one let by competitive bidding or a contract incidental to such contract or which is by force account, for the purchase of goods costing more than five hundred dollars or services costing more than five hundred dollars to any individual, partnership, association, including, without limitation, a professional association organized under Chapter 1785. of the Revised Code, estate, or trust if the individual has made or the individual's spouse has made, or any partner, shareholder, administrator, executor, or trustee or the spouse of any of them has made, as an individual, within the two previous calendar years, one or more contributions totaling in excess of

one thousand dollars to the holder of the public office having ultimate responsibility for the award of the contract or to the public officer's campaign committee.

(J) Subject to divisions (K), (L), (M), and (N) of this section, no agency or department of this state or any political subdivision shall award any contract, other than one let by competitive bidding or a contract incidental to such contract or which is by force account, for the purchase of goods costing more than five hundred dollars or services costing more than five hundred dollars to a corporation or business trust, except a professional association organized under Chapter 1785. of the Revised Code, if an owner of more than twenty per cent of the corporation or business trust or the spouse of that person has made, as an individual, within the two previous calendar years, taking into consideration only owners for all of that period, one or more contributions totaling in excess of one thousand dollars to the holder of a public office having ultimate responsibility for the award of the contract or to the public officer's campaign committee.

(K) For purposes of divisions (I) and (J) of this section, if a public officer who is responsible for the award of a contract is appointed by the governor, whether or not the appointment is subject to the advice and consent of the senate, excluding members of boards, commissions, committees, authorities, councils, boards of trustees, task forces, and other such entities appointed by the governor, the office of the governor is considered to have ultimate responsibility for the award of the contract.

(L) For purposes of divisions (I) and (J) of this section, if a public officer who is responsible for the award of a contract is appointed by the elected chief executive officer of a municipal corporation, or appointed by the elected chief executive officer of a county operating under an alternative form of county government or county charter, excluding members of boards, commissions, committees, authorities, councils, boards of trustees, task forces, and other such entities appointed by the chief executive officer, the office of the chief executive officer is considered to have ultimate responsibility for the award of the contract.

(M)(1) Divisions (I) and (J) of this section do not apply to contracts awarded by the board of commissioners of the sinking fund, municipal legislative authorities, boards of education, boards of county commissioners, boards of township trustees, or other boards, commissions, committees, authorities, councils, boards of trustees, task forces, and other such entities created by law, by the supreme court or courts of appeals, by county courts consisting of more than one judge, courts of common pleas consisting of more than one judge, or municipal courts consisting of more than one judge,

or by a division of any court if the division consists of more than one judge. This division shall apply to the specified entity only if the members of the entity act collectively in the award of a contract for goods or services.

(2) Divisions (I) and (J) of this section do not apply to actions of the controlling board.

(N)(1) Divisions (I) and (J) of this section apply to contributions made to the holder of a public office having ultimate responsibility for the award of a contract, or to the public officer's campaign committee, during the time the person holds the office and during any time such person was a candidate for the office. Those divisions do not apply to contributions made to, or to the campaign committee of, a candidate for or holder of the office other than the holder of the office at the time of the award of the contract.

(2) Divisions (I) and (J) of this section do not apply to contributions of a partner, shareholder, administrator, executor, trustee, or owner of more than twenty per cent of a corporation or business trust made before the person held any of those positions or after the person ceased to hold any of those positions in the partnership, association, estate, trust, corporation, or business trust whose eligibility to be awarded a contract is being determined, nor to contributions of the person's spouse made before the person held any of those positions, after the person ceased to hold any of those positions, before the two were married, after the granting of a decree of divorce, dissolution of marriage, or annulment, or after the granting of an order in an action brought solely for legal separation. Those divisions do not apply to contributions of the spouse of an individual whose eligibility to be awarded a contract is being determined made before the two were married, after the granting of a decree of divorce, dissolution of marriage, or annulment, or after the granting of an order in an action brought solely for legal separation.

(O) No beneficiary of a campaign fund or other person shall convert for personal use, and no person shall knowingly give to a beneficiary of a campaign fund or any other person, for the beneficiary's or any other person's personal use, anything of value from the beneficiary's campaign fund, including, without limitation, payments to a beneficiary for services the beneficiary personally performs, except as reimbursement for any of the following:

(1) Legitimate and verifiable prior campaign expenses incurred by the beneficiary;

(2) Legitimate and verifiable ordinary and necessary prior expenses incurred by the beneficiary in connection with duties as the holder of a public office, including, without limitation, expenses incurred through

participation in nonpartisan or bipartisan events if the participation of the holder of a public office would normally be expected;

(3) Legitimate and verifiable ordinary and necessary prior expenses incurred by the beneficiary while doing any of the following:

(a) Engaging in activities in support of or opposition to a candidate other than the beneficiary, political party, or ballot issue;

(b) Raising funds for a political party, political action committee, political contributing entity, legislative campaign fund, campaign committee, or other candidate;

(c) Participating in the activities of a political party, political action committee, political contributing entity, legislative campaign fund, or campaign committee;

(d) Attending a political party convention or other political meeting.

For purposes of this division, an expense is incurred whenever a beneficiary has either made payment or is obligated to make payment, as by the use of a credit card or other credit procedure or by the use of goods or services received on account.

(P) No beneficiary of a campaign fund shall knowingly accept, and no person shall knowingly give to the beneficiary of a campaign fund, reimbursement for an expense under division (O) of this section to the extent that the expense previously was reimbursed or paid from another source of funds. If an expense is reimbursed under division (O) of this section and is later paid or reimbursed, wholly or in part, from another source of funds, the beneficiary shall repay the reimbursement received under division (O) of this section to the extent of the payment made or reimbursement received from the other source.

(Q) No candidate or public official or employee shall accept for personal or business use anything of value from a political party, political action committee, political contributing entity, legislative campaign fund, or campaign committee other than the candidate's or public official's or employee's own campaign committee, and no person shall knowingly give to a candidate or public official or employee anything of value from a political party, political action committee, political contributing entity, legislative campaign fund, or such a campaign committee, except for the following:

(1) Reimbursement for legitimate and verifiable ordinary and necessary prior expenses not otherwise prohibited by law incurred by the candidate or public official or employee while engaged in any legitimate activity of the political party, political action committee, political contributing entity, legislative campaign fund, or such campaign committee. Without limitation,

reimbursable expenses under this division include those incurred while doing any of the following:

(a) Engaging in activities in support of or opposition to another candidate, political party, or ballot issue;

(b) Raising funds for a political party, legislative campaign fund, campaign committee, or another candidate;

(c) Attending a political party convention or other political meeting.

(2) Compensation not otherwise prohibited by law for actual and valuable personal services rendered under a written contract to the political party, political action committee, political contributing entity, legislative campaign fund, or such campaign committee for any legitimate activity of the political party, political action committee, political contributing entity, legislative campaign fund, or such campaign committee.

Reimbursable expenses under this division do not include, and it is a violation of this division for a candidate or public official or employee to accept, or for any person to knowingly give to a candidate or public official or employee from a political party, political action committee, political contributing entity, legislative campaign fund, or campaign committee other than the candidate's or public official's or employee's own campaign committee, anything of value for activities primarily related to the candidate's or public official's or employee's own campaign for election, except for contributions to the candidate's or public official's or employee's campaign committee.

For purposes of this division, an expense is incurred whenever a candidate or public official or employee has either made payment or is obligated to make payment, as by the use of a credit card or other credit procedure, or by the use of goods or services on account.

(R)(1) Division (O) or (P) of this section does not prohibit a campaign committee from making direct advance or post payment from contributions to vendors for goods and services for which reimbursement is permitted under division (O) of this section, except that no campaign committee shall pay its candidate or other beneficiary for services personally performed by the candidate or other beneficiary.

(2) If any expense that may be reimbursed under division (O), (P), or (Q) of this section is part of other expenses that may not be paid or reimbursed, the separation of the two types of expenses for the purpose of allocating for payment or reimbursement those expenses that may be paid or reimbursed may be by any reasonable accounting method, considering all of the surrounding circumstances.

(3) For purposes of divisions (O), (P), and (Q) of this section, mileage

allowance at a rate not greater than that allowed by the internal revenue service at the time the travel occurs may be paid instead of reimbursement for actual travel expenses allowable.

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

(a) "State elective office" has the same meaning as in section 3517.092 of the Revised Code.

(b) "Federal office" means a federal office as defined in the Federal Election Campaign Act.

(c) "Federal campaign committee" means a principal campaign committee or authorized committee as defined in the Federal Election Campaign Act.

(2) No person who is a candidate for state elective office and who previously sought nomination or election to a federal office shall transfer any funds or assets from that person's federal campaign committee for nomination or election to the federal office to that person's campaign committee as a candidate for state elective office.

(3) No campaign committee of a person who is a candidate for state elective office and who previously sought nomination or election to a federal office shall accept any funds or assets from that person's federal campaign committee for that person's nomination or election to the federal office.

(T)(1) Except as otherwise provided in division (B)(6)(c) of section 3517.102 of the Revised Code, a state or county political party shall not disburse moneys from any account other than a state candidate fund to make contributions to any of the following:

(a) A state candidate fund;

(b) A legislative campaign fund;

(c) A campaign committee of a candidate for the office of governor, lieutenant governor, secretary of state, auditor of state, treasurer of state, attorney general, member of the state board of education, or member of the general assembly.

(2) No state candidate fund, legislative campaign fund, or campaign committee of a candidate for any office described in division (T)(1)(c) of this section shall knowingly accept a contribution in violation of division (T)(1) of this section.

(U) No person shall fail to file the statement required under section 3517.12 of the Revised Code.

(V) No campaign committee shall fail to file a statement required under division (K)(3) of section 3517.10 of the Revised Code.

(W)(1) No foreign national shall, directly or indirectly through any other

person or entity, make a contribution, expenditure, or independent expenditure or promise, either expressly or implicitly, to make a contribution, expenditure, or independent expenditure in support of or opposition to a candidate for any elective office in this state, including an office of a political party.

(2) No candidate, campaign committee, political action committee, political contributing entity, legislative campaign fund, state candidate fund, political party, or separate segregated fund shall solicit or accept a contribution, expenditure, or independent expenditure from a foreign national. The secretary of state may direct any candidate, committee, entity, fund, or party that accepts a contribution, expenditure, or independent expenditure in violation of this division to return the contribution, expenditure, or independent expenditure or, if it is not possible to return the contribution, expenditure, or independent expenditure, then to return instead the value of it, to the contributor.

(3) As used in division (W) of this section, "foreign national" has the same meaning as in section 441e(b) of the Federal Election Campaign Act.

(X)(1) No state or county political party shall transfer any moneys from its restricted fund to any account of the political party into which contributions may be made or from which contributions or expenditures may be made.

(2)(a) No state or county political party shall deposit a contribution or contributions that it receives into its restricted fund.

(b) No state or county political party shall make a contribution or an expenditure from its restricted fund.

(3)(a) No corporation or labor organization shall make a gift or gifts from the corporation's or labor organization's money or property aggregating more than ten thousand dollars to any one state or county political party for the party's restricted fund in a calendar year.

(b) No state or county political party shall accept a gift or gifts for the party's restricted fund aggregating more than ten thousand dollars from any one corporation or labor organization in a calendar year.

(4) No state or county political party shall transfer any moneys in the party's restricted fund to any other state or county political party.

(5) No state or county political party shall knowingly fail to file a statement required under section 3517.1012 of the Revised Code.

(Y) The administrator of workers' compensation and the employees of the bureau of workers' compensation shall not conduct any business with or award any contract, other than one awarded by competitive bidding, for the purchase of goods costing more than five hundred dollars or services costing

more than five hundred dollars to any individual, partnership, association, including, without limitation, a professional association organized under Chapter 1785. of the Revised Code, estate, or trust, if the individual has made, or the individual's spouse has made, or any partner, shareholder, administrator, executor, or trustee, or the spouses of any of those individuals has made, as an individual, within the two previous calendar years, one or more contributions totaling in excess of one thousand dollars to the campaign committee of the governor or lieutenant governor or to the campaign committee of any candidate for the office of governor or lieutenant governor.

(Z) The administrator of workers' compensation and the employees of the bureau of workers' compensation shall not conduct business with or award any contract, other than one awarded by competitive bidding, for the purchase of goods costing more than five hundred dollars or services costing more than five hundred dollars to a corporation or business trust, except a professional association organized under Chapter 1785. of the Revised Code, if an owner of more than twenty per cent of the corporation or business trust, or the spouse of the owner, has made, as an individual, within the two previous calendar years, taking into consideration only owners for all of such period, one or more contributions totaling in excess of one thousand dollars to the campaign committee of the governor or lieutenant governor or to the campaign committee of any candidate for the office of governor or lieutenant governor.

Sec. 3517.151. (A) On and after January 1, 1996, complaints with respect to acts or failures to act under the sections listed in division (A) of section 3517.153 of the Revised Code shall be filed with the Ohio elections commission created under section 3517.152 of the Revised Code.

(B)(1) If a complaint filed with the Ohio elections commission created under section 3517.152 of the Revised Code alleges an act or failure to act that occurred before August 24, 1995, and the commission imposes a fine, sections 3517.99 and 3517.991 of the Revised Code, and not sections 3517.992 and 3517.993 of the Revised Code, shall apply.

(2) If a complaint filed with the Ohio elections commission created under section 3517.152 of the Revised Code alleges an act or failure to act that is a violation of section 3517.13 of the Revised Code, former divisions (A) to (R) of that section apply to the act or failure to act if it occurred before August 24, 1995, former divisions (A) to (U) of that section apply to the act or failure to act if it occurs on or after August 24, 1995, but before July 13, 1998, former divisions (A) to (V) of that section apply to the act or failure to act if it occurs on or after July 13, 1998, but before December 22,

1999, former divisions (A) to (W) of that section apply to the act or failure to act if it occurs on or after December 22, 1999, but before ~~the effective date of this amendment~~ March 31, 2005, ~~and~~ former divisions (A) to (X) of that section apply to the act or failure to act if it occurs on or after ~~the effective date of this amendment~~ March 31, 2005, and divisions (A) to (Z) of that section apply to the act or failure to act if it occurs on or after the effective date of this amendment.

(C) The Ohio elections commission created under section 3517.14 of the Revised Code is abolished at the close of business on December 31, 1995.

Sec. 3701.023. (A) The department of health shall review applications for eligibility for the program for medically handicapped children that are submitted to the department by city and general health districts and physician providers approved in accordance with division (C) of this section. The department shall determine whether the applicants meet the medical and financial eligibility requirements established by the public health council pursuant to division (A)(1) of section 3701.021 of the Revised Code, and by the department in the manual of operational procedures and guidelines for the program for medically handicapped children developed pursuant to division (B) of that section. Referrals of potentially eligible children for the program may be submitted to the department on behalf of the child by parents, guardians, public health nurses, or any other interested person. The department of health may designate other agencies to refer applicants to the department of health.

(B) In accordance with the procedures established in rules adopted under division (A)(4) of section 3701.021 of the Revised Code, the department of health shall authorize a provider or providers to provide to any Ohio resident under twenty-one years of age, without charge to the resident or the resident's family and without restriction as to the economic status of the resident or the resident's family, diagnostic services necessary to determine whether the resident ~~suffers from~~ has a medically handicapping or potentially medically handicapping condition.

(C) The department of health shall review the applications of health professionals, hospitals, medical equipment suppliers, and other individuals, groups, or agencies that apply to become providers. The department shall enter into a written agreement with each applicant who is determined, pursuant to the requirements set forth in rules adopted under division (A)(2) of section 3701.021 of the Revised Code, to be eligible to be a provider in accordance with the provider agreement required by the medical assistance program established under section 5111.01 of the Revised Code. No provider shall charge a medically handicapped child or the child's parent or

guardian for services authorized by the department under division (B) or (D) of this section.

The department, in accordance with rules adopted under division (A)(3) of section 3701.021 of the Revised Code, may disqualify any provider from further participation in the program for violating any requirement set forth in rules adopted under division (A)(2) of that section. The disqualification shall not take effect until a written notice, specifying the requirement violated and describing the nature of the violation, has been delivered to the provider and the department has afforded the provider an opportunity to appeal the disqualification under division (H) of this section.

(D) The department of health shall evaluate applications from city and general health districts and approved physician providers for authorization to provide treatment services, service coordination, and related goods to children determined to be eligible for the program for medically handicapped children pursuant to division (A) of this section. The department shall authorize necessary treatment services, service coordination, and related goods for each eligible child in accordance with an individual plan of treatment for the child. As an alternative, the department may authorize payment of health insurance premiums on behalf of eligible children when the department determines, in accordance with criteria set forth in rules adopted under division (A)(9) of section 3701.021 of the Revised Code, that payment of the premiums is cost-effective.

(E) The department of health shall pay, from appropriations to the department, any necessary expenses, including but not limited to, expenses for diagnosis, treatment, service coordination, supportive services, transportation, and accessories and their upkeep, provided to medically handicapped children, provided that the provision of the goods or services is authorized by the department under division (B) or (D) of this section. Money appropriated to the department of health may also be expended for reasonable administrative costs incurred by the program. The department of health also may purchase liability insurance covering the provision of services under the program for medically handicapped children by physicians and other health care professionals.

Payments made <u>to providers</u> by the department of health pursuant to this division for inpatient hospital care, outpatient care, and all other medical assistance furnished ~~by hospitals~~ to eligible recipients ~~shall be in accordance with methods established by rules of the public health council. Until such rules are adopted, the department of health shall make payments to hospitals in accordance with reasonable cost principles for reimbursement under the medicare program established under Title XVIII of the "Social Security~~

~~Act," 79 Stat. 286 (1965), 42 U.S.C.A. 1395, as amended. Payments to providers for goods or services other than inpatient or outpatient hospital care~~ shall be made in accordance with rules adopted by the public health council pursuant to division (A) of section 3701.021 of the Revised Code.

The departments of health and job and family services shall jointly implement procedures to ensure that duplicate payments are not made under the program for medically handicapped children and the medical assistance program established under section 5111.01 of the Revised Code and to identify and recover duplicate payments.

(F)~~(1)~~ At the time of applying for participation in the program for medically handicapped children, a medically handicapped child or the child's parent or guardian shall disclose the identity of any third party against whom the child or the child's parent or guardian has or may have a right of recovery for goods and services provided under division (B) or (D) of this section. ~~Except as provided in division (F)(2) of this section, the~~ The department of health shall require a medically handicapped child who receives services from the program or the child's parent or guardian to apply for all third-party benefits for which the child may be eligible and require the child, parent, or guardian to apply all third-party benefits received to the amount determined under division (E) of this section as the amount payable for goods and services authorized under division (B) or (D) of this section. The department is the payer of last resort and shall pay for authorized goods or services, up to the amount determined under division (E) of this section for the authorized goods or services, only to the extent that payment for the authorized goods or services is not made through third-party benefits. When a third party fails to act on an application or claim for benefits by a medically handicapped child or the child's parent or guardian, the department shall pay for the goods or services only after ninety days have elapsed since the date the child, parents, or guardians made an application or claim for all third-party benefits~~, except as provided in division (F)(2) of this section~~. Third-party benefits received shall be applied to the amount determined under division (E) of this section. Third-party payments for goods and services not authorized under division (B) or (D) of this section shall not be applied to payment amounts determined under division (E) of this section. Payment made by the department shall be considered payment in full of the amount determined under division (E) of this section. Medicaid payments for persons eligible for the medical assistance program established under section 5111.01 of the Revised Code shall be considered payment in full of the amount determined under division (E) of this section.

~~(2) A medically handicapped child or the parent or guardian of such a~~

~~child is not required to apply for assistance under the medical assistance program established under section 5111.01 of the Revised Code as a condition for eligibility under the program for medically handicapped children if applying for or receiving assistance under the medical assistance program violates a religious belief of the child, parent, or guardian and a tenet of the child's, parent's, or guardian's religion.~~

(G) The department of health shall administer a program to provide services to Ohio residents who are twenty-one or more years of age who ~~are suffering from~~ have cystic fibrosis and who meet the eligibility requirements established by the rules of the public health council pursuant to division (A)(7) of section 3701.021 of the Revised Code, subject to all provisions of this section, but not subject to section 3701.024 of the Revised Code.

(H) The department of health shall provide for appeals, in accordance with rules adopted under section 3701.021 of the Revised Code, of denials of applications for the program for medically handicapped children under division (A) or (D) of this section, disqualification of providers, or amounts paid under division (E) of this section. Appeals under this division are not subject to Chapter 119. of the Revised Code.

The department may designate ombudspersons to assist medically handicapped children or their parents or guardians, upon the request of the children, parents, or guardians, in filing appeals under this division and to serve as children's, parents', or guardians' advocates in matters pertaining to the administration of the program for medically handicapped children and eligibility for program services. The ombudspersons shall receive no compensation but shall be reimbursed by the department, in accordance with rules of the office of budget and management, for their actual and necessary travel expenses incurred in the performance of their duties.

(I) The department of health, and city and general health districts providing service coordination pursuant to division (A)(2) of section 3701.024 of the Revised Code, shall provide service coordination in accordance with the standards set forth in the rules adopted under section 3701.021 of the Revised Code, without charge, and without restriction as to economic status.

Sec. 3701.073. (A) The department of health is hereby designated as the state agency responsible for administering the medicare rural hospital flexibility program, as established in 42 U.S.C. 1395i-4, as amended.

(B) The director of health shall designate as a critical access hospital a hospital registered as an acute care hospital with the department under section 3701.07 of the Revised Code if the hospital meets the following requirements:

(1) Has not more than twenty-five acute care and swing beds in use at any time for the furnishing of extended care or acute care inpatient services;

(2) Has a length of stay not more than ninety-six hours per patient, on an annual average basis;

(3) Provides inpatient, outpatient, emergency, laboratory, radiology, and twenty-four hour emergency care services;

(4) Has network agreements in place for patient referral and transfer, a communication system for telemetry systems, electronic sharing of patient data, provision for emergency and non-emergency transportation, and assures credentialing and quality assurance;

(5) Was certified as a critical access hospital by the centers for medicare and medicaid services between January 1, 2001, and December 31, 2005, or is located in a rural area as identified below:

(a) An area within an Ohio metropolitan area designated as a rural area by the United States department of health and human services, office of rural health policy, in accordance with 42 C.F.R. 412.103 regarding rural urban commuting area codes four through ten in effect on the effective date of this section;

(b) A non-metropolitan county as designated in United States office of management and budget bulletin no. 93-17, June 30, 1993, and its attachments;

(c) A rural zip code within a metropolitan county as designated in United States office of management and budget bulletin no. 93-17, June 30, 1993, and its attachments.

Sec. 3701.146. (A) In taking actions regarding tuberculosis, the director of health has all of the following duties and powers:

(1) ~~The director shall make payments to boards of county commissioners in accordance with section 339.77 of the Revised Code.~~

~~(2)~~ The director shall maintain registries of hospitals, clinics, physicians, or other care providers to whom the director shall refer persons who make inquiries to the department of health regarding possible exposure to tuberculosis.

~~(3)~~(2) The director shall engage in tuberculosis surveillance activities, including the collection and analysis of epidemiological information relative to the frequency of tuberculosis infection, demographic and geographic distribution of tuberculosis cases, and trends pertaining to tuberculosis.

~~(4)~~(3) The director shall maintain a tuberculosis registry to record the incidence of tuberculosis in this state.

~~(5)~~(4) The director may appoint physicians to serve as tuberculosis consultants for geographic regions of the state specified by the director.

Each tuberculosis consultant shall act in accordance with rules the director establishes and shall be responsible for advising and assisting physicians and other health care practitioners who participate in tuberculosis control activities and for reviewing medical records pertaining to the treatment provided to individuals with tuberculosis.

(B)(1) The public health council shall adopt rules establishing standards for the following:

(a) Performing tuberculosis screenings;

(b) Performing examinations of individuals who have been exposed to tuberculosis and individuals who are suspected of having tuberculosis;

(c) Providing treatment to individuals with tuberculosis;

(d) Preventing individuals with communicable tuberculosis from infecting other individuals;

(e) Performing laboratory tests for tuberculosis and studies of the resistance of tuberculosis to one or more drugs;

(f) Selecting laboratories that provide in a timely fashion the results of a laboratory test for tuberculosis. The standards shall include a requirement that first consideration be given to laboratories located in this state.

(2) Rules adopted pursuant to this section shall be adopted in accordance with Chapter 119. of the Revised Code and may be consistent with any recommendations or guidelines on tuberculosis issued by the United States centers for disease control and prevention or by the American thoracic society. The rules shall apply to county or district tuberculosis control units, physicians who examine and treat individuals for tuberculosis, and laboratories that perform tests for tuberculosis.

Sec. 3701.65. (A) There is hereby created in the state treasury the "choose life" fund. The fund shall consist of the contributions that are paid to the registrar of motor vehicles by applicants who voluntarily elect to obtain "choose life" license plates pursuant to section 4503.91 of the Revised Code and any money returned to the fund under division (E)(1)(d) of this section. All investment earnings of the fund shall be credited to the fund.

(B)(1) At least annually, the director of health shall distribute the money in the fund to any private, nonprofit organization that is eligible to receive funds under this section and that applies for funding under division (C) of this section.

(2) The director shall distribute the funds based on the county in which the organization applying for funding is located and in proportion to the number of "choose life" license plates issued during the preceding year to vehicles registered in each county. Within each county, eligible

organizations that apply for funding shall share equally in the funds available for distribution to organizations located within that county.

(C) Any organization seeking funds under this section annually shall apply for distribution of the funds. The director shall develop an application form and may determine the schedule and procedures that an organization shall follow when annually applying for funds. The application shall inform the applicant of the conditions for receiving and using funds under division (E) of this section. The application shall require evidence that the organization meets all of the following requirements:

(1) Is a private, nonprofit organization;

(2) Is committed to counseling pregnant women about the option of adoption;

(3) Provides services within the state to pregnant women who are planning to place their children for adoption, including counseling and meeting the material needs of the women;

(4) Does not charge women for any services received;

(5) Is not involved or associated with any abortion activities, including counseling for or referrals to abortion clinics, providing medical abortion-related procedures, or pro-abortion advertising;

(6) Does not discriminate in its provision of any services on the basis of race, religion, color, age, marital status, national origin, handicap, gender, or age.

(D) The director shall not distribute funds to an organization that does not provide verifiable evidence of the requirements specified in the application under division (C) of this section and shall not provide additional funds to any organization that fails to comply with division (E) of this section in regard to its previous receipt of funds under this section.

(E)(1) An organization receiving funds under this section shall do all of the following:

(a) Use not more than sixty per cent of the funds distributed to it for the material needs of pregnant women who are planning to place their children for adoption or for infants awaiting placement with adoptive parents, including clothing, housing, medical care, food, utilities, and transportation;

(b) Use not more than forty per cent of the funds distributed to it for counseling, training, or advertising;

(c) Not use any of the funds distributed to it for administrative expenses, legal expenses, or capital expenditures;

(d) Annually return to the fund created under division (A) of this section any unused money that exceeds ten per cent of the money distributed to the organization.

(2) The organization annually shall submit to the director an audited financial statement verifying its compliance with division (E)(1) of this section.

(F) The director, in accordance with Chapter 119. of the Revised Code, shall adopt rules to implement this section.

It is not the intent of the general assembly that the department create a new position within the department to implement and administer this section. It is the intent of the general assembly that the implementation and administration of this section be accomplished by existing department personnel.

Sec. 3702.141. (A) As used in this section~~,~~:

(1) "~~existing~~ Existing health care facility" ~~has~~ means a health care facility that is licensed or otherwise approved to practice in this state, in accordance with applicable law, is staffed and equipped to provide health care services, and actively provides health services or has not been actively providing health services for less than twelve consecutive months.

(2) "Health care facility" and "health service" have the same ~~meaning~~ meanings as in section 3702.51 of the Revised Code.

(B) Section 3702.14 of the Revised Code shall not be construed to require any existing health care facility that is conducting an activity specified in section 3702.11 of the Revised Code, which activity was initiated on or before March 20, 1997, to alter, upgrade, or otherwise improve the structure or fixtures of the facility in order to comply with any rule adopted under section 3702.11 of the Revised Code relating to that activity, unless one of the following applies:

(1) The facility initiates a construction, renovation, or reconstruction project that involves a capital expenditure of at least fifty thousand dollars, not including expenditures for equipment or staffing or operational costs, and that directly involves the area in which the existing service is conducted.

(2) The facility initiates another activity specified in section 3702.11 of the Revised Code.

(3) The facility initiates a service level designation change for obstetric and newborn care.

(4) The facility proposes to add a cardiac catheterization laboratory to an existing cardiac catheterization service.

(5) The facility proposes to add an open-heart operating room to an existing open-heart surgery service.

(6) The director of health determines, by clear and convincing evidence, that failure to comply with the rule would create an imminent risk to the health and welfare of any patient.

(C) If division (B)(4) or (5) of this section applies, any alteration, upgrade, or other improvement required shall apply only to the proposed addition to the existing service if the cost of the addition is less than the capital expenditure threshold set forth in division (B)(1) of this section.

(D) No person or government entity shall divide or otherwise segment a construction, renovation, or reconstruction project in order to evade application of the capital expenditure threshold set forth in division (B)(1) of this section.

Sec. 3702.51. As used in sections 3702.51 to 3702.62 of the Revised Code:

(A) "Applicant" means any person that submits an application for a certificate of need and who is designated in the application as the applicant.

(B) "Person" means any individual, corporation, business trust, estate, firm, partnership, association, joint stock company, insurance company, government unit, or other entity.

(C) "Certificate of need" means a written approval granted by the director of health to an applicant to authorize conducting a reviewable activity.

(D) "Health service area" means a geographic region designated by the director of health under section 3702.58 of the Revised Code.

(E) "Health service" means a clinically related service, such as a diagnostic, treatment, rehabilitative, or preventive service.

(F) "Health service agency" means an agency designated to serve a health service area in accordance with section 3702.58 of the Revised Code.

(G) "Health care facility" means:

(1) A hospital registered under section 3701.07 of the Revised Code;

(2) A nursing home licensed under section 3721.02 of the Revised Code, or by a political subdivision certified under section 3721.09 of the Revised Code;

(3) A county home or a county nursing home as defined in section 5155.31 of the Revised Code that is certified under Title XVIII or XIX of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended;

(4) A freestanding dialysis center;

(5) A freestanding inpatient rehabilitation facility;

(6) An ambulatory surgical facility;

(7) A freestanding cardiac catheterization facility;

(8) A freestanding birthing center;

(9) A freestanding or mobile diagnostic imaging center;

(10) A freestanding radiation therapy center.

A health care facility does not include the offices of private physicians and dentists whether for individual or group practice, residential facilities licensed under section 5123.19 of the Revised Code, ~~or habilitation centers certified by the director of mental retardation and developmental disabilities under section 5123.041 of the Revised Code,~~ or an institution for the sick that is operated exclusively for patients who use spiritual means for healing and for whom the acceptance of medical care is inconsistent with their religious beliefs, accredited by a national accrediting organization, exempt from federal income taxation under section 501 of the Internal Revenue Code of 1986, 100 Stat. 2085, 26 U.S.C.A. 1, as amended, and providing twenty-four hour nursing care pursuant to the exemption in division (E) of section 4723.32 of the Revised Code from the licensing requirements of Chapter 4723. of the Revised Code.

(H) "Medical equipment" means a single unit of medical equipment or a single system of components with related functions that is used to provide health services.

(I) "Third-party payer" means a health insuring corporation licensed under Chapter 1751. of the Revised Code, a health maintenance organization as defined in division (K) of this section, an insurance company that issues sickness and accident insurance in conformity with Chapter 3923. of the Revised Code, a state-financed health insurance program under Chapter 3701., 4123., or 5111. of the Revised Code, or any self-insurance plan.

(J) "Government unit" means the state and any county, municipal corporation, township, or other political subdivision of the state, or any department, division, board, or other agency of the state or a political subdivision.

(K) "Health maintenance organization" means a public or private organization organized under the law of any state that is qualified under section 1310(d) of Title XIII of the "Public Health Service Act," 87 Stat. 931 (1973), 42 U.S.C. 300e-9.

(L) "Existing health care facility" means ~~a~~ either of the following:

(1) A health care facility that is licensed or otherwise ~~approved~~ authorized to ~~practice~~ operate in this state~~,~~ in accordance with applicable law, is staffed and equipped to provide health care services, and is actively ~~provides~~ providing health services ~~or has not been actively providing health services for less than twelve consecutive months~~;

(2) A health care facility that is licensed or has beds registered under section 3701.07 of the Revised Code as skilled nursing beds or long-term care beds and has provided services for at least three hundred sixty-five

consecutive days within the twenty-four months immediately preceding the date a certificate of need application is filed with the director of health.

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

(N) "Political subdivision" means a municipal corporation, township, county, school district, and all other bodies corporate and politic responsible for governmental activities only in geographic areas smaller than that of the state to which the sovereign immunity of the state attaches.

(O) "Affected person" means:

(1) An applicant for a certificate of need, including an applicant whose application was reviewed comparatively with the application in question;

(2) The person that requested the reviewability ruling in question;

(3) Any person that resides or regularly uses health care facilities within the geographic area served or to be served by the health care services that would be provided under the certificate of need or reviewability ruling in question;

(4) Any health care facility that is located in the health service area where the health care services would be provided under the certificate of need or reviewability ruling in question;

(5) Third-party payers that reimburse health care facilities for services in the health service area where the health care services would be provided under the certificate of need or reviewability ruling in question;

(6) Any other person who testified at a public hearing held under division (B) of section 3702.52 of the Revised Code or submitted written comments in the course of review of the certificate of need application in question.

(P) "Osteopathic hospital" means a hospital registered under section 3701.07 of the Revised Code that advocates osteopathic principles and the practice and perpetuation of osteopathic medicine by doing any of the following:

(1) Maintaining a department or service of osteopathic medicine or a committee on the utilization of osteopathic principles and methods, under the supervision of an osteopathic physician;

(2) Maintaining an active medical staff, the majority of which is comprised of osteopathic physicians;

(3) Maintaining a medical staff executive committee that has osteopathic physicians as a majority of its members.

(Q) "Ambulatory surgical facility" has the same meaning as in section 3702.30 of the Revised Code.

(R) Except as otherwise provided in division (T) of this section, and until the termination date specified in section 3702.511 of the Revised Code, "reviewable activity" means any of the following:

(1) The addition by any person of any of the following health services, regardless of the amount of operating costs or capital expenditures:

(a) A heart, heart-lung, lung, liver, kidney, bowel, pancreas, or bone marrow transplantation service, a stem cell harvesting and reinfusion service, or a service for transplantation of any other organ unless transplantation of the organ is designated by public health council rule not to be a reviewable activity;

(b) A cardiac catheterization service;

(c) An open-heart surgery service;

(d) Any new, experimental medical technology that is designated by rule of the public health council.

(2) The acceptance of high-risk patients, as defined in rules adopted under section 3702.57 of the Revised Code, by any cardiac catheterization service that was initiated without a certificate of need pursuant to division (R)(3)(b) of the version of this section in effect immediately prior to April 20, 1995;

(3)(a) The establishment, development, or construction of a new health care facility other than a new long-term care facility or a new hospital;

(b) The establishment, development, or construction of a new hospital or the relocation of an existing hospital;

(c) The relocation of hospital beds, other than long-term care, perinatal, or pediatric intensive care beds, into or out of a rural area.

(4)(a) The replacement of an existing hospital;

(b) The replacement of an existing hospital obstetric or newborn care unit or freestanding birthing center.

(5)(a) The renovation of a hospital that involves a capital expenditure, obligated on or after ~~the effective date of this amendment~~ June 30, 1995, of five million dollars or more, not including expenditures for equipment, staffing, or operational costs. For purposes of division (R)(5)(a) of this section, a capital expenditure is obligated:

(i) When a contract enforceable under Ohio law is entered into for the construction, acquisition, lease, or financing of a capital asset;

(ii) When the governing body of a hospital takes formal action to commit its own funds for a construction project undertaken by the hospital as its own contractor;

(iii) In the case of donated property, on the date the gift is completed under applicable Ohio law.

(b) The renovation of a hospital obstetric or newborn care unit or freestanding birthing center that involves a capital expenditure of five million dollars or more, not including expenditures for equipment, staffing, or operational costs.

(6) Any change in the health care services, bed capacity, or site, or any other failure to conduct the reviewable activity in substantial accordance with the approved application for which a certificate of need was granted, if the change is made prior to the date the activity for which the certificate was issued ceases to be a reviewable activity;

(7) Any of the following changes in perinatal bed capacity or pediatric intensive care bed capacity:

(a) An increase in bed capacity;

(b) A change in service or service-level designation of newborn care beds or obstetric beds in a hospital or freestanding birthing center, other than a change of service that is provided within the service-level designation of newborn care or obstetric beds as registered by the department of health;

(c) A relocation of perinatal or pediatric intensive care beds from one physical facility or site to another, excluding the relocation of beds within a hospital or freestanding birthing center or the relocation of beds among buildings of a hospital or freestanding birthing center at the same site.

(8) The expenditure of more than one hundred ten per cent of the maximum expenditure specified in a certificate of need;

(9) Any transfer of a certificate of need issued prior to April 20, 1995, from the person to whom it was issued to another person before the project that constitutes a reviewable activity is completed, any agreement that contemplates the transfer of a certificate of need issued prior to that date upon completion of the project, and any transfer of the controlling interest in an entity that holds a certificate of need issued prior to that date. However, the transfer of a certificate of need issued prior to that date or agreement to transfer such a certificate of need from the person to whom the certificate of need was issued to an affiliated or related person does not constitute a reviewable transfer of a certificate of need for the purposes of this division, unless the transfer results in a change in the person that holds the ultimate controlling interest in the certificate of need.

(10)(a) The acquisition by any person of any of the following medical equipment, regardless of the amount of operating costs or capital expenditure:

(i) A cobalt radiation therapy unit;

(ii) A linear accelerator;

(iii) A gamma knife unit.

(b) The acquisition by any person of medical equipment with a cost of two million dollars or more. The cost of acquiring medical equipment includes the sum of the following:

(i) The greater of its fair market value or the cost of its lease or purchase;

(ii) The cost of installation and any other activities essential to the acquisition of the equipment and its placement into service.

(11) The addition of another cardiac catheterization laboratory to an existing cardiac catheterization service.

(S) Except as provided in division (T) of this section, "reviewable activity" also means any of the following activities, none of which are subject to a termination date:

(1) The establishment, development, or construction of a new long-term care facility;

(2) The replacement of an existing long-term care facility;

(3) The renovation of a long-term care facility that involves a capital expenditure of two million dollars or more, not including expenditures for equipment, staffing, or operational costs;

(4) Any of the following changes in long-term care bed capacity:

(a) An increase in bed capacity;

(b) A relocation of beds from one physical facility or site to another, excluding the relocation of beds within a long-term care facility or among buildings of a long-term care facility at the same site;

(c) A recategorization of hospital beds registered under section 3701.07 of the Revised Code from another registration category to skilled nursing beds or long-term care beds.

(5) Any change in the health services, bed capacity, or site, or any other failure to conduct the reviewable activity in substantial accordance with the approved application for which a certificate of need concerning long-term care beds was granted, if the change is made within five years after the implementation of the reviewable activity for which the certificate was granted;

(6) The expenditure of more than one hundred ten per cent of the maximum expenditure specified in a certificate of need concerning long-term care beds;

(7) Any transfer of a certificate of need that concerns long-term care beds and was issued prior to April 20, 1995, from the person to whom it was issued to another person before the project that constitutes a reviewable

activity is completed, any agreement that contemplates the transfer of such a certificate of need upon completion of the project, and any transfer of the controlling interest in an entity that holds such a certificate of need. However, the transfer of a certificate of need that concerns long-term care beds and was issued prior to April 20, 1995, or agreement to transfer such a certificate of need from the person to whom the certificate was issued to an affiliated or related person does not constitute a reviewable transfer of a certificate of need for purposes of this division, unless the transfer results in a change in the person that holds the ultimate controlling interest in the certificate of need.

(T) "Reviewable activity" does not include any of the following activities:

(1) Acquisition of computer hardware or software;

(2) Acquisition of a telephone system;

(3) Construction or acquisition of parking facilities;

(4) Correction of cited deficiencies that are in violation of federal, state, or local fire, building, or safety laws and rules and that constitute an imminent threat to public health or safety;

(5) Acquisition of an existing health care facility that does not involve a change in the number of the beds, by service, or in the number or type of health services;

(6) Correction of cited deficiencies identified by accreditation surveys of the joint commission on accreditation of healthcare organizations or of the American osteopathic association;

(7) Acquisition of medical equipment to replace the same or similar equipment for which a certificate of need has been issued if the replaced equipment is removed from service;

(8) Mergers, consolidations, or other corporate reorganizations of health care facilities that do not involve a change in the number of beds, by service, or in the number or type of health services;

(9) Construction, repair, or renovation of bathroom facilities;

(10) Construction of laundry facilities, waste disposal facilities, dietary department projects, heating and air conditioning projects, administrative offices, and portions of medical office buildings used exclusively for physician services;

(11) Acquisition of medical equipment to conduct research required by the United States food and drug administration or clinical trials sponsored by the national institute of health. Use of medical equipment that was acquired without a certificate of need under division (T)(11) of this section and for which premarket approval has been granted by the United States

food and drug administration to provide services for which patients or reimbursement entities will be charged shall be a reviewable activity.

(12) Removal of asbestos from a health care facility.

Only that portion of a project that meets the requirements of division (T) of this section is not a reviewable activity.

(U) "Small rural hospital" means a hospital that is located within a rural area, has fewer than one hundred beds, and to which fewer than four thousand persons were admitted during the most recent calendar year.

(V) "Children's hospital" means any of the following:

(1) A hospital registered under section 3701.07 of the Revised Code that provides general pediatric medical and surgical care, and in which at least seventy-five per cent of annual inpatient discharges for the preceding two calendar years were individuals less than eighteen years of age;

(2) A distinct portion of a hospital registered under section 3701.07 of the Revised Code that provides general pediatric medical and surgical care, has a total of at least one hundred fifty registered pediatric special care and pediatric acute care beds, and in which at least seventy-five per cent of annual inpatient discharges for the preceding two calendar years were individuals less than eighteen years of age;

(3) A distinct portion of a hospital, if the hospital is registered under section 3701.07 of the Revised Code as a children's hospital and the children's hospital meets all the requirements of division (V)(1) of this section.

(W) "Long-term care facility" means any of the following:

(1) A nursing home licensed under section 3721.02 of the Revised Code or by a political subdivision certified under section 3721.09 of the Revised Code;

(2) The portion of any facility, including a county home or county nursing home, that is certified as a skilled nursing facility or a nursing facility under Title XVIII or XIX of the "Social Security Act";

(3) The portion of any hospital that contains beds registered under section 3701.07 of the Revised Code as skilled nursing beds or long-term care beds.

(X) "Long-term care bed" means a bed in a long-term care facility.

(Y) "Perinatal bed" means a bed in a hospital that is registered under section 3701.07 of the Revised Code as a newborn care bed or obstetric bed, or a bed in a freestanding birthing center.

(Z) "Freestanding birthing center" means any facility in which deliveries routinely occur, regardless of whether the facility is located on the campus of another health care facility, and which is not licensed under Chapter

3711. of the Revised Code as a level one, two, or three maternity unit or a limited maternity unit.

(AA)(1) "Reviewability ruling" means a ruling issued by the director of health under division (A) of section 3702.52 of the Revised Code as to whether a particular proposed project is or is not a reviewable activity.

(2) "Nonreviewability ruling" means a ruling issued under that division that a particular proposed project is not a reviewable activity.

(BB)(1) "Metropolitan statistical area" means an area of this state designated a metropolitan statistical area or primary metropolitan statistical area in United States office of management and budget bulletin No. 93-17, June 30, 1993, and its attachments.

(2) "Rural area" means any area of this state not located within a metropolitan statistical area.

Sec. 3702.68. (A) Notwithstanding sections 3702.51 to 3702.62 of the Revised Code, this section applies to the review of certificate of need applications during the period beginning July 1, 1993, and ending June 30, ~~2005~~ 2007.

As used in this section, "existing health care facility" has the same meaning as in section 3702.51 of the Revised Code.

(B)(1) Except as provided in division (B)(2) of this section, the director of health shall neither grant nor deny any application for a certificate of need submitted prior to July 1, 1993, if the application was for any of the following and the director had not issued a written decision concerning the application prior to that date:

(a) Approval of beds in a new health care facility or an increase of beds in an existing health care facility, if the beds are proposed to be licensed as nursing home beds under Chapter 3721. of the Revised Code;

(b) Approval of beds in a new county home or new county nursing home as defined in section 5155.31 of the Revised Code, or an increase of beds in an existing county home or existing county nursing home, if the beds are proposed to be certified as skilled nursing facility beds under Title XVIII or nursing facility beds under Title XIX of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended;

(c) Recategorization of hospital beds as described in section 3702.522 of the Revised Code, an increase of hospital beds registered pursuant to section 3701.07 of the Revised Code as long-term care beds or skilled nursing facility beds, or a recategorization of hospital beds that would result in an increase of beds registered pursuant to that section as long-term care beds or skilled nursing facility beds.

On July 1, 1993, the director shall return each such application to the

applicant and, notwithstanding section 3702.52 of the Revised Code regarding the uses of the certificate of need fund, shall refund to the applicant the application fee paid under that section. Applications returned under division (B)(1) of this section may be resubmitted in accordance with section 3702.52 of the Revised Code no sooner than July 1, ~~2005~~ 2007.

(2) The director shall continue to review and shall issue a decision regarding any application submitted prior to July 1, 1993, to increase beds for either of the purposes described in division (B)(1)(a) or (b) of this section if the proposed increase in beds is attributable solely to a replacement or relocation of existing beds within the same county. The director shall authorize under such an application no additional beds beyond those being replaced or relocated.

(C)(1) Except as provided in division (C)(2) of this section, the director, during the period beginning July 1, 1993, and ending June 30, ~~2005~~ 2007, shall not accept for review under section 3702.52 of the Revised Code any application for a certificate of need for any of the purposes described in divisions (B)(1)(a) to (c) of this section.

(2)(a) The director shall accept for review any application for either of the purposes described in division (B)(1)(a) or (b) of this section if the proposed increase in beds is attributable solely to a replacement or relocation of existing beds from an existing health care facility within the same county. The director shall authorize under such an application no additional beds beyond those being replaced or relocated. ~~The~~

The director shall not approve an application for a certificate of need for addition of long-term care beds to an existing health care facility by relocation of beds or for the development of a new health care facility by relocation of beds unless all of the following conditions are met:

(i) The existing health care facility to which the beds are being relocated has no life safety code waivers, no state fire code violations, and no state building code violations;

(ii) During the sixty month period preceding the filing of the application, no notice of proposed revocation of the facility's license was issued under section 3721.03 of the Revised Code to the operator of the existing facility to which the beds are being relocated or to any health care facility owned or operated by the applicant or any principal participant in the same corporation or other business;

(iii) Neither the existing health care facility to which the beds are being relocated nor any health care facility owned or operated by the applicant or any principal participant in the same corporation or other business has had a long-standing pattern of violations of this chapter or deficiencies that caused

one or more residents physical, emotional, mental, or psychosocial harm.

(b) The director also shall accept for review any application ~~that seeks certificate of need approval~~ for ~~existing~~ the conversion of infirmary beds ~~located in an~~ to long-term care beds if the infirmary ~~that is~~ meets all of the following conditions:

(i) Is operated exclusively by a religious order~~, provides~~;

(ii) Provides care exclusively to members of religious orders who take vows of celibacy and live by virtue of their vows within the orders as if related~~, and was~~;

(iii) Was providing care exclusively to members of such a religious order on January 1, 1994.

(D) The director shall issue a decision regarding any case remanded by a court as the result of a decision issued by the director prior to July 1, 1993, to grant, deny, or withdraw a certificate of need for any of the purposes described in divisions (B)(1)(a) to (c) of this section.

(E) The director shall not project the need for beds listed in division (B)(1) of this section for the period beginning July 1, 1993, and ending June 30, ~~2005~~ 2007.

This section is an interim section effective until July 1, ~~2005~~ 2007.

Sec. 3702.71. As used in sections 3702.71 to 3702.81 of the Revised Code:

(A) "Primary care physician" means an individual who is authorized under Chapter 4731. of the Revised Code to practice medicine and surgery or osteopathic medicine and surgery and is board certified or board eligible in a primary care specialty.

(B) "Primary care service" means professional comprehensive personal health services, which may include health education and disease prevention, treatment of uncomplicated health problems, diagnosis of chronic health problems, ~~and~~ overall management of health care services for an individual or a family, and the services of a psychiatrist. "Primary care service" also includes providing the initial contact for health care services and making referrals for secondary and tertiary care and for continuity of health care services.

(C) "Primary care specialty" means general internal medicine, pediatrics, obstetrics and gynecology, psychiatry, or family practice.

Sec. 3702.74. (A) A primary care physician who has signed a letter of intent under section 3702.73 of the Revised Code, the director of health, and the Ohio board of regents may enter into a contract for the physician's participation in the physician loan repayment program. A lending institution may also be a party to the contract.

(B) The contract shall include all of the following obligations:

(1) The primary care physician agrees to provide primary care services in the health resource shortage area identified in the letter of intent for at least two years or one year per twenty thousand dollars of repayment agreed to under division (B)(3) of this section, whichever is greater;

(2) When providing primary care services in the health resource shortage area, the primary care physician agrees to do all of the following:

(a) Provide primary care services for a minimum of forty hours per week;

(b) Provide primary care services without regard to a patient's ability to pay;

(c) Meet the conditions prescribed by the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended, and the department of job and family services for participation in the medical assistance program established under Chapter 5111. of the Revised Code and enter into a contract with the department to provide primary care services to recipients of the medical assistance program~~;~~

~~(d) Meet the conditions established by the department of job and family services for participation in the disability medical assistance program established under Chapter 5115. of the Revised Code and enter into a contract with the department to provide primary care services to recipients of disability medical assistance~~.

(3) The Ohio board of regents agrees, as provided in section 3702.75 of the Revised Code, to repay, so long as the primary care physician performs the service obligation agreed to under division (B)(1) of this section, all or part of the principal and interest of a government or other educational loan taken by the primary care physician for expenses described in section 3702.75 of the Revised Code;

(4) The primary care physician agrees to pay the board the following as damages if the physician fails to complete the service obligation agreed to under division (B)(1) of this section:

(a) If the failure occurs during the first two years of the service obligation, three times the total amount the board has agreed to repay under division (B)(3) of this section;

(b) If the failure occurs after the first two years of the service obligation, three times the amount the board is still obligated to repay under division (B)(3) of this section.

(C) The contract may include any other terms agreed upon by the parties, including an assignment to the Ohio board of regents of the physician's duty to pay the principal and interest of a government or other

educational loan taken by the physician for expenses described in section 3702.75 of the Revised Code. If the board assumes the physician's duty to pay a loan, the contract shall set forth the total amount of principal and interest to be paid, an amortization schedule, and the amount of each payment to be made under the schedule.

Sec. 3702.83. The department of health shall administer a program, to be known as the J-1 visa waiver program, for recruiting physicians who received graduate medical education or training in the United States but are not citizens of the United States to serve in areas of the state designated by the United States secretary of health and human services as health professional shortage areas under the "Public Health Service Act," 88 Stat. 682 (1944), 42 U.S.C. 254(e), as amended. Under the program, the department of health shall accept and review applications for placement of persons seeking to remain in the United States pursuant to the "Immigration and Nationality Act," 66 Stat. 163 (1952), 8 U.S.C. 1182(J)(1) and 1184(l), as amended, by obtaining a waiver of the federal requirement that they return to their home countries for a minimum of two years after completing the graduate medical education or training for which they were admitted to the United States. The department shall administer the program in accordance with the "Immigration and Nationality Act" and the regulations adopted under it.

For each application accepted for review under this section, the department shall charge a fee of three thousand five hundred seventy-one dollars. The fee is nonrefundable. All fees collected shall be deposited into the state treasury to the credit of general operations fund created in section 3701.83 of the Revised Code.

Sec. 3703.01. (A) The division of industrial compliance in the department of commerce shall:

(1) Inspect all nonresidential buildings within the meaning of section 3781.06 of the Revised Code;

(2) Condemn all unsanitary or defective plumbing that is found in connection with those places;

(3) Order changes in plumbing necessary to insure the safety of the public health.

(B)(1) The division of industrial compliance and boards of health of city and general health districts shall not inspect plumbing or collect fees for inspecting plumbing in particular types of buildings in any municipal corporation that has been certified by the board of building standards under section 3781.10 of the Revised Code to exercise enforcement authority for plumbing in such types of buildings.

(2) The division shall not inspect plumbing or collect fees for inspecting plumbing in particular types of buildings in any health district that has employed one or more approved plumbing inspectors to enforce Chapters 3781. and 3791. of the Revised Code and the rules adopted pursuant to those chapters relating to plumbing in such types of buildings.

(3) A municipal corporation does not have jurisdiction to inspect plumbing or collect fees for the inspection of plumbing in types of buildings for which it has not been certified by the board of building standards under section 3781.10 of the Revised Code to exercise enforcement authority.

(4) A board of health of a health district does not have jurisdiction to inspect plumbing or collect fees for the inspection of plumbing in types of buildings for which it does not have an approved plumbing inspector.

(C) The superintendent of industrial compliance shall adopt rules prescribing minimum qualifications based on education, training, experience, or demonstrated ability, which the ~~director~~ superintendent shall use in ~~approving~~ certifying or recertifying plumbing inspectors to do plumbing inspections for health districts and for continuing education of plumbing inspectors. Such minimum qualifications shall be related to the types of buildings for which a person seeks approval.

(D) The superintendent may enter into reciprocal registration, licensure, or certification agreements with other states and other agencies of this state relative to plumbing inspectors if both of the following apply:

(1) The requirements for registration, licensure, or certification of plumbing inspectors under the laws of the other state or laws administered by the other agency are substantially equal to the requirements the superintendent adopts under division (C) of this section for certifying plumbing inspectors.

(2) The other state or agency extends similar reciprocity to persons certified under this chapter.

(E) The superintendent may select and contract with one or more persons to do all of the following regarding examinations for certification of plumbing inspectors:

(1) Prepare, administer, score, and maintain the confidentiality of the examination;

(2) Maintain responsibility for all expenses required to comply with division (E)(1) of this section;

(3) Charge each applicant a fee for administering the examination in an amount the superintendent authorizes;

(4) Design the examination for certification of plumbing inspectors to determine an applicant's competence to inspect plumbing.

(F) Standards and methods prescribed in local plumbing regulations shall not be less than those prescribed in Chapters 3781. and 3791. of the Revised Code and the rules adopted pursuant to those chapters.

~~(E)~~(G) Notwithstanding any other provision of this section, the division shall make a plumbing inspection of any building or other place that there is reason to believe is in a condition to be a menace to the public health.

Sec. 3703.03. In the administration of sections 3703.01 to 3703.09 of the Revised Code, the division of industrial compliance ~~in the department of commerce~~ shall enforce rules governing plumbing adopted by the board of building standards under authority of sections 3781.10 and 3781.11 of the Revised Code, and register those persons engaged in or at the plumbing business.

Plans and specifications for all plumbing to be installed in or for buildings coming within such sections shall be submitted to and approved by the division before the contract for plumbing is let.

Sec. 3703.04. The ~~director~~ superintendent of ~~commerce~~ industrial compliance shall appoint such number of plumbing inspectors as is required. The inspectors shall be practical plumbers with at least seven years' experience, and skilled and well-trained in matters pertaining to sanitary regulations concerning plumbing work.

~~No plumbing inspector employed by the department and assigned to the enforcement of this chapter shall be engaged or interested in the plumbing business or the sale of any plumbing supplies, nor shall the inspector act as agent, directly or indirectly, for any person so engaged.~~

Sec. 3703.05. Plumbing inspectors employed by the ~~department~~ division of ~~commerce~~ industrial compliance assigned to the enforcement of sections 3703.01 to 3703.09 of the Revised Code~~,~~ may, between sunrise and sunset, enter any building where there is good and sufficient reason to believe that the sanitary condition of the premises endangers the public health, for the purpose of making an inspection to ascertain the condition of the premises.

Sec. 3703.06. When any building is found to be in a sanitary condition or when changes which are ordered, under authority of this chapter, in the plumbing, drainage, or ventilation have been made, and after a thorough inspection and approval by the ~~division~~ superintendent of industrial compliance ~~in the department of commerce~~, the ~~division~~ superintendent shall issue a certificate ~~signed by the superintendent of the division of industrial compliance~~, which ~~must~~ shall be posted in a conspicuous place for the benefit of the public at large. Upon notification by the superintendent, the certificate shall be revoked for any violation of those sections.

Sec. 3703.07. No plumbing work shall be done in any building or place

coming within the jurisdiction of the ~~department~~ division of ~~commerce~~ industrial compliance, except in cases of repairs or leaks in existing plumbing, until a permit has been issued by the ~~department~~ division.

Before granting such permit, an application shall be made by the owner of the property or by the person, firm, or corporation which is to do the work. The application shall be made on a form prepared by the ~~department~~ division for the purpose, and each application shall be accompanied by a fee of twenty-seven dollars, and an additional fee of seven dollars for each trap, vented fixture, appliance, or device. Each application also shall be accompanied by a plan approval fee of eighteen dollars for work containing one through twenty fixtures; thirty-six dollars for work containing twenty-one through forty fixtures; and fifty-four dollars for work containing forty-one or more fixtures.

Whenever a reinspection is made necessary by the failure of the applicant or plumbing contractor to have the work ready for inspection when so reported, or by reason of faulty or improper installation, the person shall pay a fee of forty-five dollars for each reinspection.

All fees collected pursuant to this section shall be paid into the state treasury to the credit of the industrial compliance operating fund created in section 121.084 of the Revised Code.

The ~~director~~ superintendent of ~~commerce~~ industrial compliance, by rule adopted in accordance with Chapter 119. of the Revised Code, may increase the fees required by this section and may establish fees to pay the costs of the division to fulfill its duties established by this chapter, including, but not limited to, fees for administering a program for continuing education for, and certifying and recertifying plumbing inspectors. The fees shall bear some reasonable relationship to the cost of administering and enforcing the provisions of this chapter.

Sec. 3703.08. Any owner, agent, or manager, of a building in which an inspection is made by the ~~department~~ division of ~~commerce~~ industrial compliance, a board of health of a health district, or a certified department of building inspection of a municipal corporation~~,~~ shall have the entire system of drainage and ventilation repaired, as the ~~department of commerce~~ division, board of health, or department of building inspection directs by its order. After due notice to repair such work is given, the owner, agent, or manager shall notify the public authority that issued the order when the work is ready for its inspection. No person shall fail to have the work ready for inspection at the time specified in the notice.

Sec. 3703.10. All prosecutions and proceedings by the ~~department~~ division of ~~commerce~~ industrial compliance for the violation of sections

3703.01 to 3703.09 of the Revised Code, or for the violation of any of the orders or rules of the ~~department~~ division under those sections, shall be instituted by the ~~director~~ superintendent of ~~commerce~~ industrial compliance. All fines or judgments collected by the ~~department~~ division shall be paid into the state treasury to the credit of the industrial compliance operating fund created by section 121.084 of the Revised Code.

The ~~director~~ superintendent, the board of health of a general or city health district, or any person charged with enforcing the rules of the ~~department~~ division adopted under sections 3703.01 to 3703.09 of the Revised Code may petition the court of common pleas for injunctive or other appropriate relief requiring any person violating a rule adopted or order issued by the ~~director~~ superintendent under those sections to comply with the rule or order. The court of common pleas of the county in which the offense is alleged to be occurring may grant injunctive or other appropriate relief.

The superintendent may do all of the following:

(A) Deny an applicant certification as a plumbing inspector;

(B) Suspend or revoke the certification of a plumbing inspector;

(C) Examine any certified plumbing inspector under oath;

(D) Examine the records and books of any certified plumbing inspector if the superintendent finds the material to be examined relevant to a determination described in division (A), (B), or (C) of this section.

Sec. 3703.99. Whoever violates sections 3703.01 to 3703.09 of the Revised Code, or any rule the ~~department~~ division of ~~commerce~~ industrial compliance is required to enforce under such sections, shall be fined not less than ten nor more than one hundred dollars or imprisoned for not less than ten nor more than ninety days, or both. No person shall be imprisoned under this section for the first offense, and the prosecution always shall be as for a first offense unless the affidavit upon which the prosecution is instituted contains the allegation that the offense is a second or repeated offense.

Sec. 3704.035. There is hereby created in the state treasury the clean air fund. Except as otherwise provided in division (K) of section 3745.11 of the Revised Code, all moneys collected under divisions (C), (D), (F), (G), (H), (I), and (J) of that section and under section 3745.111 of the Revised Code, and any gifts, grants, or contributions received by the director of environmental protection for the purposes of the fund, shall be credited to the fund. The director shall expend moneys from the fund exclusively to pay the cost of administering and enforcing the laws of this state pertaining to the prevention, control, and abatement of air pollution and rules adopted and terms and conditions of permits, variances, and orders issued under those

laws, except that the director shall not expend moneys credited to the fund for the administration and enforcement of motor vehicle inspection and maintenance programs and requirements under sections 3704.14, 3704.141, 3704.16, 3704.161, and 3704.162~~, and 3704.17~~ of the Revised Code.

Specifically, the director shall expend all moneys credited to the fund from fees assessed under section 3745.11 of the Revised Code pursuant to the Title V permit program established under section 3704.036 of the Revised Code, and from any gifts, grants, or contributions received for the purposes of that program, solely to administer and enforce that program pursuant to the federal Clean Air Act, this chapter, and rules adopted under it, except as costs relating to enforcement are limited by the federal Clean Air Act. The director shall establish separate and distinct accounting for all such moneys.

The director shall report biennially to the general assembly the amounts of fees and other moneys credited to the fund under this section and the amounts expended from it for each of the various air pollution control programs.

Sec. 3704.14. (A) The director of environmental protection shall continue to implement an enhanced motor vehicle inspection and maintenance program for a period of two years beginning on January 1, 2006, and ending on December 31, 2007, in counties in which a motor vehicle inspection and maintenance program is federally mandated. The program shall be substantially similar to the enhanced program implemented in those counties under a contract that is scheduled to expire on December 31, 2005. The program, at a minimum, shall do all of the following:

(1) Comply with the federal Clean Air Act;

(2) Provide for the extension of a contract for a period of two years, beginning on January 1, 2006, and ending on December 31, 2007, with the contractor who conducted the enhanced motor vehicle inspection and maintenance program in those federally mandated counties pursuant to a contract entered into under former section 3704.14 of the Revised Code as that section existed prior to its repeal and reenactment by Am. Sub. H.B. 66 of the 126th General Assembly;

(3) Provide for the issuance of inspection certificates;

(4) Provide for a new car exemption for motor vehicles four years old or newer and provide that a new motor vehicle is exempt for four years regardless of whether legal title to the motor vehicle is transferred during that period.

(B) The director shall not implement a motor vehicle inspection and maintenance program in any county other than a county in which a motor

vehicle inspection and maintenance program is federally mandated.

(C) The director shall adopt rules in accordance with Chapter 119. of the Revised Code that the director determines are necessary to implement this section. The director may continue to implement and enforce rules pertaining to the enhanced motor vehicle inspection and maintenance program previously implemented under former section 3704.14 of the Revised Code as that section existed prior to its repeal and reenactment by Am. Sub. H.B. 66 of the 126th general assembly, provided that the rules do not conflict with this section.

(D) There is hereby created in the state treasury the motor vehicle inspection and maintenance fund, which shall consist of money received by the director from any fees for inspections that are established in rules adopted under this section. The director shall use money in the fund solely for the implementation, supervision, administration, operation, and enforcement of the enhanced motor vehicle inspection and maintenance program established under this section.

(E) The enhanced motor vehicle inspection and maintenance program established under this section expires on December 31, 2007, and shall not be continued beyond that date unless otherwise federally mandated.

Sec. 3704.143. (A) As used in this section, "contract" means a contract entered into by the state under former section 3704.14 of the Revised Code, as that section existed prior to its repeal and reenactment by Am. Sub. H.B. 66 of the 126th General Assembly, with a private contractor for the purpose of conducting emissions inspections under a motor vehicle inspection and maintenance program.

(B) ~~Notwithstanding division (D)(5) of~~ Except as authorized in section 3704.14 of the Revised Code, ~~the director of administrative services or~~ as that section was reenacted by Am. Sub. H.B. 66 of the 126th General Assembly, the director of environmental protection~~, as applicable,~~ shall not renew any contract that is in existence on September 5, 2001. Further, except as authorized in that section, the director ~~of administrative services or the director of environmental protection, as applicable,~~ shall not enter into a new contract upon the expiration or termination of any contract that is in existence on September 5, 2001, or enter into any new contract for the implementation of a motor vehicle inspection and maintenance program in a county in which such a program is not operating on that date.

(C) ~~Notwithstanding~~ Except as authorized in section 3704.14 of the Revised Code ~~or any other section of the Revised Code that requires emissions inspections to be conducted or proof of such inspections to be provided~~, as that section was reenacted by Am. Sub. H.B. 66 of the 126th

General Assembly, upon the expiration or termination of all contracts that are in existence on September 5, 2001, the director of environmental protection shall terminate all motor vehicle inspection and maintenance programs in this state and shall not implement a new motor vehicle inspection and maintenance program unless ~~this section is repealed and~~ such a program is authorized by the general assembly.

(D) ~~Notwithstanding section 3704.14 of the Revised Code or any other section of the Revised Code that requires emissions inspections to be conducted or proof of such inspections to be provided, if~~ If the general assembly authorizes any program for the inspection of motor vehicle emissions under division (C) of this section after all contracts for a motor vehicle inspection and maintenance program that are in existence on September 5, 2001, terminate or expire, a motor vehicle, the legal title to which has never been transferred by a manufacturer, distributor, or dealer to an ultimate purchaser as defined in section 4517.01 of the Revised Code, shall be exempt from any emissions inspections that are required under such a program for a period of ~~five~~ not less than four years commencing on the date when the first certificate of title to the vehicle was issued on behalf of the ultimate purchaser under Chapter 4503. of the Revised Code. A motor vehicle that is exempt from any emissions inspections ~~for a period of five years~~ under this division shall remain exempt during that ~~five-year~~ period regardless of whether legal title to the motor vehicle is transferred during that period.

Sec. 3704.144. Gifts, grants, and contributions for the purpose of adding pollution control equipment to diesel-powered school buses, including contributions that are made pursuant to the settlement of an administrative action or civil action that is brought at the request of the director of environmental protection pursuant to Chapter 3704., 3714., 3734., 6109., or 6111. of the Revised Code, shall be credited to the clean diesel school bus fund, which is hereby created in the state treasury. The director shall use money credited to the fund to make grants to school districts in the state for the purpose of adding pollution control equipment to diesel-powered school buses and to pay the environmental protection agency's costs incurred in administering this section. In addition, the director may use money credited to the fund to make grants to school districts for the purpose of maintaining pollution control equipment that is installed on diesel-powered school buses and to pay the additional cost incurred by a school district for using ultra-low sulfur diesel fuel instead of diesel fuel for the operation of diesel-powered school buses.

In making grants under this section, the director shall give priority to

school districts that are located in a county that is designated as nonattainment by the United States environmental protection agency for the fine particulate national ambient air quality standard under the federal Clean Air Act. In addition, the director may give a higher priority to a school district that employs additional measures that reduce air pollution from the district's school bus fleet.

The director shall adopt rules establishing procedures and requirements that are necessary to implement this section, including procedures and requirements governing applications for grants.

Sec. 3704.99. (A) Whoever recklessly violates division (A), (B), (C), (D), (E), (F), (G), or (I) of section 3704.05 or division (B)(5) of section 3704.16 of the Revised Code shall be fined not more than twenty-five thousand dollars or imprisoned not more than one year, or both, for each violation. Each day the violation continues after a conviction for a violation is a separate offense.

(B) Whoever knowingly violates division (H), (J), or (K) of section 3704.05 of the Revised Code shall be fined not more than ten thousand dollars for each day of each such violation.

(C) Whoever violates section 3704.15 ~~or division (B)(1) or (2) or (C)(1) or (2) of section 3704.17~~ of the Revised Code is guilty of a misdemeanor of the first degree.

(D) Whoever violates division (B)(2) or knowingly violates division (C)(1) of section 3704.16 of the Revised Code is guilty of a minor misdemeanor.

(E) Whoever violates division (B)(1) or (3) or knowingly violates division (C)(2) or (3) of section 3704.16 of the Revised Code shall be fined not less than five hundred nor more than twenty-five hundred dollars for each day of each violation.

(F) Whoever recklessly violates division (B)(4) of section 3704.16 of the Revised Code shall be fined not more than twenty-five thousand dollars or imprisoned not more than one year, or both, for each violation. Each day the violation continues after a conviction for a violation is a separate offense.

(G) The sentencing court, in addition to the penalty provided in divisions (D), (E), and (F) of this section, shall order the offender to restore within thirty days any emission control system that was tampered with in connection with the violation or to provide proof that the motor vehicle whose emission control system was tampered with has been dismantled or destroyed. The court may extend that deadline for good cause shown. If the offender does not take the corrective action ordered under this division, each

day that the violation continues is a separate offense. Violation of a court order entered under this division is punishable as contempt under Chapter 2705. of the Revised Code.

Sec. 3705.24. (A)(1) The public health council shall, in accordance with section 111.15 of the Revised Code, adopt rules prescribing fees for the following services provided by the state office of vital statistics:

(a) Except as provided in division (A)(4) of this section:

(i) A certified copy of a vital record or a certification of birth;

(ii) A search by the office of vital statistics of its files and records pursuant to a request for information, regardless of whether a copy of a record is provided;

(iii) A copy of a record provided pursuant to a request;

(b) Replacement of a birth certificate following an adoption, legitimation, paternity determination or acknowledgement, or court order;

(c) Filing of a delayed registration of a vital record;

(d) Amendment of a vital record that is requested later than one year after the filing date of the vital record;

(e) Any other documents or services for which the public health council considers the charging of a fee appropriate.

(2) Fees prescribed under division (A)(1)(a) of this section shall not be less than seven dollars.

(3) Fees prescribed under division (A)(1) of this section shall be collected in addition to any ~~fee~~ fees required by ~~section~~ sections 3109.14 and 3705.242 of the Revised Code.

(4) Fees prescribed under division (A) of this section shall not apply to certifications issued under division (H) of this section or copies provided under section 3705.241 of the Revised Code.

(B) In addition to the fees prescribed under division (A) of this section or section 3709.09 of the Revised Code, the office of vital statistics or the board of health of a city or general health district shall charge a five-dollar fee for each certified copy of a vital record and each certification of birth. This fee shall be deposited in the general operations fund created under section 3701.83 of the Revised Code and be used solely toward the modernization and automation of the system of vital records in this state. A board of health shall forward all fees collected under this division to the department of health not later than thirty days after the end of each calendar quarter.

(C) Except as otherwise provided in division (H) of this section, and except as provided in section 3705.241 of the Revised Code, fees collected by the director of health under sections 3705.01 to 3705.29 of the Revised

Code shall be paid into the state treasury to the credit of the general operations fund created by section 3701.83 of the Revised Code. Except as provided in division (B) of this section, money generated by the fees shall be used only for administration and enforcement of this chapter and the rules adopted under it. Amounts submitted to the department of health for copies of vital records or services in excess of the fees imposed by this section shall be dealt with as follows:

(1) An overpayment of two dollars or less shall be retained by the department and deposited in the state treasury to the credit of the general operations fund created by section 3701.83 of the Revised Code.

(2) An overpayment in excess of two dollars shall be returned to the person who made the overpayment.

(D) If a local registrar is a salaried employee of a city or a general health district, any fees the local registrar receives pursuant to section 3705.23 of the Revised Code shall be paid into the general fund of the city or the health fund of the general health district.

Each local registrar of vital statistics, or each health district where the local registrar is a salaried employee of the district, shall be entitled to a fee for each birth, fetal death, death, or military service certificate properly and completely made out and registered with the local registrar or district and correctly copied and forwarded to the office of vital statistics in accordance with the population of the primary registration district at the last federal census. The fee for each birth, fetal death, death, or military service certificate shall be:

(1) In primary registration districts of over two hundred fifty thousand, twenty cents;

(2) In primary registration districts of over one hundred twenty-five thousand and less than two hundred fifty thousand, sixty cents;

(3) In primary registration districts of over fifty thousand and less than one hundred twenty-five thousand, eighty cents;

(4) In primary registration districts of less than fifty thousand, one dollar.

(E) The director of health shall annually certify to the county treasurers of the several counties the number of birth, fetal death, death, and military service certificates registered from their respective counties with the names of the local registrars and the amounts due each registrar and health district at the rates fixed in this section. Such amounts shall be paid by the treasurer of the county in which the registration districts are located. No fees shall be charged or collected by registrars except as provided by this chapter and section 3109.14 of the Revised Code.

(F) A probate judge shall be paid a fee of fifteen cents for each certified abstract of marriage prepared and forwarded by the probate judge to the department of health pursuant to section 3705.21 of the Revised Code. The fee shall be in addition to the fee paid for a marriage license and shall be paid by the applicants for the license.

(G) The clerk of a court of common pleas shall be paid a fee of one dollar for each certificate of divorce, dissolution, and annulment of marriage prepared and forwarded by the clerk to the department pursuant to section 3705.21 of the Revised Code. The fee for the certified abstract of divorce, dissolution, or annulment of marriage shall be added to the court costs allowed in these cases.

(H) The fee for an heirloom certification of birth issued pursuant to division (B)(2) of section 3705.23 of the Revised Code shall be an amount prescribed by rule by the director of health plus any fee required by section 3109.14 of the Revised Code. In setting the amount of the fee, the director shall establish a surcharge in addition to an amount necessary to offset the expense of processing heirloom certifications of birth. The fee prescribed by the director of health pursuant to this division shall be deposited into the state treasury to the credit of the heirloom certification of birth fund which is hereby created. Money credited to the fund shall be used by the office of vital statistics to offset the expense of processing heirloom certifications of birth. However, the money collected for the surcharge, subject to the approval of the controlling board, shall be used for the purposes specified by the family and children first council pursuant to section 121.37 of the Revised Code.

Sec. 3705.242. (A)(1) The director of health, a person authorized by the director, a local commissioner of health, or a local registrar of vital statistics shall charge and collect a fee of one dollar and fifty cents for each certified copy of a birth record, each certification of birth, and each copy of a death record. The fee is in addition to the fee imposed by section 3705.24 or any other section of the Revised Code. A local commissioner of health or local registrar of vital statistics may retain an amount of each additional fee collected, not to exceed three per cent of the amount of the additional fee, to be used for costs directly related to the collection of the fee and the forwarding of the fee to the treasurer of state.

(2) On the filing of a divorce decree under section 3105.10 or a decree of dissolution under section 3105.65 of the Revised Code, a court of common pleas shall charge and collect a fee of five dollars and fifty cents. The fee is in addition to any other court costs or fees. The county clerk of courts may retain an amount of each additional fee collected, not to exceed

three per cent of the amount of the additional fee, to be used for costs directly related to the collection of the fee and the forwarding of the fee to the treasurer of state.

(B) The additional fees collected, but not retained, under this section during each month shall be forwarded not later than the tenth day of the immediately following month to the treasurer of state, who shall deposit the fees in the state treasury to the credit of the family violence prevention fund, which is hereby created. A person or government entity that fails to forward the fees in a timely manner, as determined by the treasurer of state, shall forward to the treasurer of state, in addition to the fees, a penalty equal to ten per cent of the fees.

The treasurer of state shall invest the moneys in the fund. All earnings resulting from investment of the fund shall be credited to the fund, except that actual administration costs incurred by the treasurer of state in administering the fund may be deducted from the earnings resulting from investments. The amount that may be deducted shall not exceed three per cent of the total amount of fees credited to the fund in each fiscal year. The balance of the investment earnings shall be credited to the fund.

(C) The director of public safety shall use money credited to the fund to provide grants to family violence shelters in Ohio.

Sec. 3712.03. (A) In accordance with Chapter 119. of the Revised Code, the public health council shall adopt, and may amend and rescind, rules:

(1) Providing for the licensing of persons or public agencies providing hospice care programs within this state by the department of health and for the suspension and revocation of licenses;

(2) Establishing a license fee and license renewal fee not to exceed three hundred dollars. The fees shall cover the three-year period during which an existing license is valid as provided in division (B) of section 3712.04 of the Revised Code.

(3) Establishing an inspection fee not to exceed one thousand seven hundred fifty dollars;

(4) Establishing requirements for hospice care program facilities and services;

~~(4)~~(5) Providing for a waiver of the requirement for the provision of physical, occupational, or speech or language therapy contained in division (A)(2) of section 3712.01 of the Revised Code when the requirement would create a hardship because such therapy is not readily available in the geographic area served by the provider of a hospice care program;

~~(5)~~(6) Providing for the granting of licenses to provide hospice care programs to persons and public agencies that are accredited or certified to

provide such programs by an entity whose standards for accreditation or certification equal or exceed those provided for licensure under this chapter and rules adopted under it; and

~~(6)~~(7) Establishing interpretive guidelines for each rule.

(B) Subject to the approval of the controlling board, the public health council may establish fees in excess of the amounts provided by sections 3712.01 and 3712.03 to 3712.06 of the Revised Code, provided that the fees do not exceed those amounts by greater than fifty per cent.

(C) The department of health shall:

(1) Grant, suspend, and revoke licenses for hospice care programs in accordance with this chapter and rules adopted under it;

(2) Make such inspections as are necessary to determine whether hospice care program facilities and services meet the requirements of this chapter and rules adopted under it; and

(3) Implement and enforce this chapter and rules adopted under it.

Sec. 3714.07. (A)(1) For the purpose of assisting boards of health and the environmental protection agency in administering and enforcing this chapter and rules adopted under it, there is hereby levied on the disposal of construction and demolition debris at a construction and demolition debris facility that is licensed under this chapter or at a solid waste facility that is licensed under Chapter 3734. of the Revised Code a fee of thirty cents per cubic yard or sixty cents per ton, as applicable.

(2) The owner or operator of a construction and demolition debris facility or a solid waste facility shall determine if cubic yards or tons will be used as the unit of measurement. In estimating the fee based on cubic yards, the owner or operator shall utilize either the maximum cubic yard capacity of the container, or the hauling volume of the vehicle, that transports the construction and demolition debris to the facility or the cubic yards actually logged for disposal by the owner or operator in accordance with rules adopted under section 3714.02 of the Revised Code. If basing the fee on tonnage, the owner or operator shall use certified scales to determine the tonnage of construction and demolition debris that is transported to the facility for disposal.

(3) The owner or operator of a construction and demolition debris facility or a solid waste facility shall collect the fee levied under division (A) of this section as a trustee for the health district having jurisdiction over the facility, if that district is on the approved list under section 3714.09 of the Revised Code, or for the state. The owner or operator shall prepare and file with the appropriate board of health or the director of environmental protection monthly returns indicating the total volume or weight, as

applicable, of construction and demolition debris received for disposal at the facility and the total amount of money required to be collected on the construction and demolition debris disposed of during that month. Not later than thirty days after the last day of the month to which the return applies, the owner or operator shall mail to the board of health or the director the return for that month together with the money required to be collected on the construction and demolition debris disposed of during that month. The owner or operator may request, in writing, an extension of not more than thirty days after the last day of the month to which the return applies. A request for extension may be denied. If the owner or operator submits the money late, the owner or operator shall pay a penalty of ten per cent of the amount of the money due for each month that it is late.

(4) Of the money that is collected from a construction and demolition debris facility or a solid waste facility on a per cubic yard or per ton basis under this section, a board of health shall transmit three cents per cubic yard or six cents per ton, as applicable, to the director not later than forty-five days after the receipt of the money. The money retained by a board of health under this section shall be paid into a special fund, which is hereby created in each health district, and used solely to administer and enforce this chapter and rules adopted under it.

The director shall transmit all money received from the boards of health of health districts under this section and all money from the disposal fee collected by the director under this section to the treasurer of state to be credited to the construction and demolition debris facility oversight fund, which is hereby created in the state treasury. The fund shall be administered by the director, and money credited to the fund shall be used exclusively for the administration and enforcement of this chapter and rules adopted under it.

(B) The board of health of a health district or the director may enter into an agreement with the owner or operator of a construction and demolition debris facility or a solid waste facility for the quarterly payment of the money collected from the disposal fee. The board of health shall notify the director of any such agreement. Not later than forty-five days after receipt of the quarterly payment, the board of health shall transmit the amount established in division (A)~~(5)~~(4) of this section to the director. The money retained by the board of health shall be deposited in the special fund of the district as required under that division. Upon receipt of the money from a board of health, the director shall transmit the money to the treasurer of state to be credited to the construction and demolition debris facility oversight fund.

(C) If a construction and demolition debris facility or a solid waste facility is located within the territorial boundaries of a municipal corporation or the unincorporated area of a township, the municipal corporation or township may appropriate up to four cents per cubic yard or up to eight cents per ton of the disposal fee required to be paid by the facility under division (A) of this section for the same purposes that a municipal corporation or township may levy a fee under division (C) of section 3734.57 of the Revised Code.

The legislative authority of the municipal corporation or township may appropriate the money from the fee by enacting an ordinance or adopting a resolution establishing the amount of the fee to be appropriated. Upon doing so, the legislative authority shall mail a certified copy of the ordinance or resolution to the board of health of the health district in which the construction and demolition debris facility or the solid waste facility is located or, if the facility is located in a health district that is not on the approved list under section 3714.09 of the Revised Code, to the director. Upon receipt of the copy of the ordinance or resolution and not later than forty-five days after receipt of money collected from the fee, the board or the director, as applicable, shall transmit to the treasurer or other appropriate officer of the municipal corporation or clerk of the township that portion of the money collected from the disposal fee by the owner or operator of the facility that is required by the ordinance or resolution to be paid to that municipal corporation or township.

Money received by the treasurer or other appropriate officer of a municipal corporation under this division shall be paid into the general fund of the municipal corporation. Money received by the clerk of a township under this division shall be paid into the general fund of the township. The treasurer or other officer of the municipal corporation or the clerk of the township, as appropriate, shall maintain separate records of the money received under this division.

The legislative authority of a municipal corporation or township may cease collecting money under this division by repealing the ordinance or resolution that was enacted or adopted under this division.

(D) The board of county commissioners of a county in which a construction and demolition debris facility or a solid waste facility is located may appropriate up to three cents per cubic yard or up to six cents per ton of the disposal fee required to be paid by the facility under division (A) of this section for the same purposes that a solid waste management district may levy a fee under division (B) of section 3734.57 of the Revised Code.

The board of county commissioners may appropriate the money from

the fee by adopting a resolution establishing the amount of the fee to be appropriated. Upon doing so, the board of county commissioners shall mail a certified copy of the resolution to the board of health of the health district in which the construction and demolition debris facility or the solid waste facility is located or, if the facility is located in a health district that is not on the approved list under section 3714.09 of the Revised Code, to the director. Upon receipt of the copy of the resolution and not later than forty-five days after receipt of money collected from the fee, the board of health or the director, as applicable, shall transmit to the treasurer of the county that portion of the money collected from the disposal fee by the owner or operator of the facility that is required by the resolution to be paid to that county.

Money received by a county treasurer under this division shall be paid into the general fund of the county. The county treasurer shall maintain separate records of the money received under this division.

A board of county commissioners may cease collecting money under this division by repealing the resolution that was adopted under this division.

(E)(1) This section does not apply to the disposal of construction and demolition debris at a solid waste facility that is licensed under Chapter 3734. of the Revised Code if there is no construction and demolition debris facility licensed under this chapter within ~~forty~~ thirty-five miles of the solid waste facility as determined by a facility's property boundaries.

(2) This section does not apply to the disposal of construction and demolition debris at a solid waste facility that is licensed under Chapter 3734. of the Revised Code if the owner or operator of the facility chooses to collect fees on the disposal of the construction and demolition debris that are identical to the fees that are collected under Chapters 343. and 3734. of the Revised Code on the disposal of solid wastes at that facility.

(3) This section does not apply to the disposal of source separated materials that are exclusively composed of reinforced or nonreinforced concrete, asphalt, clay tile, building or paving brick, or building or paving stone at a construction and demolition debris facility that is licensed under this chapter when either of the following applies:

(a) The materials are placed within the limits of construction and demolition debris placement at the facility as specified in the license issued to the facility under section 3714.06 of the Revised Code, are not placed within the unloading zone of the facility, and are used as a fire prevention measure in accordance with rules adopted by the director under section 3714.02 of the Revised Code.

(b) The materials are not placed within the unloading zone of the facility or within the limits of construction and demolition debris placement at the facility as specified in the license issued to the facility under section 3714.06 of the Revised Code, but are used as fill material, either alone or in conjunction with clean soil, sand, gravel, or other clean aggregates, in legitimate fill operations for construction purposes at the facility or to bring the facility up to a consistent grade.

Sec. 3714.073. (A) In addition to the fee levied under division (A)(1) of section 3714.07 of the Revised Code, beginning July 1, 2005, there is hereby levied on the disposal of construction and demolition debris at a construction and demolition debris facility that is licensed under this chapter or at a solid waste facility that is licensed under Chapter 3734. of the Revised Code the following fees:

(1) A fee of twelve and one-half cents per cubic yard or twenty-five cents per ton, as applicable, the proceeds of which shall be deposited in the state treasury to the credit of the soil and water conservation district assistance fund created in section 1515.14 of the Revised Code;

(2) A fee of thirty seven and one-half cents per cubic yard or seventy-five cents per ton, as applicable, the proceeds of which shall be deposited in the state treasury to the credit of the recycling and litter prevention fund created in section 1502.02 of the Revised Code.

(B) The owner or operator of a construction and demolition debris facility or a solid waste facility, as a trustee of the state, shall collect the fees levied under this section and remit the money from the fees in the manner that is established in divisions (A)(2) and (3) of section 3714.07 of the Revised Code for the fee that is levied under division (A)(1) of that section.

(C) The money that is collected from a construction and demolition debris facility or a solid waste facility and remitted to a board of health or the director of environmental protection, as applicable, pursuant to this section shall be transmitted by the board or director to the treasurer of state to be credited to the soil and water conservation district assistance fund or the recycling and litter prevention fund, as applicable.

(D) This section does not apply to the disposal of construction and demolition debris at a solid waste facility that is licensed under Chapter 3734. of the Revised Code if the owner or operator of the facility chooses to collect fees on the disposal of the construction and demolition debris that are identical to the fees that are collected under Chapters 343. and 3734. of the Revised Code on the disposal of solid wastes at that facility.

(E) This section does not apply to the disposal of source separated materials that are exclusively composed of reinforced or nonreinforced

concrete, asphalt, clay tile, building or paving brick, or building or paving stone at a construction and demolition debris facility that is licensed under this chapter when either of the following applies:

(1) The materials are placed within the limits of construction and demolition debris placement at the facility as specified in the license issued to the facility under section 3714.06 of the Revised Code, are not placed within the unloading zone of the facility, and are used as a fire prevention measure in accordance with rules adopted by the director under section 3714.02 of the Revised Code.

(2) The materials are not placed within the unloading zone of the facility or within the limits of construction and demolition debris placement at the facility as specified in the license issued to the facility under section 3714.06 of the Revised Code, but are used as fill material, either alone or in conjunction with clean soil, sand, gravel, or other clean aggregates, in legitimate fill operations for construction purposes at the facility or to bring the facility up to a consistent grade.

Sec. 3715.04. (A) As used in this section:

(1) "Certificate of health and freesale" means a document issued by the director of agriculture that certifies to states and countries receiving products that the products have been produced and warehoused in this state under sanitary conditions at a food processing establishment or at a place of business of a manufacturer of over-the-counter drugs or cosmetics, as applicable, that has been inspected by the department of agriculture. Other names of documents that are synonymous with "certificate of health and freesale" include, but are not limited to, "sanitary certificate of health and freesale"; "certificate of origin"; "certificate of freesale"; "certificate of health and origin"; "certificate of freesale, sanitary and purity"; and "certificate of freesale, health and origin."

(2) "Food processing establishment" has the same meaning as in section 3715.021 of the Revised Code.

(B) Upon the request of a food processing establishment, manufacturer of over-the-counter drugs, or manufacturer of cosmetics, the director may issue a certificate of health and freesale after determining that conditions at the establishment or place of business of the manufacturer, as applicable, have been found to be sanitary through an inspection conducted pursuant to this chapter. For each certificate issued, the director shall charge the establishment or manufacturer a fee in the amount of twenty dollars. The director shall deposit all fees collected under this section to the credit of the food safety fund created in section 915.24 of the Revised Code.

Sec. 3721.01. (A) As used in sections 3721.01 to 3721.09 and 3721.99

of the Revised Code:

(1)(a) "Home" means an institution, residence, or facility that provides, for a period of more than twenty-four hours, whether for a consideration or not, accommodations to three or more unrelated individuals who are dependent upon the services of others, including a nursing home, residential care facility, home for the aging, and a veterans' home operated under Chapter 5907. of the Revised Code.

(b) "Home" also means both of the following:

(i) Any facility that a person, as defined in section 3702.51 of the Revised Code, proposes for certification as a skilled nursing facility or nursing facility under Title XVIII or XIX of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended, and for which a certificate of need, other than a certificate to recategorize hospital beds as described in section 3702.522 of the Revised Code or division (R)(7)(d) of the version of section 3702.51 of the Revised Code in effect immediately prior to April 20, 1995, has been granted to the person under sections 3702.51 to 3702.62 of the Revised Code after August 5, 1989;

(ii) A county home or district home that is or has been licensed as a residential care facility.

(c) "Home" does not mean any of the following:

(i) Except as provided in division (A)(1)(b) of this section, a public hospital or hospital as defined in section 3701.01 or 5122.01 of the Revised Code;

(ii) A residential facility for mentally ill persons as defined under section 5119.22 of the Revised Code;

(iii) A residential facility as defined in section 5123.19 of the Revised Code;

(iv) ~~A habilitation center as defined in section 5123.041 of the Revised Code;~~

~~(v)~~ A community alternative home as defined in section 3724.01 of the Revised Code;

~~(vi)~~(v) An adult care facility as defined in section 3722.01 of the Revised Code;

~~(vii)~~(vi) An alcohol or drug addiction program as defined in section 3793.01 of the Revised Code;

~~(viii)~~(vii) A facility licensed to provide methadone treatment under section 3793.11 of the Revised Code;

~~(ix)~~(viii) A facility providing services under contract with the department of mental retardation and developmental disabilities under section 5123.18 of the Revised Code;

~~(x)~~(ix) A facility operated by a hospice care program licensed under section 3712.04 of the Revised Code that is used exclusively for care of hospice patients;

~~(xi)~~(x) A facility, infirmary, or other entity that is operated by a religious order, provides care exclusively to members of religious orders who take vows of celibacy and live by virtue of their vows within the orders as if related, and does not participate in the medicare program established under Title XVIII of the "Social Security Act" or the medical assistance program established under Chapter 5111. of the Revised Code and Title XIX of the "Social Security Act," if on January 1, 1994, the facility, infirmary, or entity was providing care exclusively to members of the religious order;

~~(xii)~~(xi) A county home or district home that has never been licensed as a residential care facility.

(2) "Unrelated individual" means one who is not related to the owner or operator of a home or to the spouse of the owner or operator as a parent, grandparent, child, grandchild, brother, sister, niece, nephew, aunt, uncle, or as the child of an aunt or uncle.

(3) "Mental impairment" does not mean mental illness as defined in section 5122.01 of the Revised Code or mental retardation as defined in section 5123.01 of the Revised Code.

(4) "Skilled nursing care" means procedures that require technical skills and knowledge beyond those the untrained person possesses and that are commonly employed in providing for the physical, mental, and emotional needs of the ill or otherwise incapacitated. "Skilled nursing care" includes, but is not limited to, the following:

(a) Irrigations, catheterizations, application of dressings, and supervision of special diets;

(b) Objective observation of changes in the patient's condition as a means of analyzing and determining the nursing care required and the need for further medical diagnosis and treatment;

(c) Special procedures contributing to rehabilitation;

(d) Administration of medication by any method ordered by a physician, such as hypodermically, rectally, or orally, including observation of the patient after receipt of the medication;

(e) Carrying out other treatments prescribed by the physician that involve a similar level of complexity and skill in administration.

(5)(a) "Personal care services" means services including, but not limited to, the following:

(i) Assisting residents with activities of daily living;

(ii) Assisting residents with self-administration of medication, in accordance with rules adopted under section 3721.04 of the Revised Code;

(iii) Preparing special diets, other than complex therapeutic diets, for residents pursuant to the instructions of a physician or a licensed dietitian, in accordance with rules adopted under section 3721.04 of the Revised Code.

(b) "Personal care services" does not include "skilled nursing care" as defined in division (A)(4) of this section. A facility need not provide more than one of the services listed in division (A)(5)(a) of this section to be considered to be providing personal care services.

(6) "Nursing home" means a home used for the reception and care of individuals who by reason of illness or physical or mental impairment require skilled nursing care and of individuals who require personal care services but not skilled nursing care. A nursing home is licensed to provide personal care services and skilled nursing care.

(7) "Residential care facility" means a home that provides either of the following:

(a) Accommodations for seventeen or more unrelated individuals and supervision and personal care services for three or more of those individuals who are dependent on the services of others by reason of age or physical or mental impairment;

(b) Accommodations for three or more unrelated individuals, supervision and personal care services for at least three of those individuals who are dependent on the services of others by reason of age or physical or mental impairment, and, to at least one of those individuals, any of the skilled nursing care authorized by section 3721.011 of the Revised Code.

(8) "Home for the aging" means a home that provides services as a residential care facility and a nursing home, except that the home provides its services only to individuals who are dependent on the services of others by reason of both age and physical or mental impairment.

The part or unit of a home for the aging that provides services only as a residential care facility is licensed as a residential care facility. The part or unit that may provide skilled nursing care beyond the extent authorized by section 3721.011 of the Revised Code is licensed as a nursing home.

(9) "County home" and "district home" mean a county home or district home operated under Chapter 5155. of the Revised Code.

(B) The public health council may further classify homes. For the purposes of this chapter, any residence, institution, hotel, congregate housing project, or similar facility that meets the definition of a home under this section is such a home regardless of how the facility holds itself out to the public.

(C) For purposes of this chapter, personal care services or skilled nursing care shall be considered to be provided by a facility if they are provided by a person employed by or associated with the facility or by another person pursuant to an agreement to which neither the resident who receives the services nor the resident's sponsor is a party.

(D) Nothing in division (A)(4) of this section shall be construed to permit skilled nursing care to be imposed on an individual who does not require skilled nursing care.

Nothing in division (A)(5) of this section shall be construed to permit personal care services to be imposed on an individual who is capable of performing the activity in question without assistance.

(E) Division (A)(1)(c)~~(xi)~~(x) of this section does not prohibit a facility, infirmary, or other entity described in that division from seeking licensure under sections 3721.01 to 3721.09 of the Revised Code or certification under Title XVIII or XIX of the "Social Security Act." However, such a facility, infirmary, or entity that applies for licensure or certification must meet the requirements of those sections or titles and the rules adopted under them and obtain a certificate of need from the director of health under section 3702.52 of the Revised Code.

(F) Nothing in this chapter, or rules adopted pursuant to it, shall be construed as authorizing the supervision, regulation, or control of the spiritual care or treatment of residents or patients in any home who rely upon treatment by prayer or spiritual means in accordance with the creed or tenets of any recognized church or religious denomination.

Sec. 3721.011. (A) In addition to providing accommodations, supervision, and personal care services to its residents, a residential care facility may provide skilled nursing care as follows:

(1) Supervision of special diets;

(2) Application of dressings, in accordance with rules adopted under section 3721.04 of the Revised Code;

(3) Providing for the administration of medication to residents, to the extent authorized under division (B)(1) of this section;

(4) Other skilled nursing care provided on a part-time, intermittent basis pursuant to division (C) of this section.

A residential care facility may not admit or retain an individual requiring skilled nursing care that is not authorized by this section. A residential care facility may not provide skilled nursing care beyond the limits established by this section.

(B)(1) A residential care facility may admit or retain an individual requiring medication, including biologicals, only if the individual's personal

physician has determined in writing that the individual is capable of self-administering the medication or the facility provides for the medication to be administered to the individual by a home health agency certified under Title XVIII of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended; a hospice care program licensed under Chapter 3712. of the Revised Code; or a member of the staff of the residential care facility who is qualified to perform medication administration. Medication may be administered in a residential care facility only by the following persons authorized by law to administer medication:

(a) A registered nurse licensed under Chapter 4723. of the Revised Code;

(b) A licensed practical nurse licensed under Chapter 4723. of the Revised Code who holds proof of successful completion of a course in medication administration approved by the board of nursing and who administers the medication only at the direction of a registered nurse or a physician authorized under Chapter 4731. of the Revised Code to practice medicine and surgery or osteopathic medicine and surgery;

(c) A medication aide certified under Chapter 4723. of the Revised Code;

(d) A physician authorized under Chapter 4731. of the Revised Code to practice medicine and surgery or osteopathic medicine and surgery.

(2) In assisting a resident with self-administration of medication, any member of the staff of a residential care facility may do the following:

(a) Remind a resident when to take medication and watch to ensure that the resident follows the directions on the container;

(b) Assist a resident by taking the medication from the locked area where it is stored, in accordance with rules adopted pursuant to section 3721.04 of the Revised Code, and handing it to the resident. If the resident is physically unable to open the container, a staff member may open the container for the resident.

(c) Assist a physically impaired but mentally alert resident, such as a resident with arthritis, cerebral palsy, or Parkinson's disease, in removing oral or topical medication from containers and in consuming or applying the medication, upon request by or with the consent of the resident. If a resident is physically unable to place a dose of medicine to the resident's mouth without spilling it, a staff member may place the dose in a container and place the container to the mouth of the resident.

(C) A residential care facility may admit or retain individuals who require skilled nursing care beyond the supervision of special diets, application of dressings, or administration of medication, only if the care

will be provided on a part-time, intermittent basis for not more than a total of one hundred twenty days in any twelve-month period. In accordance with Chapter 119. of the Revised Code, the public health council shall adopt rules specifying what constitutes the need for skilled nursing care on a part-time, intermittent basis. The council shall adopt rules that are consistent with rules pertaining to home health care adopted by the director of job and family services for the medical assistance program established under Chapter 5111. of the Revised Code. Skilled nursing care provided pursuant to this division may be provided by a home health agency certified under Title XVIII of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended, a hospice care program licensed under Chapter 3712. of the Revised Code, or a member of the staff of a residential care facility who is qualified to perform skilled nursing care.

A residential care facility that provides skilled nursing care pursuant to this division shall do both of the following:

(1) Evaluate each resident receiving the skilled nursing care at least once every seven days to determine whether the resident should be transferred to a nursing home;

(2) Meet the skilled nursing care needs of each resident receiving the care.

(D) Notwithstanding any other provision of this chapter, a residential care facility in which residents receive skilled nursing care pursuant to this section is not a nursing home.

Sec. 3721.02. (A) The director of health shall license homes and establish procedures to be followed in inspecting and licensing homes. The director may inspect a home at any time. Each home shall be inspected by the director at least once prior to the issuance of a license and at least once every fifteen months thereafter. The state fire marshal or a township, municipal, or other legally constituted fire department approved by the marshal shall also inspect a home prior to issuance of a license, at least once every fifteen months thereafter, and at any other time requested by the director. A home does not have to be inspected prior to issuance of a license by the director, state fire marshal, or a fire department if ownership of the home is assigned or transferred to a different person and the home was licensed under this chapter immediately prior to the assignment or transfer. The director may enter at any time, for the purposes of investigation, any institution, residence, facility, or other structure that has been reported to the director or that the director has reasonable cause to believe is operating as a nursing home, residential care facility, or home for the aging without a valid license required by section 3721.05 of the Revised Code or, in the case of a

county home or district home, is operating despite the revocation of its residential care facility license. The director may delegate the director's authority and duties under this chapter to any division, bureau, agency, or official of the department of health.

(B) A single facility may be licensed both as a nursing home pursuant to this chapter and as an adult care facility pursuant to Chapter 3722. of the Revised Code if the director determines that the part or unit to be licensed as a nursing home can be maintained separate and discrete from the part or unit to be licensed as an adult care facility.

(C) In determining the number of residents in a home for the purpose of licensing, the director shall consider all the individuals for whom the home provides accommodations as one group unless one of the following is the case:

(1) The home is a home for the aging, in which case all the individuals in the part or unit licensed as a nursing home shall be considered as one group, and all the individuals in the part or unit licensed as a rest home shall be considered as another group.

(2) The home is both a nursing home and an adult care facility. In that case, all the individuals in the part or unit licensed as a nursing home shall be considered as one group, and all the individuals in the part or unit licensed as an adult care facility shall be considered as another group.

(3) The home maintains, in addition to a nursing home or residential care facility, a separate and discrete part or unit that provides accommodations to individuals who do not require or receive skilled nursing care and do not receive personal care services from the home, in which case the individuals in the separate and discrete part or unit shall not be considered in determining the number of residents in the home if the separate and discrete part or unit is in compliance with the Ohio basic building code established by the board of building standards under Chapters 3781. and 3791. of the Revised Code and the home permits the director, on request, to inspect the separate and discrete part or unit and speak with the individuals residing there, if they consent, to determine whether the separate and discrete part or unit meets the requirements of this division.

(D) The director of health shall charge an application fee and an annual renewal licensing and inspection fee of one hundred ~~five~~ seventy dollars for each fifty persons or part thereof of a home's licensed capacity. All fees collected by the director for the issuance or renewal of licenses shall be deposited into the state treasury to the credit of the general operations fund created in section 3701.83 of the Revised Code for use only in administering and enforcing this chapter and rules adopted under it.

(E)(1) Except as otherwise provided in this section, the results of an inspection or investigation of a home that is conducted under this section, including any statement of deficiencies and all findings and deficiencies cited in the statement on the basis of the inspection or investigation, shall be used solely to determine the home's compliance with this chapter or another chapter of the Revised Code in any action or proceeding other than an action commenced under division (I) of section 3721.17 of the Revised Code. Those results of an inspection or investigation, that statement of deficiencies, and the findings and deficiencies cited in that statement shall not be used in any court or in any action or proceeding that is pending in any court and are not admissible in evidence in any action or proceeding unless that action or proceeding is an appeal of an action by the department of health under this chapter or is an action by any department or agency of the state to enforce this chapter or another chapter of the Revised Code.

(2) Nothing in division (E)(1) of this section prohibits the results of an inspection or investigation conducted under this section from being used in a criminal investigation or prosecution.

Sec. 3721.03. ~~The~~ (A) As used in this section, "person" has the same meaning as in section 1.59 of the Revised Code.

(B) The director of health shall enforce the provisions of sections 3721.01 to ~~3721.09~~ 3721.13 and 3721.99 of the Revised Code and may issue orders to secure compliance with the provisions of these sections and the rules adopted under them. The director may hold hearings, issue subpoenas, compel testimony, and make adjudications. ~~In~~

The director may issue an order revoking a license in the event the director finds, upon hearing or opportunity afforded ~~therefor~~ pursuant to Chapter 119. of the Revised Code, that any of the following apply to a person~~, firm, partnership, association, corporation~~, county home, or district home licensed under section 3721.07 of the Revised Code ~~is in violation of~~:

(1) Has violated any of the provisions of Chapter 3721. of the Revised Code or rules adopted by the public health council under it; ~~is in violation of~~

(2) Has violated any order issued by the director; ~~is~~

(3) Is not, or any of its principals are not suitable, morally or financially to operate such an institution; ~~or is~~

(4) Is not furnishing humane, kind, and adequate treatment and care~~, the director may issue an order revoking the license previously issued by the director~~;

(5) Has had a long-standing pattern of violations of this chapter or the rules adopted under it that has caused physical, emotional, mental, or psychosocial harm to one or more residents. ~~Upon~~

Upon the issuance of any order of revocation, the person whose license is revoked, or the county home or district home that has its license revoked, may appeal in accordance with Chapter 119. of the Revised Code.

~~The state fire marshal shall enforce all statutes and rules pertaining to fire safety in homes and shall adopt rules pertaining to fire safety in homes as the marshal determines necessary. The rules adopted by the marshal shall be in addition to those fire safety rules that the board of building standards and the public health council are empowered to adopt and shall be adopted prior to December 31, 1972. In the event of a dispute between the marshal and another officer having responsibilities under sections 3721.01 to 3721.09 of the Revised Code with respect to the interpretation or application of a specific fire safety statute or rule, the interpretation of the marshal shall prevail.~~

~~If the ownership of a home is assigned or transferred to a different person, the new owner is responsible and liable for compliance with any notice of proposed action or order issued under this section in accordance with Chapter 119. of the Revised Code prior to the effective date of the assignment or transfer~~ (C) Once the director notifies a person, county home, or district home licensed to operate a home that the license may be revoked or issues any order under this section, the person, county home, or district home shall not assign or transfer to another person or entity the right to operate the home. This prohibition shall remain in effect until proceedings under Chapter 119. of the Revised Code concerning the order or license revocation have been concluded or the director notifies the person, county home, or district home that the prohibition has been lifted.

If a license is revoked under this section, the former license holder shall not assign or transfer or consent to assignment or transfer of the right to operate the home. Any attempted assignment or transfer to another person or entity is void.

On revocation of a license, the former licensee shall take all necessary steps to cease operation of the home.

The director of health shall not accept a certificate of need application under section 3702.52 of the Revised Code regarding a home if the license to operate the home has been revoked under this section.

Sec. 3721.032. The state fire marshal shall enforce all statutes and rules pertaining to fire safety in homes and shall adopt rules pertaining to fire safety in homes as the marshal determines necessary. The rules adopted by the marshal shall be in addition to those fire safety rules that the board of building standards and the public health council are empowered to adopt. In the event of a dispute between the marshal and another officer having

responsibilities under sections 3721.01 to 3721.09 of the Revised Code with respect to the interpretation or application of a specific fire safety statute or rule, the interpretation of the marshal shall prevail.

Sec. 3721.07. Every person desiring to operate a home and the superintendent or administrator of each county home or district home for which a license as a residential care facility is sought shall apply for a license to the director of health. The director shall issue a license for the home, if after investigation of the applicant and, if required by section 3721.02 of the Revised Code, inspection of the home, the following requirements or conditions are satisfied or complied with:

(A) The applicant has not been convicted of a felony or a crime involving moral turpitude;

(B) The applicant is not violating any of the rules made by the public health council or any order issued by the director of health;

(C) The applicant has not had a license to operate the home revoked pursuant to section 3721.03 of the Revised Code because of any act or omission that jeopardized a resident's health, welfare, or safety nor has the applicant had a long-standing pattern of violations of this chapter or rules adopted under it that caused physical, emotional, mental, or psychosocial harm to one or more residents.

(D) The buildings in which the home is housed have been approved by the state fire marshal or a township, municipal, or other legally constituted fire department approved by the marshal. In the approval of a home such agencies shall apply standards prescribed by the board of building standards, and by the state fire marshal, and by section 3721.071 of the Revised Code.

~~(D)~~(E) The applicant, if it is an individual, or the principal participants, if it is an association or a corporation, is or are suitable financially and morally to operate a home;

~~(E)~~(F) The applicant is equipped to furnish humane, kind, and adequate treatment and care;

~~(F)~~(G) The home does not maintain or contain:

(1) Facilities for the performance of major surgical procedures;

(2) Facilities for providing therapeutic radiation;

(3) An emergency ward;

(4) A clinical laboratory unless it is under the supervision of a clinical pathologist who is a licensed physician in this state;

(5) Facilities for radiological examinations unless such examinations are performed only by a person licensed to practice medicine, surgery, or dentistry in this state.

~~(G)~~(H) The home does not accept or treat outpatients, except upon the

written orders of a physician licensed in this state, maternity cases, boarding children, and does not house transient guests, other than participants in an adult day-care program, for twenty-four hours or less;

~~(H)~~(I) The home is in compliance with sections 3721.28 and 3721.29 of the Revised Code.

When the director issues a license, the license shall remain in effect until revoked by the director or voided at the request of the applicant; provided, there shall be an annual renewal fee payable during the month of January of each calendar year. Any licensed home that does not pay its renewal fee in January shall pay, beginning the first day of February, a late fee of one hundred dollars for each week or part thereof that the renewal fee is not paid. If either the renewal fee or the late fee is not paid by the fifteenth day of February, the director may, in accordance with Chapter 119. of the Revised Code, revoke the home's license.

If, under division (B)(5) of section 3721.03 of the Revised Code, the license of a person has been revoked or the license of a county home or district home to operate as a residential care facility has been revoked, the director of health shall not issue a license to the person or home at any time. A person whose license is revoked, and a county home or district home that has its license as a residential care facility revoked other than under division (B)(5) of section 3721.03 of the Revised Code, for any reason other than nonpayment of the license renewal fee or late fees ~~may~~ shall not ~~apply for~~ be issued a new license under this chapter until a period of one year following the date of revocation has elapsed.

Any applicant who is denied a license may appeal in accordance with Chapter 119. of the Revised Code.

Sec. 3721.121. (A) As used in this section:

(1) "Adult day-care program" means a program operated pursuant to rules adopted by the public health council under section 3721.04 of the Revised Code and provided by and on the same site as homes licensed under this chapter.

(2) "Applicant" means a person who is under final consideration for employment with a home or adult day-care program in a full-time, part-time, or temporary position that involves providing direct care to an older adult. "Applicant" does not include a person who provides direct care as a volunteer without receiving or expecting to receive any form of remuneration other than reimbursement for actual expenses.

(3) "Criminal records check" and "older adult" have the same meanings as in section 109.572 of the Revised Code.

(4) "Home" means a home as defined in section 3721.10 of the Revised

Code.

(B)(1) Except as provided in division (I) of this section, the chief administrator of a home or adult day-care program shall request that the superintendent of the bureau of criminal identification and investigation conduct a criminal records check with respect to each applicant. If an applicant for whom a criminal records check request is required under this division does not present proof of having been a resident of this state for the five-year period immediately prior to the date the criminal records check is requested or provide evidence that within that five-year period the superintendent has requested information about the applicant from the federal bureau of investigation in a criminal records check, the chief administrator shall request that the superintendent obtain information from the federal bureau of investigation as part of the criminal records check of the applicant. Even if an applicant for whom a criminal records check request is required under this division presents proof of having been a resident of this state for the five-year period, the chief administrator may request that the superintendent include information from the federal bureau of investigation in the criminal records check.

(2) A person required by division (B)(1) of this section to request a criminal records check shall do both of the following:

(a) Provide to each applicant for whom a criminal records check request is required under that division a copy of the form prescribed pursuant to division (C)(1) of section 109.572 of the Revised Code and a standard fingerprint impression sheet prescribed pursuant to division (C)(2) of that section, and obtain the completed form and impression sheet from the applicant;

(b) Forward the completed form and impression sheet to the superintendent of the bureau of criminal identification and investigation.

(3) An applicant provided the form and fingerprint impression sheet under division (B)(2)(a) of this section who fails to complete the form or provide fingerprint impressions shall not be employed in any position for which a criminal records check is required by this section.

(C)(1) Except as provided in rules adopted by the director of health in accordance with division (F) of this section and subject to division (C)(2) of this section, no home or adult day-care program shall employ a person in a position that involves providing direct care to an older adult if the person has been convicted of or pleaded guilty to any of the following:

(a) A violation of section 2903.01, 2903.02, 2903.03, 2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 2905.01, 2905.02, 2905.11, 2905.12, 2907.02, 2907.03, 2907.05, 2907.06, 2907.07, 2907.08, 2907.09,

2907.12, 2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 2907.323, 2911.01, 2911.02, 2911.11, 2911.12, 2911.13, 2913.02, 2913.03, 2913.04, 2913.11, 2913.21, 2913.31, 2913.40, 2913.43, 2913.47, 2913.51, 2919.25, 2921.36, 2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 2925.11, 2925.13, 2925.22, 2925.23, or 3716.11 of the Revised Code.

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

(2)(a) A home or an adult day-care program may employ conditionally an applicant for whom a criminal records check request is required under division (B) of this section prior to obtaining the results of a criminal records check regarding the individual, provided that the home or program shall request a criminal records check regarding the individual in accordance with division (B)(1) of this section not later than five business days after the individual begins conditional employment. In the circumstances described in division (I)(2) of this section, a home or adult day-care program may employ conditionally an applicant who has been referred to the home or adult day-care program by an employment service that supplies full-time, part-time, or temporary staff for positions involving the direct care of older adults and for whom, pursuant to that division, a criminal records check is not required under division (B) of this section.

(b) A home or adult day-care program that employs an individual conditionally under authority of division (C)(2)(a) of this section shall terminate the individual's employment if the results of the criminal records check requested under division (B) of this section or described in division (I)(2) of this section, other than the results of any request for information from the federal bureau of investigation, are not obtained within the period ending thirty days after the date the request is made. Regardless of when the results of the criminal records check are obtained, if the results indicate that the individual has been convicted of or pleaded guilty to any of the offenses listed or described in division (C)(1) of this section, the home or program shall terminate the individual's employment unless the home or program chooses to employ the individual pursuant to division (F) of this section. Termination of employment under this division shall be considered just cause for discharge for purposes of division (D)(2) of section 4141.29 of the Revised Code if the individual makes any attempt to deceive the home or program about the individual's criminal record.

(D)(1) Each home or adult day-care program shall pay to the bureau of criminal identification and investigation the fee prescribed pursuant to division (C)(3) of section 109.572 of the Revised Code for each criminal

records check conducted pursuant to a request made under division (B) of this section.

(2) A home or adult day-care program may charge an applicant a fee not exceeding the amount the home or program pays under division (D)(1) of this section. A home or program may collect a fee only if both of the following apply:

(a) The home or program notifies the person at the time of initial application for employment of the amount of the fee and that, unless the fee is paid, the person will not be considered for employment;

(b) The medical assistance program established under Chapter 5111. of the Revised Code does not reimburse the home or program the fee it pays under division (D)(1) of this section.

(E) The report of any criminal records check conducted pursuant to a request made under this section is not a public record for the purposes of section 149.43 of the Revised Code and shall not be made available to any person other than the following:

(1) The individual who is the subject of the criminal records check or the individual's representative;

(2) The chief administrator of the home or program requesting the criminal records check or the administrator's representative;

(3) The administrator of any other facility, agency, or program that provides direct care to older adults that is owned or operated by the same entity that owns or operates the home or program;

(4) A court, hearing officer, or other necessary individual involved in a case dealing with a denial of employment of the applicant or dealing with employment or unemployment benefits of the applicant;

(5) Any person to whom the report is provided pursuant to, and in accordance with, division (I)(1) or (2) of this section;

(6) The board of nursing for purposes of accepting and processing an application for a medication aide certificate issued under Chapter 4723. of the Revised Code.

(F) In accordance with section 3721.11 of the Revised Code, the director of health shall adopt rules to implement this section. The rules shall specify circumstances under which a home or adult day-care program may employ a person who has been convicted of or pleaded guilty to an offense listed or described in division (C)(1) of this section but meets personal character standards set by the director.

(G) The chief administrator of a home or adult day-care program shall inform each individual, at the time of initial application for a position that involves providing direct care to an older adult, that the individual is

required to provide a set of fingerprint impressions and that a criminal records check is required to be conducted if the individual comes under final consideration for employment.

(H) In a tort or other civil action for damages that is brought as the result of an injury, death, or loss to person or property caused by an individual who a home or adult day-care program employs in a position that involves providing direct care to older adults, all of the following shall apply:

(1) If the home or program employed the individual in good faith and reasonable reliance on the report of a criminal records check requested under this section, the home or program shall not be found negligent solely because of its reliance on the report, even if the information in the report is determined later to have been incomplete or inaccurate;

(2) If the home or program employed the individual in good faith on a conditional basis pursuant to division (C)(2) of this section, the home or program shall not be found negligent solely because it employed the individual prior to receiving the report of a criminal records check requested under this section;

(3) If the home or program in good faith employed the individual according to the personal character standards established in rules adopted under division (F) of this section, the home or program shall not be found negligent solely because the individual prior to being employed had been convicted of or pleaded guilty to an offense listed or described in division (C)(1) of this section.

(I)(1) The chief administrator of a home or adult day-care program is not required to request that the superintendent of the bureau of criminal identification and investigation conduct a criminal records check of an applicant if the applicant has been referred to the home or program by an employment service that supplies full-time, part-time, or temporary staff for positions involving the direct care of older adults and both of the following apply:

(a) The chief administrator receives from the employment service or the applicant a report of the results of a criminal records check regarding the applicant that has been conducted by the superintendent within the one-year period immediately preceding the applicant's referral;

(b) The report of the criminal records check demonstrates that the person has not been convicted of or pleaded guilty to an offense listed or described in division (C)(1) of this section, or the report demonstrates that the person has been convicted of or pleaded guilty to one or more of those offenses, but the home or adult day-care program chooses to employ the

individual pursuant to division (F) of this section.

(2) The chief administrator of a home or adult day-care program is not required to request that the superintendent of the bureau of criminal identification and investigation conduct a criminal records check of an applicant and may employ the applicant conditionally as described in this division, if the applicant has been referred to the home or program by an employment service that supplies full-time, part-time, or temporary staff for positions involving the direct care of older adults and if the chief administrator receives from the employment service or the applicant a letter from the employment service that is on the letterhead of the employment service, dated, and signed by a supervisor or another designated official of the employment service and that states that the employment service has requested the superintendent to conduct a criminal records check regarding the applicant, that the requested criminal records check will include a determination of whether the applicant has been convicted of or pleaded guilty to any offense listed or described in division (C)(1) of this section, that, as of the date set forth on the letter, the employment service had not received the results of the criminal records check, and that, when the employment service receives the results of the criminal records check, it promptly will send a copy of the results to the home or ~~adult-care~~ adult day-care program. If a home or adult day-care program employs an applicant conditionally in accordance with this division, the employment service, upon its receipt of the results of the criminal records check, promptly shall send a copy of the results to the home or adult day-care program, and division (C)(2)(b) of this section applies regarding the conditional employment.

Sec. 3721.15. (A) Authorization from a resident or a sponsor with a power of attorney for a home to manage the resident's financial affairs shall be in writing and shall be attested to by a witness who is not connected in any manner whatsoever with the home or its administrator. The home shall maintain accounts pursuant to division (A)(27) of section 3721.13 of the Revised Code. Upon the resident's transfer, discharge, or death, the account shall be closed and a final accounting made. All remaining funds shall be returned to the resident or resident's sponsor, except in the case of death, when all remaining funds shall be transferred or used in accordance with section ~~5111.112~~ 5111.113 of the Revised Code.

(B) A home that manages a resident's financial affairs shall deposit the resident's funds in excess of one hundred dollars, and may deposit the resident's funds that are one hundred dollars or less, in an interest-bearing account separate from any of the home's operating accounts. Interest earned

on the resident's funds shall be credited to the resident's account. A resident's funds that are one hundred dollars or less and have not been deposited in an interest-bearing account may be deposited in a noninterest-bearing account or petty cash fund.

(C) Each resident whose financial affairs are managed by a home shall be promptly notified by the home when the total of the amount of funds in the resident's accounts and the petty cash fund plus other nonexempt resources reaches two hundred dollars less than the maximum amount permitted a recipient of medicaid. The notice shall include an explanation of the potential effect on the resident's eligibility for medicaid if the amount in the resident's accounts and the petty cash fund, plus the value of other nonexempt resources, exceeds the maximum assets a medicaid recipient may retain.

(D) Each home that manages the financial affairs of residents shall purchase a surety bond or otherwise provide assurance satisfactory to the director of health, or, in the case of a home that participates in the medicaid program, to the director of job and family services, to assure the security of all residents' funds managed by the home.

Sec. 3721.19. (A) As used in this section:

(1) "Home" and "residential care facility" have the same meanings as in section 3721.01 of the Revised Code;

(2) "Sponsor" and "residents' rights advocate" have the same meanings as in section 3721.10 of the Revised Code.

A home licensed under this chapter that is not a party to a provider agreement, as defined in section 5111.20 of the Revised Code, shall provide each prospective resident, before admission, with the following information, orally and in a separate written notice on which is printed in a conspicuous manner: "This home is not a participant in the medical assistance program administered by the Ohio department of job and family services. Consequently, you may be discharged from this home if you are unable to pay for the services provided by this home."

If the prospective resident has a sponsor whose identity is made known to the home, the home shall also inform the sponsor, before admission of the resident, of the home's status relative to the medical assistance program. Written acknowledgement of the receipt of the information shall be provided by the resident and, if the prospective resident has a sponsor who has been identified to the home, by the sponsor. The written acknowledgement shall be made part of the resident's record by the home.

No home shall terminate its status as a provider under the ~~medical assistance~~ medicaid program unless it has complied with section 5111.66 of

the Revised Code and, at least ninety days prior to such termination, provided written notice to the ~~department of job and family services and~~ residents of the home and their sponsors of such action. This requirement shall not apply in cases where the department of job and family services terminates a home's provider agreement or provider status.

(B) A home licensed under this chapter as a residential care facility shall provide notice to each prospective resident or the individual's sponsor of the services offered by the facility and the types of skilled nursing care that the facility may provide. A residential care facility that, pursuant to section 3721.012 of the Revised Code, has a policy of entering into risk agreements with residents or their sponsors shall provide each prospective resident or the individual's sponsor a written explanation of the policy and the provisions that may be contained in a risk agreement. At the time the information is provided, the facility shall obtain a statement signed by the individual receiving the information acknowledging that the individual received the information. The facility shall maintain on file the individual's signed statement.

(C) A resident has a cause of action against a home for breach of any duty imposed by this section. The action may be commenced by the resident, or on the resident's behalf by the resident's sponsor or a residents' rights advocate, by the filing of a civil action in the court of common pleas of the county in which the home is located, or in the court of common pleas of Franklin county.

If the court finds that a breach of any duty imposed by this section has occurred, the court shall enjoin the home from discharging the resident from the home until arrangements satisfactory to the court are made for the orderly transfer of the resident to another mode of health care including, but not limited to, another home, and may award the resident and a person or public agency that brings an action on behalf of a resident reasonable attorney's fees. If a home discharges a resident to whom or to whose sponsor information concerning its status relative to the medical assistance program was not provided as required under this section, the court shall grant any appropriate relief including, but not limited to, actual damages, reasonable attorney's fees, and costs.

Sec. 3721.21. As used in sections 3721.21 to 3721.34 of the Revised Code:

(A) "Long-term care facility" means either of the following:

(1) A nursing home as defined in section 3721.01 of the Revised Code, other than a nursing home or part of a nursing home certified as an intermediate care facility for the mentally retarded under Title XIX of the

"Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended;

(2) A facility or part of a facility that is certified as a skilled nursing facility or a nursing facility under Title XVIII or XIX of the "Social Security Act."

(B) "Residential care facility" has the same meaning as in section 3721.01 of the Revised Code.

(C) "Abuse" means knowingly causing physical harm or recklessly causing serious physical harm to a resident by physical contact with the resident or by use of physical or chemical restraint, medication, or isolation as punishment, for staff convenience, excessively, as a substitute for treatment, or in amounts that preclude habilitation and treatment.

(D) "Neglect" means recklessly failing to provide a resident with any treatment, care, goods, or service necessary to maintain the health or safety of the resident when the failure results in serious physical harm to the resident. "Neglect" does not include allowing a resident, at the resident's option, to receive only treatment by spiritual means through prayer in accordance with the tenets of a recognized religious denomination.

(E) "Misappropriation" means depriving, defrauding, or otherwise obtaining the real or personal property of a resident by any means prohibited by the Revised Code, including violations of Chapter 2911. or 2913. of the Revised Code.

(F) "Resident" includes a resident, patient, former resident or patient, or deceased resident or patient of a long-term care facility or a residential care facility.

(G) "Physical restraint" has the same meaning as in section 3721.10 of the Revised Code.

(H) "Chemical restraint" has the same meaning as in section 3721.10 of the Revised Code.

(I) "Nursing and nursing-related services" means the personal care services and other services not constituting skilled nursing care that are specified in rules the public health council shall adopt in accordance with Chapter 119. of the Revised Code.

(J) "Personal care services" has the same meaning as in section 3721.01 of the Revised Code.

(K)(1) Except as provided in division (K)(2) of this section, "~~Nurse~~ nurse aide" means an individual~~, other than a licensed health professional practicing within the scope of the professional's license,~~ who provides nursing and nursing-related services to residents in a long-term care facility, either as a member of the staff of the facility for monetary compensation or as a volunteer without monetary compensation.

(2) "Nurse aide" does not include either of the following:

(a) A licensed health professional practicing within the scope of the professional's license;

(b) An individual providing nursing and nursing-related services in a religious nonmedical health care institution, if the individual has been trained in the principles of nonmedical care and is recognized by the institution as being competent in the administration of care within the religious tenets practiced by the residents of the institution.

(L) "Licensed health professional" means all of the following:

(1) An occupational therapist or occupational therapy assistant licensed under Chapter 4755. of the Revised Code;

(2) A physical therapist or physical therapy assistant licensed under Chapter 4755. of the Revised Code;

(3) A physician authorized under Chapter 4731. of the Revised Code to practice medicine and surgery, osteopathic medicine and surgery, or podiatry;

(4) A physician assistant authorized under Chapter 4730. of the Revised Code to practice as a physician assistant;

(5) A registered nurse or licensed practical nurse licensed under Chapter 4723. of the Revised Code;

(6) A social worker or independent social worker licensed under Chapter 4757. of the Revised Code or a social work assistant registered under that chapter;

(7) A speech-language pathologist or audiologist licensed under Chapter 4753. of the Revised Code;

(8) A dentist or dental hygienist licensed under Chapter 4715. of the Revised Code;

(9) An optometrist licensed under Chapter 4725. of the Revised Code;

(10) A pharmacist licensed under Chapter 4729. of the Revised Code;

(11) A psychologist licensed under Chapter 4732. of the Revised Code;

(12) A chiropractor licensed under Chapter 4734. of the Revised Code;

(13) A nursing home administrator licensed or temporarily licensed under Chapter 4751. of the Revised Code;

(14) A professional counselor or professional clinical counselor licensed under Chapter 4757. of the Revised Code.

(M) "Religious nonmedical health care institution" means an institution that meets or exceeds the conditions to receive payment under the medicare program established under Title XVIII of the "Social Security Act" for inpatient hospital services or post-hospital extended care services furnished to an individual in a religious nonmedical health care institution, as defined

in section 1861(ss)(1) of the "Social Security Act," 79 Stat. 286 (1965), 42 U.S.C. 1395x(ss)(1), as amended.

(N) "Competency evaluation program" means a program through which the competency of a nurse aide to provide nursing and nursing-related services is evaluated.

~~(N)~~(O) "Training and competency evaluation program" means a program of nurse aide training and evaluation of competency to provide nursing and nursing-related services.

Sec. 3721.50. As used in sections 3721.50 to 3721.58 of the Revised Code:

(A) "Hospital" has the same meaning as in section 3727.01 of the Revised Code.

(B) "Inpatient days" means all days during which a resident of a nursing facility, regardless of payment source, occupies a bed in the nursing facility that is included in the facility's certified capacity under Title XIX. Therapeutic or hospital leave days for which payment is made under section 5111.26 of the Revised Code are considered inpatient days proportionate to the percentage of the facility's per resident per day rate paid for those days.

(C) "Medicaid" has the same meaning as in section 5111.01 of the Revised Code.

(D) "Medicaid day" means all days during which a resident who is a medicaid recipient occupies a bed in a nursing facility that is included in the facility's certified capacity under Title XIX. Therapeutic or hospital leave days for which payment is made under section 5111.26 of the Revised Code are considered medicaid days proportionate to the percentage of the nursing facility's per resident per day rate for those days.

(E) "Nursing facility" has the same meaning as in section 5111.20 of the Revised Code.

(F)(1) "Nursing home" means all of the following:

(a) A nursing home licensed under section 3721.02 or 3721.09 of the Revised Code, including any part of a home for the aging licensed as a nursing home;

(b) A facility or part of a facility, other than a hospital, that is certified as a skilled nursing facility under Title XVIII ~~of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended~~;

(c) A nursing facility ~~as defined in section 5111.20 of the Revised Code~~, other than a portion of a hospital certified as a nursing facility.

(2) "Nursing home" does not include ~~a~~ any of the following:

(a) A county home, county nursing home, or district home operated pursuant to Chapter 5155. of the Revised Code ~~or a~~;

(b) A nursing home maintained and operated by the Ohio veterans' home agency under section 5907.01 of the Revised Code;

(c) A nursing home or part of a nursing home licensed under section 3721.02 or 3721.09 of the Revised Code that is certified as an intermediate care facility for the mentally retarded under Title XIX ~~of the "Social Security Act."~~

~~(B) "Hospital" has the same meaning as in section 3727.01 of the Revised Code.~~

(G) "Title XIX" means Title XIX of the "Social Security Act," 79 Stat. 286 (1965), 42 U.S.C. 1396, as amended.

(H) "Title XVIII" means Title XVIII of the "Social Security Act," 79 Stat. 286 (1965), 42 U.S.C. 1395, as amended.

Sec. 3721.51. The department of job and family services shall do all of the following:

(A) ~~For~~ Subject to division (C) of this section and for the purposes specified in ~~section~~ sections 3721.56 and 3721.561 of the Revised Code, determine an annual franchise permit fee on each nursing home in an amount equal to ~~three dollars and thirty cents for fiscal year 2002, four~~ six dollars and ~~thirty~~ twenty-five cents for fiscal years ~~2003 through 2005,~~ 2006 and 2007 and one dollar for each fiscal year thereafter, multiplied by the product of the following:

(1) The number of beds licensed as nursing home beds, plus any other beds certified as skilled nursing facility beds under Title XVIII or nursing facility beds under Title XIX ~~of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended,~~ on ~~July 1, 1993, and, for each subsequent year,~~ the first day of May of the calendar year in which the fee is determined pursuant to division (A) of section 3721.53 of the Revised Code;

(2) The ~~number of days in fiscal year 1994 and, for each subsequent year, the~~ number of days in the fiscal year beginning on the first day of July of the calendar year in which the fee is determined pursuant to division (A) of section 3721.53 of the Revised Code.

(B) ~~For~~ Subject to division (C) of this section and for the purposes specified in ~~section~~ sections 3721.56 and 3721.561 of the Revised Code, determine an annual franchise permit fee on each hospital in an amount equal to ~~three dollars and thirty cents for fiscal year 2002, four~~ six dollars and ~~thirty~~ twenty-five cents for fiscal years ~~2003 through 2005,~~ 2006 and 2007 and one dollar for each fiscal year thereafter, multiplied by the product of the following:

(1) The number of beds registered pursuant to section 3701.07 of the Revised Code as skilled nursing facility beds or long-term care beds, plus

any other beds licensed as nursing home beds under section 3721.02 or 3721.09 of the Revised Code, on ~~July 1, 1993, and, for each subsequent year,~~ the first day of May of the calendar year in which the fee is determined pursuant to division (A) of section 3721.53 of the Revised Code;

(2) The ~~number of days in fiscal year 1994 and, for each subsequent year, the~~ number of days in the fiscal year beginning on the first day of July of the calendar year in which the fee is determined pursuant to division (A) of section 3721.53 of the Revised Code.

(C) If the United States centers for medicare and medicaid services determines that the franchise permit fee established by sections 3721.50 to 3721.58 of the Revised Code ~~would be~~ is an impermissible health care related tax under section 1903(w) of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 1396b(w), as amended, ~~the department of job and family services shall~~ take all necessary actions to cease implementation of ~~those~~ sections 3721.50 to 3721.58 of the Revised Code in accordance with rules adopted under section 3721.58 of the Revised Code.

Sec. 3721.52. (A) For the purpose of the fee under division (A) of section 3721.51 of the Revised Code, the department of health shall, ~~not later than August 1, 1993, and, for each subsequent year,~~ not later than the first day of each June, report to the department of job and family services the number of beds in each nursing home licensed on ~~July 1, 1993, and, for each subsequent year,~~ the preceding first day of May under section 3721.02 or 3721.09 of the Revised Code or certified on that date under Title XVIII or XIX ~~of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended~~.

(B) For the purpose of the fee under division (B) of section 3721.51 of the Revised Code, the department of health shall, ~~not later than August 1, 1993, and, for each subsequent year,~~ not later than the first day of each June, report to the department of job and family services the number of beds in each hospital registered on ~~July 1, 1993, and, for each subsequent year,~~ the preceding first day of May pursuant to section 3701.07 of the Revised Code as skilled nursing facility or long-term care beds or licensed on that date under section 3721.02 or 3721.09 of the Revised Code as nursing home beds.

Sec. 3721.541. (A) In addition to assessing a penalty pursuant to section 3721.54 of the Revised Code, the department of job and family services may do either of the following if a nursing facility or hospital fails to pay the full amount of a franchise permit fee installment when due:

(1) Withhold an amount equal to the installment and penalty assessed under section 3721.54 of the Revised Code from a medicaid payment due

the nursing facility or hospital until the nursing facility or hospital pays the installment and penalty;

(2) Terminate the nursing facility or hospital's medicaid provider agreement.

(B) The department may withhold a medicaid payment under division (A)(1) of this section without providing notice to the nursing facility or hospital and without conducting an adjudication under Chapter 119. of the Revised Code.

Sec. 3721.56. ~~(A) Thirty and three-tenths~~ There is hereby created in the state treasury the home- and community-based services for the aged fund. Sixteen per cent of all payments and penalties paid by nursing homes and hospitals under sections 3721.53 and 3721.54 of the Revised Code for fiscal ~~year 2002, twenty-three and twenty-six hundredths per cent of such payments and penalties paid for fiscal~~ years ~~2003 through 2005~~ 2006 and 2007, and all such payments and penalties paid for subsequent fiscal years, shall be deposited into the ~~"home and community-based services for the aged~~ fund~~," which is hereby created in the state treasury~~. The departments of job and family services and aging shall use the moneys in the fund to fund the following in accordance with rules adopted under section 3721.58 of the Revised Code:

~~(1)~~(A) The ~~medical assistance~~ medicaid program established under Chapter 5111. of the Revised Code~~;~~

~~(2) The~~, including the PASSPORT program established under section 173.40 of the Revised Code;

~~(3)~~(B) The residential state supplement program established under section 173.35 of the Revised Code.

~~(B) Sixty-nine and seven-tenths per cent of all payments and penalties paid by nursing homes and hospitals under sections 3721.53 and 3721.54 of the Revised Code for fiscal year 2002, and seventy-six and seventy-four-hundredths per cent of such payments and penalties paid for fiscal years 2003 through 2005, shall be deposited into the nursing facility stabilization fund, which is hereby created in the state treasury. The department of job and family services shall use the money in the fund in the manner provided by Am. Sub. H.B. 94 and Am. Sub. S.B. 261 of the 124th general assembly.~~

Sec. 3721.561. (A) There is hereby created in the state treasury the nursing facility stabilization fund. All payments and penalties paid by nursing homes and hospitals under sections 3721.53 and 3721.54 of the Revised Code that are not deposited into the home and community-based services for the aged fund shall be deposited into the fund. The department

of job and family services shall use the money in the fund to make medicaid payments to nursing facilities.

(B) Any money remaining in the nursing facility stabilization fund after payments specified in division (A) of this section are made shall be retained in the fund. Any interest or other investment proceeds earned on money in the fund shall be credited to the fund and used to make medicaid payments in accordance with division (A) of this section.

Sec. 3721.58. The director of job and family services shall adopt rules in accordance with Chapter 119. of the Revised Code to do ~~both~~ all of the following:

(A) Prescribe the actions the department of job and family services will take to cease implementation of sections 3721.50 through 3721.57 of the Revised Code if the United States ~~health care financing administration~~ centers for medicare and medicaid services determines that the franchise permit fee established by those sections is an impermissible health-care related tax under section 1903(w) of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. ~~1396(b)(w)~~ 1396b(w), as amended;

(B) Establish the method of distributing moneys in the home and community-based services for the aged fund created under section 3721.56 of the Revised Code;

(C) Establish any requirements or procedures the director considers necessary to implement sections 3721.50 to 3721.58 of the Revised Code.

Sec. 3722.01. (A) As used in this chapter:

(1) "Owner" means the person who owns the business of and who ultimately controls the operation of an adult care facility and to whom the manager, if different from the owner, is responsible.

(2) "Manager" means the person responsible for the daily operation of an adult care facility. The manager and the owner of a facility may be the same person.

(3) "Adult" means an individual eighteen years of age or older.

(4) "Unrelated" means that an adult resident is not related to the owner or manager of an adult care facility or to the owner's or manager's spouse as a parent, grandparent, child, stepchild, grandchild, brother, sister, niece, nephew, aunt, or uncle, or as the child of an aunt or uncle.

(5) "Skilled nursing care" means skilled nursing care as defined in section 3721.01 of the Revised Code.

(6)(a) "Personal care services" means services including, but not limited to, the following:

(i) Assisting residents with activities of daily living;

(ii) Assisting residents with self-administration of medication, in

accordance with rules adopted by the public health council pursuant to this chapter;

(iii) Preparing special diets, other than complex therapeutic diets, for residents pursuant to the instructions of a physician or a licensed dietitian, in accordance with rules adopted by the public health council pursuant to this chapter.

(b) "Personal care services" does not include "skilled nursing care" as defined in section 3721.01 of the Revised Code. A facility need not provide more than one of the services listed in division (A)(6)(a) of this section to be considered to be providing personal care services.

(7) "Adult family home" means a residence or facility that provides accommodations to three to five unrelated adults and supervision and personal care services to at least three of those adults.

(8) "Adult group home" means a residence or facility that provides accommodations to six to sixteen unrelated adults and provides supervision and personal care services to at least three of the unrelated adults.

(9) "Adult care facility" means an adult family home or an adult group home. For the purposes of this chapter, any residence, facility, institution, hotel, congregate housing project, or similar facility that provides accommodations and supervision to three to sixteen unrelated adults, at least three of whom are provided personal care services, is an adult care facility regardless of how the facility holds itself out to the public. "Adult care facility" does not include:

(a) A facility operated by a hospice care program licensed under section 3712.04 of the Revised Code that is used exclusively for care of hospice patients;

(b) A nursing home, residential care facility, or home for the aging as defined in section 3721.01 of the Revised Code;

(c) A community alternative home as defined in section 3724.01 of the Revised Code;

(d) An alcohol and drug addiction program as defined in section 3793.01 of the Revised Code;

(e) ~~A habilitation center as defined in section 5123.041 of the Revised Code;~~

~~(f)~~ A residential facility for the mentally ill licensed by the department of mental health under section 5119.22 of the Revised Code;

~~(g)~~(f) A facility licensed to provide methadone treatment under section 3793.11 of the Revised Code;

~~(h)~~(g) A residential facility licensed under section 5123.19 of the Revised Code or otherwise regulated by the department of mental

retardation and developmental disabilities;

~~(i)~~(h) Any residence, institution, hotel, congregate housing project, or similar facility that provides personal care services to fewer than three residents or that provides, for any number of residents, only housing, housekeeping, laundry, meal preparation, social or recreational activities, maintenance, security, transportation, and similar services that are not personal care services or skilled nursing care;

~~(j)~~(i) Any facility that receives funding for operating costs from the department of development under any program established to provide emergency shelter housing or transitional housing for the homeless;

~~(k)~~(j) A terminal care facility for the homeless that has entered into an agreement with a hospice care program under section 3712.07 of the Revised Code;

~~(l)~~(k) A facility approved by the veterans administration under section 104(a) of the "Veterans Health Care Amendments of 1983," 97 Stat. 993, 38 U.S.C.A. 630, as amended, and used exclusively for the placement and care of veterans;

~~(m)~~(l) Until January 1, 1994, the portion of a facility in which care is provided exclusively to members of a religious order if the facility is owned by or part of a nonprofit institution of higher education authorized to award degrees by the Ohio board of regents under Chapter 1713. of the Revised Code.

(10) "Residents' rights advocate" means:

(a) An employee or representative of any state or local government entity that has a responsibility for residents of adult care facilities and has registered with the department of health under section 3701.07 of the Revised Code;

(b) An employee or representative, other than a manager or employee of an adult care facility or nursing home, of any private nonprofit corporation or association that qualifies for tax-exempt status under section 501(a) of the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 501(a), as amended, that has registered with the department of health under section 3701.07 of the Revised Code, and whose purposes include educating and counseling residents, assisting residents in resolving problems and complaints concerning their care and treatment, and assisting them in securing adequate services.

(11) "Sponsor" means an adult relative, friend, or guardian of a resident of an adult care facility who has an interest in or responsibility for the resident's welfare.

(12) "Ombudsperson" means a "representative of the office of the state

long-term care ombudsperson program" as defined in section 173.14 of the Revised Code.

(13) "Mental health agency" means a community mental health agency, as defined in section 5119.22 of the Revised Code, under contract with a board of alcohol, drug addiction, and mental health services pursuant to division (A)(8)(a) of section 340.03 of the Revised Code.

(B) For purposes of this chapter, personal care services or skilled nursing care shall be considered to be provided by a facility if they are provided by a person employed by or associated with the facility or by another person pursuant to an agreement to which neither the resident who receives the services nor the resident's sponsor is a party.

(C) Nothing in division (A)(6) of this section shall be construed to permit personal care services to be imposed upon a resident who is capable of performing the activity in question without assistance.

Sec. 3722.02. A person seeking a license to operate an adult care facility shall submit to the director of health an application on a form prescribed by the director and the following:

(A) In the case of an adult group home seeking licensure as an adult care facility, evidence that the home has been inspected and approved by a local certified building department or by the division of industrial compliance in the department of commerce as meeting the applicable requirements of sections 3781.06 to 3781.18 and 3791.04 of the Revised Code and any rules adopted under those sections and evidence that the home has been inspected by the state fire marshal or fire prevention officer of a municipal, township, or other legally constituted fire department approved by the state fire marshal and found to be in compliance with rules adopted under section 3737.83 of the Revised Code regarding fire prevention and safety in adult group homes;

(B) Valid approvals of the facility's water and sewage systems issued by the responsible governmental entity, if applicable;

(C) A statement of ownership containing the following information:

(1) If the owner is an individual, the owner's name, address, telephone number, business address, business telephone number, and occupation. If the owner is an association, corporation, or partnership, the business activity, address, and telephone number of the entity and the name of every person who has an ownership interest of five per cent or more in the entity.

(2) If the owner does not own the building or if the owner owns only part of the building in which the facility is housed, the name of each person who has an ownership interest of five per cent or more in the building;

(3) The address of any adult care facility and any facility described in

divisions (A)(9)(a) to ~~(i)~~(h) of section 3722.01 of the Revised Code in which the owner has an ownership interest of five per cent or more;

(4) The identity of the manager of the adult care facility, if different from the owner;

(5) The name and address of any adult care facility and any facility described in divisions (A)(9)(a) to ~~(i)~~(h) of section 3722.01 of the Revised Code with which either the owner or manager has been affiliated through ownership or employment in the five years prior to the date of the application;

(6) The names and addresses of three persons not employed by or associated in business with the owner who will provide information about the character, reputation, and competence of the owner and the manager and the financial responsibility of the owner;

(7) Information about any arrest of the owner or manager for, or adjudication or conviction of, a criminal offense related to the provision of care in an adult care facility or any facility described in divisions (A)(9)(a) to ~~(i)~~(h) of section 3722.01 of the Revised Code or the ability to operate a facility;

(8) Any other information the director may require regarding the owner's ability to operate the facility.

(D) If the facility is an adult group home, a balance sheet showing the assets and liabilities of the owner and a statement projecting revenues and expenses for the first twelve months of the facility's operation;

(E) Proof of insurance in an amount and type determined in rules adopted by the public health council pursuant to this chapter to be adequate;

(F) A nonrefundable license application fee in an amount established in rules adopted by the public health council pursuant to this chapter.

Sec. 3722.04. (A)(1) The director of health shall inspect, license, and regulate adult care facilities. Except as otherwise provided in division (D) of this section, the director shall issue a license to an adult care facility that meets the requirements of section 3722.02 of the Revised Code and that the director determines to be in substantial compliance with the rules adopted by the public health council pursuant to this chapter. The director shall consider the past record of the owner and manager and any individuals who are principal participants in an entity that is the owner or manager in operating facilities providing care to adults. The director may, in accordance with Chapter 119. of the Revised Code, deny a license if the past record indicates that the owner or manager is not suitable to own or manage an adult care facility.

The license shall contain the name and address of the facility for which

it was issued, the date of expiration of the license, and the maximum number of residents that may be accommodated by the facility. A license for an adult care facility shall be valid for a period of two years after the date of issuance. No single facility may be licensed to operate as more than one adult care facility.

(2) Notwithstanding division (A)(1) of this section and sections 3722.02 and 3722.041 of the Revised Code, the director may issue a temporary license if the requirements of divisions (C), (D), and (F) of section 3722.02 of the Revised Code have been met. A temporary license shall be valid for a period of ninety days and, except as otherwise provided in division (A)(3) of section 3722.05 of the Revised Code, may be renewed, without payment of an additional application fee, for an additional ninety days.

(B) The director shall renew a license for a two-year period if the facility continues to be in compliance with the requirements of this chapter and in substantial compliance with the rules adopted under this chapter. The owner shall submit a nonrefundable license renewal application fee in an amount established in rules adopted by the public health council pursuant to this chapter. Before the license of an adult group home is renewed, if any alterations have been made to the buildings, a certificate of occupancy for the facility shall have been issued by the division of industrial compliance in the department of commerce or a local certified building department. The facility shall have water and sewage system approvals, if required by law, and, in the case of an adult group home, documentation of continued compliance with the rules adopted by the state fire marshal under division (F) of section 3737.83 of the Revised Code.

(C) The director shall make at least one unannounced inspection of an adult care facility during each licensure period in addition to inspecting the facility to determine whether a license should be issued or renewed, and may make additional unannounced inspections as the director considers necessary. Other inspections may be made at any time that the director considers appropriate. The director shall take all reasonable actions to avoid giving notice of an inspection by the manner in which the inspection is scheduled or performed. Not later than sixty days after the date of an inspection of a facility, the director shall send a report of the inspection to the ombudsperson in whose region the facility is located. The state fire marshal or fire prevention officer of a municipal, township, or other legally constituted fire department approved by the state fire marshal shall inspect an adult group home seeking a license or renewal under this chapter as an adult care facility prior to issuance of a license or renewal, at least once annually thereafter, and at any other time at the request of the director, to

determine compliance with the rules adopted under division (F) of section 3737.83 of the Revised Code.

(D) The director may waive any of the licensing requirements having to do with fire and safety requirements or building standards established by rule adopted by the public health council pursuant to this chapter upon written request of the facility. The director may grant a waiver if the director determines that the strict application of the licensing requirement would cause undue hardship to the facility and that granting the waiver would not jeopardize the health or safety of any resident. The director may provide a facility with an informal hearing concerning the denial of a waiver request, but the facility shall not be entitled to a hearing under Chapter 119. of the Revised Code unless the director takes an action that requires a hearing to be held under section 3722.05 of the Revised Code.

(E)(1) Not later than thirty days after ~~the issuance or renewal of the license, other than a temporary license, of an adult care facility under this section~~ each of the following, the owner of an adult care facility shall submit an inspection fee of ~~ten~~ twenty dollars for each bed for which the facility is licensed:

(a) Issuance or renewal of a license, other than a temporary license;

(b) The unannounced inspection required by division (C) of this section;

(c) If, during an inspection conducted in addition to the two inspections required by division (C) of this section, the facility was found to be in violation of this chapter or the rules adopted under it, receipt by the facility of the report of that investigation. ~~The~~

(2) The director may revoke the license of any adult care facility that fails to submit the fee within the thirty-day period. ~~All~~

(3) All inspection fees received by the director, all civil penalties assessed under section 3722.08 of the Revised Code, all fines imposed under section 3722.99 of the Revised Code, and all license application and renewal application fees received under division (F) of section 3722.02 of the Revised Code or under division (B) of this section shall be deposited into the general operations fund created in section 3701.83 of the Revised Code and shall be used only to pay the costs of administering and enforcing the requirements of this chapter and rules adopted under it.

(F)(1) An owner shall inform the director in writing of any changes in the information contained in the statement of ownership made pursuant to division (C) of section 3722.02 of the Revised Code or in the identity of the manager, not later than ten days after the change occurs.

(2) An owner who sells or transfers an adult care facility shall be responsible and liable for the following:

(a) Any civil penalties imposed against the facility under section 3722.08 of the Revised Code for violations that occur before the date of transfer of ownership or during any period in which the seller or the seller's agent operates the facility;

(b) Any outstanding liability to the state, unless the buyer or transferee has agreed, as a condition of the sale or transfer, to accept the outstanding liabilities and to guarantee their payment, except that if the buyer or transferee fails to meet these obligations the seller or transferor shall remain responsible for the outstanding liability.

(G) The director shall annually publish a list of licensed adult care facilities, facilities whose licenses have been revoked or not renewed, any facilities under an order suspending admissions pursuant to section 3722.07 of the Revised Code, and any facilities that have been assessed a civil penalty pursuant to section 3722.08 of the Revised Code. The director shall furnish information concerning the status of licensure of any facility to any person upon request. The director shall annually send a copy of the list to the department of job and family services, to the department of mental health, and to the department of aging.

Sec. 3734.01. As used in this chapter:

(A) "Board of health" means the board of health of a city or general health district or the authority having the duties of a board of health in any city as authorized by section 3709.05 of the Revised Code.

(B) "Director" means the director of environmental protection.

(C) "Health district" means a city or general health district as created by or under authority of Chapter 3709. of the Revised Code.

(D) "Agency" means the environmental protection agency.

(E) "Solid wastes" means such unwanted residual solid or semisolid material as results from industrial, commercial, agricultural, and community operations, excluding earth or material from construction, mining, or demolition operations, or other waste materials of the type that normally would be included in demolition debris, nontoxic fly ash and bottom ash, including at least ash that results from the combustion of coal and ash that results from the combustion of coal in combination with scrap tires where scrap tires comprise not more than fifty per cent of heat input in any month, spent nontoxic foundry sand, nontoxic, nonhazardous, unwanted fired and unfired, glazed and unglazed, structural shale and clay products, and slag and other substances that are not harmful or inimical to public health, and includes, but is not limited to, garbage, scrap tires, combustible and noncombustible material, street dirt, and debris. "Solid wastes" does not include ~~any~~ either of the following:

(1) Any material that is an infectious waste or a hazardous waste;

(2) Spent petroleum refinery hydrotreating, hydrorefining, and hydrocracking catalysts that are used to produce ferrovanadium, iron nickel molybdenum, and calcium aluminate alloys for the steel, iron, and nickel industries unless the catalysts are disposed of at a solid waste facility licensed under this chapter or are accumulated speculatively.

(F) "Disposal" means the discharge, deposit, injection, dumping, spilling, leaking, emitting, or placing of any solid wastes or hazardous waste into or on any land or ground or surface water or into the air, except if the disposition or placement constitutes storage or treatment or, if the solid wastes consist of scrap tires, the disposition or placement constitutes a beneficial use or occurs at a scrap tire recovery facility licensed under section 3734.81 of the Revised Code.

(G) "Person" includes the state, any political subdivision and other state or local body, the United States and any agency or instrumentality thereof, and any legal entity defined as a person under section 1.59 of the Revised Code.

(H) "Open burning" means the burning of solid wastes in an open area or burning of solid wastes in a type of chamber or vessel that is not approved or authorized in rules adopted by the director under section 3734.02 of the Revised Code or, if the solid wastes consist of scrap tires, in rules adopted under division (V) of this section or section 3734.73 of the Revised Code, or the burning of treated or untreated infectious wastes in an open area or in a type of chamber or vessel that is not approved in rules adopted by the director under section 3734.021 of the Revised Code.

(I) "Open dumping" means the depositing of solid wastes into a body or stream of water or onto the surface of the ground at a site that is not licensed as a solid waste facility under section 3734.05 of the Revised Code or, if the solid wastes consist of scrap tires, as a scrap tire collection, storage, monocell, monofill, or recovery facility under section 3734.81 of the Revised Code; the depositing of solid wastes that consist of scrap tires onto the surface of the ground at a site or in a manner not specifically identified in divisions (C)(2) to (5), (7), or (10) of section 3734.85 of the Revised Code; the depositing of untreated infectious wastes into a body or stream of water or onto the surface of the ground; or the depositing of treated infectious wastes into a body or stream of water or onto the surface of the ground at a site that is not licensed as a solid waste facility under section 3734.05 of the Revised Code.

(J) "Hazardous waste" means any waste or combination of wastes in solid, liquid, semisolid, or contained gaseous form that in the determination

of the director, because of its quantity, concentration, or physical or chemical characteristics, may do either of the following:

(1) Cause or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating reversible illness;

(2) Pose a substantial present or potential hazard to human health or safety or to the environment when improperly stored, treated, transported, disposed of, or otherwise managed.

"Hazardous waste" includes any substance identified by regulation as hazardous waste under the "Resource Conservation and Recovery Act of 1976," 90 Stat. 2806, 42 U.S.C.A. 6921, as amended, and does not include any substance that is subject to the "Atomic Energy Act of 1954," 68 Stat. 919, 42 U.S.C.A. 2011, as amended.

(K) "Treat" or "treatment," when used in connection with hazardous waste, means any method, technique, or process designed to change the physical, chemical, or biological characteristics or composition of any hazardous waste; to neutralize the waste; to recover energy or material resources from the waste; to render the waste nonhazardous or less hazardous, safer to transport, store, or dispose of, or amenable for recovery, storage, further treatment, or disposal; or to reduce the volume of the waste. When used in connection with infectious wastes, "treat" or "treatment" means any method, technique, or process designed to render the wastes noninfectious, including, without limitation, steam sterilization and incineration, or, in the instance of wastes identified in division (R)(7) of this section, to substantially reduce or eliminate the potential for the wastes to cause lacerations or puncture wounds.

(L) "Manifest" means the form used for identifying the quantity, composition, origin, routing, and destination of hazardous waste during its transportation from the point of generation to the point of disposal, treatment, or storage.

(M) "Storage," when used in connection with hazardous waste, means the holding of hazardous waste for a temporary period in such a manner that it remains retrievable and substantially unchanged physically and chemically and, at the end of the period, is treated; disposed of; stored elsewhere; or reused, recycled, or reclaimed in a beneficial manner. When used in connection with solid wastes that consist of scrap tires, "storage" means the holding of scrap tires for a temporary period in such a manner that they remain retrievable and, at the end of that period, are beneficially used; stored elsewhere; placed in a scrap tire monocell or monofill facility licensed under section 3734.81 of the Revised Code; processed at a scrap tire recovery facility licensed under that section or a solid waste incineration

or energy recovery facility subject to regulation under this chapter; or transported to a scrap tire monocell, monofill, or recovery facility, any other solid waste facility authorized to dispose of scrap tires, or a facility that will beneficially use the scrap tires, that is located in another state and is operating in compliance with the laws of the state in which the facility is located.

(N) "Facility" means any site, location, tract of land, installation, or building used for incineration, composting, sanitary landfilling, or other methods of disposal of solid wastes or, if the solid wastes consist of scrap tires, for the collection, storage, or processing of the solid wastes; for the transfer of solid wastes; for the treatment of infectious wastes; or for the storage, treatment, or disposal of hazardous waste.

(O) "Closure" means the time at which a hazardous waste facility will no longer accept hazardous waste for treatment, storage, or disposal, the time at which a solid waste facility will no longer accept solid wastes for transfer or disposal or, if the solid wastes consist of scrap tires, for storage or processing, or the effective date of an order revoking the permit for a hazardous waste facility or the registration certificate, permit, or license for a solid waste facility, as applicable. "Closure" includes measures performed to protect public health or safety, to prevent air or water pollution, or to make the facility suitable for other uses, if any, including, but not limited to, the removal of processing residues resulting from solid wastes that consist of scrap tires; the establishment and maintenance of a suitable cover of soil and vegetation over cells in which hazardous waste or solid wastes are buried; minimization of erosion, the infiltration of surface water into such cells, the production of leachate, and the accumulation and runoff of contaminated surface water; the final construction of facilities for the collection and treatment of leachate and contaminated surface water runoff, except as otherwise provided in this division; the final construction of air and water quality monitoring facilities, except as otherwise provided in this division; the final construction of methane gas extraction and treatment systems; or the removal and proper disposal of hazardous waste or solid wastes from a facility when necessary to protect public health or safety or to abate or prevent air or water pollution. With regard to a solid waste facility that is a scrap tire facility, "closure" includes the final construction of facilities for the collection and treatment of leachate and contaminated surface water runoff and the final construction of air and water quality monitoring facilities only if those actions are determined to be necessary.

(P) "Premises" means either of the following:

(1) Geographically contiguous property owned by a generator;

(2) Noncontiguous property that is owned by a generator and connected by a right-of-way that the generator controls and to which the public does not have access. Two or more pieces of property that are geographically contiguous and divided by public or private right-of-way or rights-of-way are a single premises.

(Q) "Post-closure" means that period of time following closure during which a hazardous waste facility is required to be monitored and maintained under this chapter and rules adopted under it, including, without limitation, operation and maintenance of methane gas extraction and treatment systems, or the period of time after closure during which a scrap tire monocell or monofill facility licensed under section 3734.81 of the Revised Code is required to be monitored and maintained under this chapter and rules adopted under it.

(R) "Infectious wastes" includes all of the following substances or categories of substances:

(1) Cultures and stocks of infectious agents and associated biologicals, including, without limitation, specimen cultures, cultures and stocks of infectious agents, wastes from production of biologicals, and discarded live and attenuated vaccines;

(2) Laboratory wastes that were, or are likely to have been, in contact with infectious agents that may present a substantial threat to public health if improperly managed;

(3) Pathological wastes, including, without limitation, human and animal tissues, organs, and body parts, and body fluids and excreta that are contaminated with or are likely to be contaminated with infectious agents, removed or obtained during surgery or autopsy or for diagnostic evaluation, provided that, with regard to pathological wastes from animals, the animals have or are likely to have been exposed to a zoonotic or infectious agent;

(4) Waste materials from the rooms of humans, or the enclosures of animals, that have been isolated because of diagnosed communicable disease that are likely to transmit infectious agents. Such waste materials from the rooms of humans do not include any wastes of patients who have been placed on blood and body fluid precautions under the universal precaution system established by the centers for disease control in the public health service of the United States department of health and human services, except to the extent specific wastes generated under the universal precautions system have been identified as infectious wastes by rules adopted under division (R)(8) of this section.

(5) Human and animal blood specimens and blood products that are being disposed of, provided that, with regard to blood specimens and blood

products from animals, the animals were or are likely to have been exposed to a zoonotic or infectious agent. "Blood products" does not include patient care waste such as bandages or disposable gowns that are lightly soiled with blood or other body fluids unless those wastes are soiled to the extent that the generator of the wastes determines that they should be managed as infectious wastes.

(6) Contaminated carcasses, body parts, and bedding of animals that were intentionally exposed to infectious agents from zoonotic or human diseases during research, production of biologicals, or testing of pharmaceuticals, and carcasses and bedding of animals otherwise infected by zoonotic or infectious agents that may present a substantial threat to public health if improperly managed;

(7) Sharp wastes used in the treatment, diagnosis, or inoculation of human beings or animals or that have, or are likely to have, come in contact with infectious agents in medical, research, or industrial laboratories, including, without limitation, hypodermic needles and syringes, scalpel blades, and glass articles that have been broken;

(8) Any other waste materials generated in the diagnosis, treatment, or immunization of human beings or animals, in research pertaining thereto, or in the production or testing of biologicals, that the public health council created in section 3701.33 of the Revised Code, by rules adopted in accordance with Chapter 119. of the Revised Code, identifies as infectious wastes after determining that the wastes present a substantial threat to human health when improperly managed because they are contaminated with, or are likely to be contaminated with, infectious agents.

(S) "Infectious agent" means a type of microorganism, helminth, or virus that causes, or significantly contributes to the cause of, increased morbidity or mortality of human beings.

(T) "Zoonotic agent" means a type of microorganism, helminth, or virus that causes disease in vertebrate animals and that is transmissible to human beings and causes or significantly contributes to the cause of increased morbidity or mortality of human beings.

(U) "Solid waste transfer facility" means any site, location, tract of land, installation, or building that is used or intended to be used primarily for the purpose of transferring solid wastes that were generated off the premises of the facility from vehicles or containers into other vehicles for transportation to a solid waste disposal facility. "Solid waste transfer facility" does not include any facility that consists solely of portable containers that have an aggregate volume of fifty cubic yards or less nor any facility where legitimate recycling activities are conducted.

(V) "Beneficially use" means to use a scrap tire in a manner that results in a commodity for sale or exchange or in any other manner authorized as a beneficial use in rules adopted by the director in accordance with Chapter 119. of the Revised Code.

(W) "Commercial car," "commercial tractor," "farm machinery," "motor bus," "vehicles," "motor vehicle," and "semitrailer" have the same meanings as in section 4501.01 of the Revised Code.

(X) "Construction equipment" means road rollers, traction engines, power shovels, power cranes, and other equipment used in construction work, or in mining or producing or processing aggregates, and not designed for or used in general highway transportation.

(Y) "Motor vehicle salvage dealer" has the same meaning as in section 4738.01 of the Revised Code.

(Z) "Scrap tire" means an unwanted or discarded tire.

(AA) "Scrap tire collection facility" means any facility that meets all of the following qualifications:

(1) The facility is used for the receipt and storage of whole scrap tires from the public prior to their transportation to a scrap tire storage, monocell, monofill, or recovery facility licensed under section 3734.81 of the Revised Code; a solid waste incineration or energy recovery facility subject to regulation under this chapter; a premises within the state where the scrap tires will be beneficially used; or a scrap tire storage, monocell, monofill, or recovery facility, any other solid waste disposal facility authorized to dispose of scrap tires, or a facility that will beneficially use the scrap tires, that is located in another state, and that is operating in compliance with the laws of the state in which the facility is located~~;~~.

(2) The facility exclusively stores scrap tires in portable containers~~;~~.

(3) The aggregate storage of the portable containers in which the scrap tires are stored does not exceed five thousand cubic feet.

(BB) "Scrap tire monocell facility" means an individual site within a solid waste landfill that is used exclusively for the environmentally sound storage or disposal of whole scrap tires or scrap tires that have been shredded, chipped, or otherwise mechanically processed.

(CC) "Scrap tire monofill facility" means an engineered facility used or intended to be used exclusively for the storage or disposal of scrap tires, including at least facilities for the submergence of whole scrap tires in a body of water.

(DD) "Scrap tire recovery facility" means any facility, or portion thereof, for the processing of scrap tires for the purpose of extracting or producing usable products, materials, or energy from the scrap tires through

a controlled combustion process, mechanical process, or chemical process. "Scrap tire recovery facility" includes any facility that uses the controlled combustion of scrap tires in a manufacturing process to produce process heat or steam or any facility that produces usable heat or electric power through the controlled combustion of scrap tires in combination with another fuel, but does not include any solid waste incineration or energy recovery facility that is designed, constructed, and used for the primary purpose of incinerating mixed municipal solid wastes and that burns scrap tires in conjunction with mixed municipal solid wastes, or any tire retreading business, tire manufacturing finishing center, or tire adjustment center having on the premises of the business a single, covered scrap tire storage area at which not more than four thousand scrap tires are stored.

(EE) "Scrap tire storage facility" means any facility where whole scrap tires are stored prior to their transportation to a scrap tire monocell, monofill, or recovery facility licensed under section 3734.81 of the Revised Code; a solid waste incineration or energy recovery facility subject to regulation under this chapter; a premises within the state where the scrap tires will be beneficially used; or a scrap tire storage, monocell, monofill, or recovery facility, any other solid waste disposal facility authorized to dispose of scrap tires, or a facility that will beneficially use the scrap tires, that is located in another state, and that is operating in compliance with the laws of the state in which the facility is located.

(FF) "Used oil" means any oil that has been refined from crude oil, or any synthetic oil, that has been used and, as a result of that use, is contaminated by physical or chemical impurities. "Used oil" includes only those substances identified as used oil by the United States environmental protection agency under the "Used Oil Recycling Act of 1980," 94 Stat. 2055, 42 U.S.C.A. 6901a, as amended.

(GG) "Accumulated speculatively" has the same meaning as in rules adopted by the director under section 3734.12 of the Revised Code.

Sec. 3734.20. (A) If the director of environmental protection has reason to believe that hazardous waste was treated, stored, or disposed of at any location within the state, ~~he~~ the director may conduct such investigations and make such inquiries, including obtaining samples and examining and copying records, as are reasonable or necessary to determine if conditions at a hazardous waste facility, solid waste facility, or other location where the director has reason to believe hazardous waste was treated, stored, or disposed of constitute a substantial threat to public health or safety or are causing or contributing to or threatening to cause or contribute to air or water pollution or soil contamination. The director or the director's

authorized representative may apply for, and any judge of a court of common pleas shall issue, an appropriate search warrant necessary to achieve the purposes of this section within the court's territorial jurisdiction. The director may expend moneys from the hazardous waste clean-up fund created in section 3734.28 of the Revised Code or the environmental protection remediation fund created in section 3734.281 of the Revised Code for conducting investigations under this section.

(B) If the director determines that conditions at a hazardous waste facility, solid waste facility, or other location where hazardous waste was treated, stored, or disposed of constitute a substantial threat to public health or safety or are causing or contributing to or threatening to cause or contribute to air or water pollution or soil contamination, the director shall initiate appropriate action under this chapter or Chapter 3704. or 6111. of the Revised Code or seek any other appropriate legal or equitable remedies to abate the pollution or contamination or to protect public health or safety.

If an order of the director to abate or prevent air or water pollution or soil contamination or to remedy a threat to public health or safety caused by conditions at such a facility issued pursuant to this chapter or Chapter 3704. or 6111. of the Revised Code is not wholly complied with within the time prescribed in the order, the director may, through officers or employees of the environmental protection agency or through contractors employed for that purpose in accordance with the bidding procedure established in division (C) of section 3734.23 of the Revised Code, enter upon the facility and perform those measures necessary to abate or prevent air or water pollution or soil contamination from the facility or to protect public health or safety, including, but not limited to, measures prescribed in division (B) of section 3734.23 of the Revised Code. The director shall keep an itemized record of the cost of the investigation and measures performed, including costs for labor, materials, and any contract services required. Upon completion of the investigation or measures, the director shall record the cost of performing those measures at the office of the county recorder of the county in which the facility is located. The cost so recorded constitutes a lien against the property on which the facility is located until discharged. Upon written request of the director, the attorney general shall institute a civil action to recover the cost. Any moneys so received shall be credited to the hazardous waste clean-up fund ~~created in section 3734.28 of the Revised Code~~ or the environmental protection remediation fund, as applicable.

When entering upon a facility under this division, the director shall perform or cause to be performed only those measures necessary to abate or prevent air or water pollution or soil contamination caused by conditions at

the facility or to abate threats to public health or safety caused by conditions at the facility. For this purpose the director may expend moneys from ~~the~~ either fund and may expend moneys from loans from the Ohio water development authority to the environmental protection agency that pledge moneys from ~~the~~ either fund for the repayment of and for the interest on such loans.

Sec. 3734.21. (A) The director of environmental protection may expend moneys credited to the hazardous waste clean-up fund created in section 3734.28 of the Revised Code or the environmental protection remediation fund created in section 3734.281 of the Revised Code for the payment of the cost of measures necessary for the proper closure of hazardous waste facilities or any solid waste facilities containing significant quantities of hazardous waste, for the payment of costs of the development and construction of suitable hazardous waste facilities required by division (B) of section 3734.23 of the Revised Code to the extent the director determines that such facilities are not available, and for the payment of costs that are necessary to abate conditions thereon that are causing or contributing to or threatening to cause or contribute to air or water pollution or soil contamination or that constitute a substantial threat to public health or safety. In addition, the director may expend and pledge moneys credited to ~~the~~ either fund for repayment of and for interest on any loan made by the Ohio water development authority to the environmental protection agency for the payment of such costs.

(B) Before beginning to clean up any facility under this section, the director shall develop a plan for the cleanup and an estimate of the cost thereof. The plan shall include only those measures necessary to abate conditions thereon that are causing or contributing to or threatening to cause or contribute to air or water pollution or soil contamination or that constitute a substantial threat to public health or safety, including, but not limited to, establishment and maintenance of an adequate cover of soil and vegetation on any facility for the burial of hazardous waste to prevent the infiltration of water into cells where hazardous waste is buried, the accumulation or runoff of contaminated surface water, the production of leachate, and air emissions of hazardous waste; the collection and treatment of contaminated surface water runoff; the collection and treatment of leachate; or, if conditions so require, the removal of hazardous waste from the facility and the treatment or disposal of the waste at a suitable hazardous waste facility. The plan or any part of the plan for the cleanup of the facility shall be carried out by entering into contracts therefor in accordance with the procedures established in division (C) of section 3734.23 of the Revised Code.

Sec. 3734.22. Before beginning to clean up any facility under section 3734.21 of the Revised Code, the director of environmental protection shall endeavor to enter into an agreement with the owner of the land on which the facility is located, or with the owner of the facility, specifying the measures to be performed and authorizing the director, employees of the agency, or contractors retained by the director to enter upon the land and perform the specified measures.

Each agreement ~~shall~~ may contain provisions for the reimbursement of the state for the costs of the cleanup.

All reimbursements and payments shall be credited to the hazardous waste clean-up fund created in section 3734.28 of the Revised Code or the environmental protection remediation fund created in section 3734.281 of the Revised Code, as applicable.

The agreement may require the owner to execute an easement whereby the director, an authorized employee of the agency, or a contractor employed by the agency in accordance with the bidding procedure established in division (C) of section 3734.23 of the Revised Code may enter upon the facility to sample, repair, or reconstruct air and water quality monitoring equipment constructed under the agreement. Such easements shall be for a specified period of years and may be extinguished by agreement between the owner and the director. When necessary to protect the public health or safety, the agreement may require the owner to enter into an environmental covenant with the director in accordance with sections 5301.80 to 5301.92 of the Revised Code.

Upon a breach of the reimbursement provisions of the agreement by the owner of the land or facility, or upon notification to the director by the owner that the owner is unable to perform the duties under the reimbursement provisions of the agreement, the director ~~shall~~ may record the unreimbursed portion of the costs of cleanup at the office of the county recorder of the county in which the facility is located. The costs so recorded constitute a lien against the property on which the facility is located until discharged. Upon written request of the director, the attorney general shall institute a civil action to recover the unreimbursed portion of the costs of cleanup. Any moneys so recovered shall be credited to the hazardous waste clean-up fund or the environmental protection remediation fund, as applicable.

Sec. 3734.23. (A) The director of environmental protection may acquire by purchase, gift, donation, contribution, or appropriation in accordance with sections 163.01 to 163.21 of the Revised Code any hazardous waste facility or any solid waste facility containing significant quantities of

hazardous waste that, because of its condition and the types and quantities of hazardous waste contained in the facility, constitutes an imminent and substantial threat to public health or safety or results in air pollution, pollution of the waters of the state, or soil contamination. For this purpose and for the purposes of division (B) of this section, the director may expend moneys from the hazardous waste clean-up fund created in section 3734.28 of the Revised Code or the environmental protection remediation fund created in section 3734.281 of the Revised Code and may expend moneys from loans from the Ohio water development authority to the environmental protection agency that pledge moneys from ~~the~~ either fund for the repayment of and for the interest on such loans. Any lands or facilities purchased or acquired under this section shall be deeded to the state, but no deed shall be accepted or the purchase price paid until the title has been approved by the attorney general.

(B) The director shall, with respect to any land or facility acquired under this section or cleaned up under section 3734.20 of the Revised Code, perform closure or other measures necessary to abate conditions thereon that are causing or contributing to or threatening to cause or contribute to air or water pollution or soil contamination or that constitute a substantial threat to public health or safety, including, but not limited to, establishment and maintenance of an adequate cover of soil and vegetation on any facility for the burial of hazardous waste to prevent the infiltration of water into cells where hazardous waste is buried, the accumulation or runoff of contaminated surface water, the production of leachate, and air emissions of hazardous waste; the collection and treatment of contaminated surface water runoff; the collection and treatment of leachate; or, if conditions so require, the removal of hazardous waste from the facility and the treatment or disposal of the waste at a suitable hazardous waste facility. After performing these measures, the director shall provide for the post-closure care, maintenance, and monitoring of facilities cleaned up under this section.

(C) Before proceeding to clean up any facility under this section or section 3734.20 or 3734.21 of the Revised Code, the director shall develop a plan for the cleanup of the facility and an estimate of the cost thereof. The director may carry out the plan or any part of the plan by contracting for the services, construction, and repair necessary therefor. The director shall award each such contract to the lowest responsible bidder after sealed bids therefor are received, opened, and published at the time fixed by the director and notice of the time and place at which the sealed bids will be received, opened, and published has been published by the director in a newspaper of general circulation in the county in which the facility to be cleaned up under

the contract is located at least once within the ten days before the opening of the bids. However, if after advertising for bids for the contract, no bids are received by the director at the time and place fixed for receiving them, the director may advertise again for bids, or ~~he~~ the director may, if ~~he~~ the director considers the public interest will best be served thereby, enter into a contract for the cleanup of the facility without further advertisement for bids. The director may reject any or all bids received and fix and publish again notice of the time and place at which bids for the contracts will be received, opened, and published.

(D) The director shall keep an itemized record of the costs of any acquisition under division (A) of this section and the costs of cleanup under division (B) of this section.

Sec. 3734.28. All moneys collected under sections 3734.122, 3734.13, 3734.20, 3734.22, 3734.24, and 3734.26 of the Revised Code and natural resource damages collected by the state under the "Comprehensive Environmental Response, Compensation, and Liability Act of 1980," 94 Stat. 2767, 42 U.S.C.A. 9601, as amended, shall be paid into the state treasury to the credit of the hazardous waste clean-up fund, which is hereby created. In addition, any moneys recovered for costs paid from the fund for activities described in division (A)(1) and (2) of section 3745.12 of the Revised Code shall be credited to the fund. The environmental protection agency shall use the moneys in the fund for the purposes set forth in division (D) of section 3734.122, sections 3734.19, 3734.20, 3734.21, 3734.23, 3734.25, 3734.26, and 3734.27, and, through October 15, 2005, divisions (A)(1) and (2) of section 3745.12 and Chapter 3746. of the Revised Code, including any related enforcement expenses. In addition, the agency shall use the moneys in the fund to pay the state's long-term operation and maintenance costs or matching share for actions taken under the "Comprehensive Environmental Response, Compensation, and Liability Act of 1980," as amended. If those moneys are reimbursed by grants or other moneys from the United States or any other person, the moneys shall be placed in the fund and not in the general revenue fund.

Sec. 3734.57. (A) ~~For the purposes of paying the state's long-term operation costs or matching share for actions taken under the "Comprehensive Environmental Response, Compensation, and Liability Act of 1980," 94 Stat. 2767, 42 U.S.C.A. 9601, as amended; paying the costs of measures for proper clean-up of sites where polychlorinated biphenyls and substances, equipment, and devices containing or contaminated with polychlorinated biphenyls have been stored or disposed of; paying the costs of conducting surveys or investigations of solid waste facilities or other~~

~~locations where it is believed that significant quantities of hazardous waste were disposed of and for conducting enforcement actions arising from the findings of such surveys or investigations; paying the costs of acquiring and cleaning up, or providing financial assistance for cleaning up, any hazardous waste facility or solid waste facility containing significant quantities of hazardous waste, that constitutes an imminent and substantial threat to public health or safety or the environment; and, from July 1, 2003, through June 30, 2006, for the purposes of paying the costs of administering and enforcing the laws pertaining to solid wastes, infectious wastes, and construction and demolition debris, including, without limitation, ground water evaluations related to solid wastes, infectious wastes, and construction and demolition debris, under this chapter and Chapter 3714. of the Revised Code and any rules adopted under them, and paying a share of the administrative costs of the environmental protection agency pursuant to section 3745.014 of the Revised Code, the~~ The following fees are hereby levied on the disposal of solid wastes in this state:

(1) One dollar per ton on and after July 1, ~~1993~~2003, through June 30, 2008, one-half of the proceeds of which shall be deposited in the state treasury to the credit of the hazardous waste facility management fund created in section 3734.18 of the Revised Code and one-half of the proceeds of which shall be deposited in the state treasury to the credit of the hazardous waste clean-up fund created in section 3734.28 of the Revised Code;

(2) An additional one dollar per ton on and after July 1, 2003, through June 30, ~~2006~~ 2008, the proceeds of which shall be deposited in the state treasury to the credit of the solid waste fund, which is hereby created. The environmental protection agency shall use money in the solid waste fund to pay the costs of administering and enforcing the laws pertaining to solid wastes, infectious wastes, and construction and demolition debris, including, without limitation, ground water evaluations related to solid wastes, infectious wastes, and construction and demolition debris, under this chapter and Chapter 3714. of the Revised Code and any rules adopted under them, providing compliance assistance to small businesses, and paying a share of the administrative costs of the environmental protection agency pursuant to section 3745.014 of the Revised Code.

(3) An additional one dollar and fifty cents per ton on and after July 1, 2005, through June 30, 2008, the proceeds of which shall be deposited in the state treasury to the credit of the environmental protection fund created in section 3745.015 of the Revised Code.

In the case of solid wastes that are taken to a solid waste transfer facility

located in this state prior to being transported to a solid waste disposal facility for disposal, the fees levied under this division shall be collected by the owner or operator of the transfer facility as a trustee for the state. The amount of fees required to be collected under this division at such a transfer facility shall equal the total tonnage of solid wastes received at the facility multiplied by the fees levied under this division. In the case of solid wastes that are not taken to a solid waste transfer facility located in this state prior to being transported to a solid waste disposal facility, the fees shall be collected by the owner or operator of the solid waste disposal facility as a trustee for the state. The amount of fees required to be collected under this division at such a disposal facility shall equal the total tonnage of solid wastes received at the facility that was not previously taken to a solid waste transfer facility located in this state multiplied by the fees levied under this division. Fees levied under this division do not apply to materials separated from a mixed waste stream for recycling by a generator or materials removed from the solid waste stream through recycling, as "recycling" is defined in rules adopted under section 3734.02 of the Revised Code.

The owner or operator of a solid waste transfer facility or disposal facility ~~shall collect the fees levied under this division as a trustee for the state and~~, as applicable, shall prepare and file with the director of environmental protection ~~monthly returns~~ each month a return indicating the total tonnage of solid wastes received ~~for disposal~~ at ~~the gate of~~ the facility during that month and the total amount of the fees required to be collected under this division during that month. In addition, the owner or operator of a solid waste disposal facility shall indicate on the return the total tonnage of solid wastes received from transfer facilities located in this state during that month for which the fees were required to be collected by the transfer facilities. The monthly returns shall be filed on a form prescribed by the director. Not later than thirty days after the last day of the month to which ~~such~~ a return applies, the owner or operator shall mail to the director the return for that month together with the fees required to be collected under this division during that month as indicated on the return. ~~The~~ If the return is filed and the amount of the fees due is paid in a timely manner as required in this division, the owner or operator may retain a discount of three-fourths of one per cent of the total amount of the fees that are required to be paid as indicated on the return.

The owner or operator may request an extension of not more than thirty days for filing the return and remitting the fees, provided that the owner or operator has submitted such a request in writing to the director together with a detailed description of why the extension is requested, the director has

received the request not later than the day on which the return is required to be filed, and the director has approved the request. If the fees are not remitted within thirty days after the last day of the month ~~during which they were collected~~ to which the return applies or are not remitted by the last day of an extension approved by the director, the owner or operator shall not retain the three-fourths of one per cent discount and shall pay an additional ~~fifty~~ ten per cent of the amount of the fees for each month that they are late. For purposes of calculating the late fee, the first month in which fees are late begins on the first day after the deadline has passed for timely submitting the return and fees, and one additional month shall be counted every thirty days thereafter.

~~One-half of the moneys remitted to the director under division (A)(1) of this section shall be credited to the hazardous waste facility management fund created in section 3734.18 of the Revised Code, and one-half shall be credited to the hazardous waste clean-up fund created in section 3734.28 of the Revised Code. The moneys remitted to the director under division (A)(2) of this section shall be credited to the solid waste fund, which is hereby created in the state treasury. The environmental protection agency shall use moneys in the solid waste fund only to pay the costs of administering and enforcing the laws pertaining to solid wastes, infectious wastes, and construction and demolition debris, including, without limitation, ground water evaluations related to solid wastes, infectious wastes, and construction and demolition debris, under this chapter and Chapter 3714. of the Revised Code and rules adopted under them and to pay a share of the administrative costs of the environmental protection agency pursuant to section 3745.014 of the Revised Code.~~

The owner or operator of a solid waste facility may request a refund or credit of fees levied under this division and remitted to the director that have not been paid to the owner or operator. Such a request shall be made only if the fees have not been collected by the owner or operator, have become a debt that has become worthless or uncollectable for a period of six months or more, and may be claimed as a deduction, including a deduction claimed if the owner or operator keeps accounts on an accrual basis, under the "Internal Revenue Code of 1954," 68A Stat. 50, 26 U.S.C. 166, as amended, and regulations adopted under it. Prior to making a request for a refund or credit, an owner or operator shall make reasonable efforts to collect the applicable fees. A request for a refund or credit shall not include any costs resulting from those efforts to collect unpaid fees.

A request for a refund or credit of fees shall be made in writing, on a form prescribed by the director, and shall be supported by evidence that may

be required in rules adopted by the director under this chapter. After reviewing the request, the director may grant a refund to the owner or operator or may permit a credit to be taken by the owner or operator on a subsequent monthly return submitted by the owner or operator. The amount of a refund or credit shall not exceed an amount that is equal to ninety days' worth of fees owed to an owner or operator by a particular debtor of the owner or operator. A refund or credit shall not be granted by the director to an owner or operator more than once in any twelve-month period for fees owed to the owner or operator by a particular debtor.

If, after receiving a refund or credit from the director, an owner or operator receives payment of all or part of the fees, the owner or operator shall remit the fees with the next monthly return submitted to the director together with a written explanation of the reason for the submittal.

For purposes of computing the fees levied under this division or division (B) of this section, any solid waste transfer or disposal facility that does not use scales as a means of determining gate receipts shall use a conversion factor of three cubic yards per ton of solid waste or one cubic yard per ton for baled waste, as applicable.

The fees levied under this division and divisions (B) and (C) of this section are in addition to all other applicable fees and taxes and shall be ~~added to any other fee or amount specified in a contract that is charged~~ paid by the customer to the owner or operator of a solid waste transfer or disposal facility ~~or to any other fee or amount that is specified in a contract entered into on or after March 4, 1992,and that is charged by a transporter of solid wastes~~ notwithstanding the existence of any provision in a contract that the customer may have with the owner or operator that would not require or allow such payment.

(B) For the ~~purpose of preparing, revising, and implementing the solid waste management plan of the county or joint solid waste management district, including, without limitation, the development and implementation of solid waste recycling or reduction programs; providing financial assistance to boards of health within the district, if solid waste facilities are located within the district, for the enforcement of this chapter and rules adopted and orders and terms and conditions of permits, licenses, and variances issued under it, other than the hazardous waste provisions of this chapter and rules adopted and orders and terms and conditions of permits issued under those provisions; providing financial assistance to the county to defray the added costs of maintaining roads and other public facilities and of providing emergency and other public services resulting from the location and operation of a solid waste facility within the county under the district's~~

~~approved solid waste management plan; paying the costs incurred by boards of health for collecting and analyzing water samples from public or private wells on lands adjacent to solid waste facilities that are contained in the approved or amended plan of the district; paying the costs of developing and implementing a program for the inspection of solid wastes generated outside the boundaries of this state that are disposed of at solid waste facilities included in the district's approved solid waste management plan or amended plan; providing financial assistance to boards of health within the district for enforcing laws prohibiting open dumping; providing financial assistance to local law enforcement agencies within the district for enforcing laws and ordinances prohibiting littering; providing financial assistance to boards of health of health districts within the district that are on the approved list under section 3734.08 of the Revised Code for the training and certification required for their employees responsible for solid waste enforcement by rules adopted under division (L) of section 3734.02 of the Revised Code; providing financial assistance to individual municipal corporations and townships within the district to defray their added costs of maintaining roads and other public facilities and of providing emergency and other public services resulting from the location and operation within their boundaries of a composting, energy or resource recovery, incineration, or recycling facility that either is owned by the district or is furnishing solid waste management facility or recycling services to the district pursuant to a contract or agreement with the board of county commissioners or directors of the district; and payment of any expenses that are agreed to, awarded, or ordered to be paid under section 3734.35 of the Revised Code and of any administrative costs incurred pursuant to that section~~ purposes specified in division (G) of this section, the solid waste management policy committee of a county or joint solid waste management district may levy fees upon the following activities:

(1) The disposal at a solid waste disposal facility located in the district of solid wastes generated within the district;

(2) The disposal at a solid waste disposal facility within the district of solid wastes generated outside the boundaries of the district, but inside this state;

(3) The disposal at a solid waste disposal facility within the district of solid wastes generated outside the boundaries of this state.

~~If any such fees are levied prior to January 1, 1994, fees levied under division (B)(1) of this section always shall be equal to one-half of the fees levied under division (B)(2) of this section, and fees levied under division (B)(3) of this section, which shall be in addition to fees levied under~~

~~division (B)(2) of this section, always shall be equal to fees levied under division (B)(1) of this section, except as otherwise provided in this division.~~ The solid waste management plan of the county or joint district approved under section 3734.521 or 3734.55 of the Revised Code and any amendments to it, or the resolution adopted under this division, as appropriate, shall establish the rates of the fees levied under divisions (B)(1), (2), and (3) of this section, if any, and shall specify whether the fees are levied on the basis of tons or cubic yards as the unit of measurement. ~~Although the fees under divisions (A)(1) and (2) of this section are levied on the basis of tons as the unit of measurement, the~~ A solid waste management ~~plan of the~~ district ~~and any amendments to it or the solid waste management policy committee in its resolution levying fees under this division may direct~~ that ~~the~~ levies fees ~~levied~~ under ~~those divisions be levied~~ this division on the basis of cubic yards ~~as the unit of measurement based upon a conversion factor of three cubic yards per ton generally or one cubic yard per ton for baled wastes if the fees under divisions (B)(1) to (3) of this section are being levied on the basis of cubic yards as the unit of measurement under the plan, amended plan, or resolution~~ shall do so in accordance with division (A) of this section.

~~On and after January 1, 1994, the~~ The fee levied under division (B)(1) of this section shall be not less than one dollar per ton nor more than two dollars per ton, the fee levied under division (B)(2) of this section shall be not less than two dollars per ton nor more than four dollars per ton, and the fee levied under division (B)(3) of this section shall be not more than the fee levied under division (B)(1) of this section~~, except as otherwise provided in this division and notwithstanding any schedule of those fees established in the solid waste management plan of a county or joint district approved under section 3734.55 of the Revised Code or a resolution adopted and ratified under this division that is in effect on that date. If the fee that a district is levying under division (B)(1) of this section on that date under its approved plan or such a resolution is less than one dollar per ton, the fee shall be one dollar per ton on and after January 1, 1994, and if the fee that a district is so levying under that division exceeds two dollars per ton, the fee shall be two dollars per ton on and after that date. If the fee that a district is so levying under division (B)(2) of this section is less than two dollars per ton, the fee shall be two dollars per ton on and after that date, and if the fee that the district is so levying under that division exceeds four dollars per ton, the fee shall be four dollars per ton on and after that date. On that date, the fee levied by a district under division (B)(3) of this section shall be equal to the fee levied under division (B)(1) of this section. Except as otherwise

~~provided in this division, the fees established by the operation of this amendment shall remain in effect until the district's resolution levying fees under this division is amended or repealed in accordance with this division to amend or abolish the schedule of fees, the schedule of fees is amended or abolished in an amended plan of the district approved under section 3734.521 or division (A) or (D) of section 3734.56 of the Revised Code, or the schedule of fees is amended or abolished through an amendment to the district's plan under division (E) of section 3734.56 of the Revised Code; the notification of the amendment or abolishment of the fees has been given in accordance with this division; and collection of the amended fees so established commences, or collection of the fees ceases, in accordance with this division.~~

~~The solid waste management policy committee of a district levying fees under divisions (B)(1) to (3) of this section on October 29, 1993, under its solid waste management plan approved under section 3734.55 of the Revised Code or a resolution adopted and ratified under this division that are within the ranges of rates prescribed by this amendment, by adoption of a resolution not later than December 1, 1993, and without the necessity for ratification of the resolution under this division, may amend those fees within the prescribed ranges, provided that the estimated revenues from the amended fees will not substantially exceed the estimated revenues set forth in the district's budget for calendar year 1994. Not later than seven days after the adoption of such a resolution, the committee shall notify by certified mail the owner or operator of each solid waste disposal facility that is required to collect the fees of the adoption of the resolution and of the amount of the amended fees. Collection of the amended fees shall take effect on the first day of the first month following the month in which the notification is sent to the owner or operator. The fees established in such a resolution shall remain in effect until the district's resolution levying fees that was adopted and ratified under this division is amended or repealed, and the amendment or repeal of the resolution is ratified, in accordance with this division, to amend or abolish the fees, the schedule of fees is amended or abolished in an amended plan of the district approved under section 3734.521 or division (A) or (D) of section 3734.56 of the Revised Code, or the schedule of fees is amended or abolished through an amendment to the district's plan under division (E) of section 3734.56 of the Revised Code; the notification of the amendment or abolishment of the fees has been given in accordance with this division; and collection of the amended fees so established commences, or collection of the fees ceases, in accordance with this division~~.

Prior to the approval of the solid waste management plan of ~~the~~ a district under section 3734.55 of the Revised Code, the solid waste management policy committee of a district may levy fees under this division by adopting a resolution establishing the proposed amount of the fees. Upon adopting the resolution, the committee shall deliver a copy of the resolution to the board of county commissioners of each county forming the district and to the legislative authority of each municipal corporation and township under the jurisdiction of the district and shall prepare and publish the resolution and a notice of the time and location where a public hearing on the fees will be held. Upon adopting the resolution, the committee shall deliver written notice of the adoption of the resolution; of the amount of the proposed fees; and of the date, time, and location of the public hearing to the director and to the fifty industrial, commercial, or institutional generators of solid wastes within the district that generate the largest quantities of solid wastes, as determined by the committee, and to their local trade associations. The committee shall make good faith efforts to identify those generators within the district and their local trade associations, but the nonprovision of notice under this division to a particular generator or local trade association does not invalidate the proceedings under this division. The publication shall occur at least thirty days before the hearing. After the hearing, the committee may make such revisions to the proposed fees as it considers appropriate and thereafter, by resolution, shall adopt the revised fee schedule. Upon adopting the revised fee schedule, the committee shall deliver a copy of the resolution doing so to the board of county commissioners of each county forming the district and to the legislative authority of each municipal corporation and township under the jurisdiction of the district. Within sixty days after the delivery of a copy of the resolution adopting the proposed revised fees by the policy committee, each such board and legislative authority, by ordinance or resolution, shall approve or disapprove the revised fees and deliver a copy of the ordinance or resolution to the committee. If any such board or legislative authority fails to adopt and deliver to the policy committee an ordinance or resolution approving or disapproving the revised fees within sixty days after the policy committee delivered its resolution adopting the proposed revised fees, it shall be conclusively presumed that the board or legislative authority has approved the proposed revised fees. The committee shall determine if the resolution has been ratified in the same manner in which it determines if a draft solid waste management plan has been ratified under division (B) of section 3734.55 of the Revised Code.

~~In the case of a county district or a joint district formed by two or three~~

~~counties, the committee shall declare the proposed revised fees to be ratified as the fee schedule of the district upon determining that the board of county commissioners of each county forming the district has approved the proposed revised fees and that the legislative authorities of a combination of municipal corporations and townships with a combined population within the district comprising at least sixty per cent of the total population of the district have approved the proposed revised fees, provided that in the case of a county district, that combination shall include the municipal corporation having the largest population within the boundaries of the district, and provided further that in the case of a joint district formed by two or three counties, that combination shall include for each county forming the joint district the municipal corporation having the largest population within the boundaries of both the county in which the municipal corporation is located and the joint district. In the case of a joint district formed by four or more counties, the committee shall declare the proposed revised fees to be ratified as the fee schedule of the joint district upon determining that the boards of county commissioners of a majority of the counties forming the district have approved the proposed revised fees; that, in each of a majority of the counties forming the joint district, the proposed revised fees have been approved by the municipal corporation having the largest population within the county and the joint district; and that the legislative authorities of a combination of municipal corporations and townships with a combined population within the joint district comprising at least sixty per cent of the total population of the joint district have approved the proposed revised fees.~~

~~For the purposes of this division, only the population of the unincorporated area of a township shall be considered. For the purpose of determining the largest municipal corporation within each county under this division, a municipal corporation that is located in more than one solid waste management district, but that is under the jurisdiction of one county or joint solid waste management district in accordance with division (A) of section 3734.52 of the Revised Code shall be considered to be within the boundaries of the county in which a majority of the population of the municipal corporation resides.~~

The committee may amend the schedule of fees levied pursuant to a resolution ~~or amended resolution~~ adopted and ratified under this division by adopting a resolution establishing the proposed amount of the amended fees. The committee may ~~abolish~~ repeal the fees levied pursuant to such a resolution ~~or amended resolution~~ by adopting a resolution proposing to repeal them. Upon adopting such a resolution, the committee shall proceed to obtain ratification of the resolution in accordance with this division.

Not later than fourteen days after declaring the new fees ~~or amended fees~~ to be ratified or the fees to be repealed under this division, the committee shall notify by certified mail the owner or operator of each solid waste disposal facility that is required to collect the fees of the ratification and the amount of the fees or of the repeal of the fees. Collection of any fees ~~or amended fees ratified on or after March 24, 1992,~~ shall commence or collection of repealed fees shall cease on the first day of the second month following the month in which notification is sent to the owner or operator.

~~Not later than fourteen days after declaring the repeal of the district's schedule of fees to be ratified under this division, the committee shall notify by certified mail the owner or operator of each facility that is collecting the fees of the repeal. Collection of the fees shall cease on the first day of the second month following the month in which notification is sent to the owner or operator.~~

Fees levied under this division also may be established, amended, or repealed by a solid waste management policy committee through the adoption of a new district solid waste management plan, the adoption of an amended plan, or the amendment of the plan or amended plan in accordance with sections 3734.55 and 3734.56 of the Revised Code or the adoption or amendment of a district plan in connection with a change in district composition under section 3734.521 of the Revised Code.

Not later than fourteen days after the director issues an order approving a district's solid waste management plan ~~under section 3734.55 of the Revised Code or,~~ amended plan ~~under division (A) or (D) of section 3734.56 of the Revised Code~~, or amendment to a plan or amended plan that establishes ~~or,~~ amends, or repeals a schedule of fees levied by the district, ~~or the ratification of an amendment to the district's approved plan or amended plan under division (E) of section 3734.56 of the Revised Code that establishes or amends a schedule of fees, as appropriate,~~ the committee shall notify by certified mail the owner or operator of each solid waste disposal facility that is required to collect the fees of the approval of the plan or amended plan, or the amendment to the plan, as appropriate, and the amount of the fees ~~or amended fees~~, if any. In the case of an initial or amended plan approved under section 3734.521 of the Revised Code in connection with a change in district composition, other than one involving the withdrawal of a county from a joint district, ~~that establishes or amends a schedule of fees levied under divisions (B)(1) to (3) of this section by a district resulting from the change,~~ the committee, within fourteen days after the change takes effect pursuant to division (G) of that section, shall notify by certified mail the owner or operator of each solid waste disposal facility that is required to

collect the fees that the change has taken effect and of the amount of the fees ~~or amended fees~~, if any. Collection of any fees ~~set forth in a plan or amended plan approved by the director on or after April 16, 1993, or an amendment of a plan or amended plan under division (E) of section 3734.56 of the Revised Code that is ratified on or after April 16, 1993,~~ shall commence or collection of repealed fees shall cease on the first day of the second month following the month in which notification is sent to the owner or operator.

~~Not later than fourteen days after the director issues an order approving a district's plan under section 3734.55 of the Revised Code or amended plan under division (A) or (D) of section 3734.56 of the Revised Code that abolishes the schedule of fees levied under divisions (B)(1) to (3) of this section, or an amendment to the district's approved plan or amended plan abolishing the schedule of fees is ratified pursuant to division (E) of section 3734.56 of the Revised Code, as appropriate, the committee shall notify by certified mail the owner or operator of each facility that is collecting the fees of the approval of the plan or amended plan, or the amendment of the plan or amended plan, as appropriate, and the abolishment of the fees. In the case of an initial or amended plan approved under section 3734.521 of the Revised Code in connection with a change in district composition, other than one involving the withdrawal of a county from a joint district, that abolishes the schedule of fees levied under divisions (B)(1) to (3) of this section by a district resulting from the change, the committee, within fourteen days after the change takes effect pursuant to division (G) of that section, shall notify by certified mail the owner or operator of each solid waste disposal facility that is required to collect the fees that the change has taken effect and of the abolishment of the fees. Collection of the fees shall cease on the first day of the second month following the month in which notification is sent to the owner or operator.~~

~~Except as otherwise provided in this division, if the schedule of fees that a district is levying under divisions (B)(1) to (3) of this section pursuant to a resolution or amended resolution adopted and ratified under this division, the solid waste management plan of the district approved under section 3734.55 of the Revised Code, an amended plan approved under division (A) or (D) of section 3734.56 of the Revised Code, or an amendment to the district's approved plan or amended plan under division (E) of section 3734.56 of the Revised Code, is amended by the adoption and ratification of an amendment to the resolution or amended resolution or an amendment of the district's approved plan or amended plan, the fees in effect immediately prior to the approval of the plan or the amendment of the resolution,~~

~~amended resolution, plan, or amended plan, as appropriate, shall continue to be collected until collection of the amended fees commences pursuant to this division.~~

If, in the case of a change in district composition involving the withdrawal of a county from a joint district, the director completes the actions required under division (G)(1) or (3) of section 3734.521 of the Revised Code, as appropriate, forty-five days or more before the beginning of a calendar year, the policy committee of each of the districts resulting from the change that obtained the director's approval of an initial or amended plan in connection with the change, within fourteen days after the director's completion of the required actions, shall notify by certified mail the owner or operator of each solid waste disposal facility that is required to collect the district's fees that the change is to take effect on the first day of January immediately following the issuance of the notice and of the amount of the fees or amended fees levied under divisions (B)(1) to (3) of this section pursuant to the district's initial or amended plan as so approved or, if appropriate, the ~~abolishment~~ repeal of the district's fees by that initial or amended plan. Collection of any fees set forth in such a plan or amended plan shall commence on the first day of January immediately following the issuance of the notice. If such an initial or amended plan ~~abolishes~~ repeals a schedule of fees, collection of the fees shall cease on that first day of January.

If, in the case of a change in district composition involving the withdrawal of a county from a joint district, the director completes the actions required under division (G)(1) or (3) of section 3734.521 of the Revised Code, as appropriate, less than forty-five days before the beginning of a calendar year, the director, on behalf of each of the districts resulting from the change that obtained the director's approval of an initial or amended plan in connection with the change proceedings, shall notify by certified mail the owner or operator of each solid waste disposal facility that is required to collect the district's fees that the change is to take effect on the first day of January immediately following the mailing of the notice and of the amount of the fees or amended fees levied under divisions (B)(1) to (3) of this section pursuant to the district's initial or amended plan as so approved or, if appropriate, the ~~abolishment~~ repeal of the district's fees by that initial or amended plan. Collection of any fees set forth in such a plan or amended plan shall commence on the first day of the second month following the month in which notification is sent to the owner or operator. If such an initial or amended plan ~~abolishes~~ repeals a schedule of fees, collection of the fees shall cease on the first day of the second month

following the month in which notification is sent to the owner or operator.

~~In~~ If the schedule of fees that a solid waste management district is levying under divisions (B)(1) to (3) of this section is amended or repealed, the fees in effect immediately prior to the amendment or repeal shall continue to be collected until collection of the amended fees commences or collection of the repealed fees ceases, as applicable, as specified in this division. In the case of a change in district composition, ~~the schedule of fees that the former districts that existed prior to the change were levying under divisions (B)(1) to (3) of this section pursuant to a resolution or amended resolution adopted and ratified under this division, the solid waste management plan of a former district approved under section 3734.521 or 3734.55 of the Revised Code, an amended plan approved under section 3734.521 or division (A) or (D) of section 3734.56 of the Revised Code, or an amendment to a former district's approved plan or amended plan under division (E) of section 3734.56 of the Revised Code, and that were in effect on the date that the director completed the actions required under division (G)(1) or (3) of section 3734.521 of the Revised Code shall continue to be collected until the collection of the fees or amended fees of the districts resulting from the change is required to commence, or if an initial or amended plan of a resulting district abolishes a schedule of fees, collection of the fees is required to cease, under this division. Moneys~~ money so received from the collection of the fees of the former districts shall be divided among the resulting districts in accordance with division (B) of section 343.012 of the Revised Code and the agreements entered into under division (B) of section 343.01 of the Revised Code to establish the former and resulting districts and any amendments to those agreements.

For the purposes of the provisions of division (B) of this section establishing the times when newly established or amended fees levied by a district are required to commence and the collection of fees that have been amended or ~~abolished~~ repealed is required to cease, "fees" or "schedule of fees" includes, in addition to fees levied under divisions (B)(1) to (3) of this section, those levied under section 3734.573 or 3734.574 of the Revised Code.

(C) For the purposes of defraying the added costs to a municipal corporation or township of maintaining roads and other public facilities and of providing emergency and other public services, and compensating a municipal corporation or township for reductions in real property tax revenues due to reductions in real property valuations resulting from the location and operation of a solid waste disposal facility within the municipal corporation or township, a municipal corporation or township in which such

a solid waste disposal facility is located may levy a fee of not more than twenty-five cents per ton on the disposal of solid wastes at a solid waste disposal facility located within the boundaries of the municipal corporation or township regardless of where the wastes were generated.

The legislative authority of a municipal corporation or township may levy fees under this division by enacting an ordinance or adopting a resolution establishing the amount of the fees. Upon so doing the legislative authority shall mail a certified copy of the ordinance or resolution to the board of county commissioners or directors of the county or joint solid waste management district in which the municipal corporation or township is located or, if a regional solid waste management authority has been formed under section 343.011 of the Revised Code, to the board of trustees of that regional authority, the owner or operator of each solid waste disposal facility in the municipal corporation or township that is required to collect the fee by the ordinance or resolution, and the director of environmental protection. Although the fees levied under this division are levied on the basis of tons as the unit of measurement, the legislative authority, in its ordinance or resolution levying the fees under this division, may direct that the fees be levied on the basis of cubic yards as the unit of measurement based upon a conversion factor of three cubic yards per ton generally or one cubic yard per ton for baled wastes.

Not later than five days after enacting an ordinance or adopting a resolution under this division, the legislative authority shall so notify by certified mail the owner or operator of each solid waste disposal facility that is required to collect the fee. Collection of any fee levied on or after March 24, 1992, shall commence on the first day of the second month following the month in which notification is sent to the owner or operator.

(D)(1) The fees levied under divisions (A), (B), and (C) of this section do not apply to the disposal of solid wastes that:

(a) Are disposed of at a facility owned by the generator of the wastes when the solid waste facility exclusively disposes of solid wastes generated at one or more premises owned by the generator regardless of whether the facility is located on a premises where the wastes are generated;

(b) Are disposed of at facilities that exclusively dispose of wastes that are generated from the combustion of coal, or from the combustion of primarily coal in combination with scrap tires, that is not combined in any way with garbage at one or more premises owned by the generator.

(2) Except as provided in section 3734.571 of the Revised Code, any fees levied under division (B)(1) of this section apply to solid wastes originating outside the boundaries of a county or joint district that are

covered by an agreement for the joint use of solid waste facilities entered into under section 343.02 of the Revised Code by the board of county commissioners or board of directors of the county or joint district where the wastes are generated and disposed of.

(3) When solid wastes, other than solid wastes that consist of scrap tires, are burned in a disposal facility that is an incinerator or energy recovery facility, the fees levied under divisions (A), (B), and (C) of this section shall be levied upon the disposal of the fly ash and bottom ash remaining after burning of the solid wastes and shall be collected by the owner or operator of the sanitary landfill where the ash is disposed of.

(4) When solid wastes are delivered to a solid waste transfer facility, the fees levied under divisions ~~(A),~~ (B)~~,~~ and (C) of this section shall be levied upon the disposal of solid wastes transported off the premises of the transfer facility for disposal and shall be collected by the owner or operator of the solid waste disposal facility where the wastes are disposed of.

(5) The fees levied under divisions (A), (B), and (C) of this section do not apply to sewage sludge that is generated by a waste water treatment facility holding a national pollutant discharge elimination system permit and that is disposed of through incineration, land application, or composting or at another resource recovery or disposal facility that is not a landfill.

(6) The fees levied under divisions (A), (B), and (C) of this section do not apply to solid wastes delivered to a solid waste composting facility for processing. When any unprocessed solid waste or compost product is transported off the premises of a composting facility and disposed of at a landfill, the fees levied under divisions (A), (B), and (C) of this section shall be collected by the owner or operator of the landfill where the unprocessed waste or compost product is disposed of.

(7) When solid wastes that consist of scrap tires are processed at a scrap tire recovery facility, the fees levied under divisions (A), (B), and (C) of this section shall be levied upon the disposal of the fly ash and bottom ash or other solid wastes remaining after the processing of the scrap tires and shall be collected by the owner or operator of the solid waste disposal facility where the ash or other solid wastes are disposed of.

(8) The director of environmental protection may issue an order exempting from the fees levied under this section solid wastes, including, but not limited to, scrap tires, that are generated, transferred, or disposed of as a result of a contract providing for the expenditure of public funds entered into by the administrator or regional administrator of the United States environmental protection agency, the director of environmental protection, or the director of administrative services on behalf of the director of

environmental protection for the purpose of remediating conditions at a hazardous waste facility, solid waste facility, or other location at which the administrator or regional administrator or the director of environmental protection has reason to believe that there is a substantial threat to public health or safety or the environment or that the conditions are causing or contributing to air or water pollution or soil contamination. An order issued by the director of environmental protection under division (D)(8) of this section shall include a determination that the amount of the fees not received by a solid waste management district as a result of the order will not adversely impact the implementation and financing of the district's approved solid waste management plan and any approved amendments to the plan. Such an order is a final action of the director of environmental protection.

(E) The fees levied under divisions (B) and (C) of this section shall be collected by the owner or operator of the solid waste disposal facility where the wastes are disposed of as a trustee for the county or joint district and municipal corporation or township where the wastes are disposed of. Moneys from the fees levied under division (B) of this section shall be forwarded to the board of county commissioners or board of directors of the district in accordance with rules adopted under division (H) of this section. Moneys from the fees levied under division (C) of this section shall be forwarded to the treasurer or such other officer of the municipal corporation as, by virtue of the charter, has the duties of the treasurer or to the clerk of the township, as appropriate, in accordance with those rules.

(F) Moneys received by the treasurer or such other officer of the municipal corporation under division (E) of this section shall be paid into the general fund of the municipal corporation. Moneys received by the clerk of the township under that division shall be paid into the general fund of the township. The treasurer or such other officer of the municipal corporation or the clerk, as appropriate, shall maintain separate records of the moneys received from the fees levied under division (C) of this section.

(G) Moneys received by the board of county commissioners or board of directors under division (E) of this section or section 3734.571, 3734.572, 3734.573, or 3734.574 of the Revised Code shall be paid to the county treasurer, or other official acting in a similar capacity under a county charter, in a county district or to the county treasurer or other official designated by the board of directors in a joint district and kept in a separate and distinct fund to the credit of the district. If a regional solid waste management authority has been formed under section 343.011 of the Revised Code, moneys received by the board of trustees of that regional authority under division (E) of this section shall be kept by the board in a

separate and distinct fund to the credit of the district. Moneys in the special fund of the county or joint district arising from the fees levied under division (B) of this section and the fee levied under division (A) of section 3734.573 of the Revised Code shall be expended by the board of county commissioners or directors of the district in accordance with the district's solid waste management plan or amended plan approved under section 3734.521, 3734.55, or 3734.56 of the Revised Code exclusively for the following purposes:

(1) Preparation of the solid waste management plan of the district under section 3734.54 of the Revised Code, monitoring implementation of the plan, and conducting the periodic review and amendment of the plan required by section 3734.56 of the Revised Code by the solid waste management policy committee;

(2) Implementation of the approved solid waste management plan or amended plan of the district, including, without limitation, the development and implementation of solid waste recycling or reduction programs;

(3) Providing financial assistance to boards of health within the district, if solid waste facilities are located within the district, for enforcement of this chapter and rules, orders, and terms and conditions of permits, licenses, and variances adopted or issued under it, other than the hazardous waste provisions of this chapter and rules adopted and orders and terms and conditions of permits issued under those provisions;

(4) Providing financial assistance to each county within the district to defray the added costs of maintaining roads and other public facilities and of providing emergency and other public services resulting from the location and operation of a solid waste facility within the county under the district's approved solid waste management plan or amended plan;

(5) Pursuant to contracts entered into with boards of health within the district, if solid waste facilities contained in the district's approved plan or amended plan are located within the district, for paying the costs incurred by those boards of health for collecting and analyzing samples from public or private water wells on lands adjacent to those facilities;

(6) Developing and implementing a program for the inspection of solid wastes generated outside the boundaries of this state that are disposed of at solid waste facilities included in the district's approved solid waste management plan or amended plan;

(7) Providing financial assistance to boards of health within the district for the enforcement of section 3734.03 of the Revised Code or to local law enforcement agencies having jurisdiction within the district for enforcing anti-littering laws and ordinances;

(8) Providing financial assistance to boards of health of health districts within the district that are on the approved list under section 3734.08 of the Revised Code to defray the costs to the health districts for the participation of their employees responsible for enforcement of the solid waste provisions of this chapter and rules adopted and orders and terms and conditions of permits, licenses, and variances issued under those provisions in the training and certification program as required by rules adopted under division (L) of section 3734.02 of the Revised Code;

(9) Providing financial assistance to individual municipal corporations and townships within the district to defray their added costs of maintaining roads and other public facilities and of providing emergency and other public services resulting from the location and operation within their boundaries of a composting, energy or resource recovery, incineration, or recycling facility that either is owned by the district or is furnishing solid waste management facility or recycling services to the district pursuant to a contract or agreement with the board of county commissioners or directors of the district;

(10) Payment of any expenses that are agreed to, awarded, or ordered to be paid under section 3734.35 of the Revised Code and of any administrative costs incurred pursuant to that section. In the case of a joint solid waste management district, if the board of county commissioners of one of the counties in the district is negotiating on behalf of affected communities, as defined in that section, in that county, the board shall obtain the approval of the board of directors of the district in order to expend moneys for administrative costs incurred.

Prior to the approval of the district's solid waste management plan under section 3734.55 of the Revised Code, moneys in the special fund of the district arising from the fees shall be expended for those purposes in the manner prescribed by the solid waste management policy committee by resolution.

Notwithstanding division (G)(6) of this section as it existed prior to October 29, 1993, or any provision in a district's solid waste management plan prepared in accordance with division (B)(2)(e) of section 3734.53 of the Revised Code as it existed prior to that date, any moneys arising from the fees levied under division (B)(3) of this section prior to January 1, 1994, may be expended for any of the purposes authorized in divisions (G)(1) to (10) of this section.

(H) The director shall adopt rules in accordance with Chapter 119. of the Revised Code prescribing procedures for collecting and forwarding the fees levied under divisions (B) and (C) of this section to the boards of

county commissioners or directors of county or joint solid waste management districts and to the treasurers or other officers of municipal corporations or to the clerks of townships. The rules also shall prescribe the dates for forwarding the fees to the boards and officials and may prescribe any other requirements the director considers necessary or appropriate to implement and administer divisions (A), (B), and (C) of this section. ~~Collection of the fees levied under division (A)(1) of this section shall commence on July 1, 1993. Collection of the fees levied under division (A)(2) of this section shall commence on January 1, 1994.~~

Sec. 3734.573. (A) For the ~~purpose of preparing, revising, and implementing the solid waste management plan of the district, including, without limitation, the development and implementation of solid waste recycling or reduction programs; providing financial assistance to boards of health within the district, if solid waste facilities are located in the district, for the enforcement of this chapter and rules adopted and orders and terms and conditions of permits, licenses, and variances issued under it, other than the hazardous waste provisions of this chapter and rules adopted and orders and terms and conditions of permits issued under those provisions; providing financial assistance to the county to defray the added costs of maintaining roads and other public facilities and of providing emergency and other public services resulting from the location and operation of a solid waste facility within the county under the district's approved plan or amended plan; paying the costs incurred by boards of health for collecting and analyzing water samples from public and private wells on lands adjacent to solid waste facilities that are contained in the approved or amended plan of the district; paying the costs of developing and implementing a program for the inspection of solid wastes generated outside the boundaries of this state that are disposed of at solid waste facilities included in the district's approved plan or amended plan; providing financial assistance to boards of health within the district for enforcing laws prohibiting open dumping; providing financial assistance to local law enforcement agencies within the district for enforcing laws and ordinances prohibiting littering; providing financial assistance to boards of health of health districts within the district that are on the approved list under section 3734.08 of the Revised Code for the training and certification required for their employees responsible for solid waste enforcement by rules adopted under division (L) of section 3734.02 of the Revised Code; providing financial assistance to individual municipal corporations and townships within the district to defray their added costs of maintaining roads and other public facilities and of providing emergency and other public services resulting from the location and~~

~~operation within their boundaries of a composting, energy or resource recovery, incineration, or recycling facility that either is owned by the district or is furnishing solid waste management facility or recycling services to the district pursuant to a contract or agreement with the board of county commissioners or directors of the district; and paying any expenses provided for or incurred under section 3734.35~~ purposes specified in division (G) of section 3734.57 of the Revised Code, the solid waste management policy committee of a county or joint solid waste management district may levy a fee on the generation of solid wastes within the district.

The initial or amended solid waste management plan of the county or joint district approved under section 3734.521, 3734.55, or 3734.56 of the Revised Code, an amendment to the district's plan adopted under division (E) of section 3734.56 of the Revised Code, or the resolution adopted and ratified under division (B) of this section shall establish the rate of the fee levied under this division and shall specify whether the fee is levied on the basis of tons or cubic yards as the unit of measurement.

(B) Prior to the approval under division (A) of section 3734.56 of the Revised Code of the first amended plan that the district is required to submit for approval under that section, the approval of an initial plan under section 3734.521 of the Revised Code, the approval of an amended plan under section 3734.521 or division (D) of section 3734.56 of the Revised Code, or the amendment of the district's plan under division (E) of section 3734.56 of the Revised Code, the solid waste management policy committee of a county or joint district that is operating under an initial plan approved under section 3734.55 of the Revised Code, or one for which approval of its initial plan is pending before the director of environmental protection on October 29, 1993, under section 3734.55 of the Revised Code, may levy a fee under division (A) of this section by adopting and obtaining ratification of a resolution establishing the amount of the fee. A policy committee that, after December 1, 1993, concurrently proposes to levy a fee under division (A) of this section and to amend the fees levied by the district under divisions (B)(1) to (3) of section 3734.57 of the Revised Code may adopt and obtain ratification of one resolution proposing to do both. The requirements and procedures set forth in division (B) of section 3734.57 of the Revised Code governing the adoption, amendment, and repeal of resolutions levying fees under divisions (B)(1) to (3) of that section, the ratification of those resolutions, and the notification of owners and operators of solid waste facilities required to collect fees levied under those divisions govern the adoption of the resolutions authorized to be adopted under this division, the ratification thereof, and the notification of owners and operators required to

collect the fees, except as otherwise specifically provided in division (C) of this section.

(C) Any initial or amended plan of a district adopted under section 3734.521 or 3734.56 of the Revised Code, or resolution adopted under division (B) of this section, that proposes to levy a fee under division (A) of this section that exceeds five dollars per ton shall be ratified in accordance with the provisions of section 3734.55 or division (B) of section 3734.57 of the Revised Code, as applicable, except that such an initial or amended plan or resolution shall be approved by a combination of municipal corporations and townships with a combined population within the boundaries of the district comprising at least seventy-five per cent, rather than at least sixty per cent, of the total population of the district.

(D) The policy committee of a county or joint district may amend the fee levied by the district under division (A) of this section by adopting and obtaining ratification of a resolution establishing the amount of the amended fee. The policy committee may abolish the fee or an amended fee established under this division by adopting and obtaining ratification of a resolution proposing to repeal it. The requirements and procedures under division (B) and, if applicable, division (C) of this section govern the adoption and ratification of a resolution authorized to be adopted under this division and the notification of owners and operators of solid waste facilities required to collect the fees.

(E) Collection of a fee or amended fee levied under division (A) or (D) of this section shall commence or cease in accordance with division (B) of section 3734.57 of the Revised Code. If a district is levying a fee under section 3734.572 of the Revised Code, collection of that fee shall cease on the date on which collection of the fee levied under division (A) of this section commences in accordance with division (B) of section 3734.57 of the Revised Code.

(F) In the case of solid wastes that are taken to a solid waste transfer facility prior to being transported to a solid waste disposal facility for disposal, the fee levied under division (A) of this section shall be collected by the owner or operator of the transfer facility as a trustee for the district. In the case of solid wastes that are not taken to a solid waste transfer facility prior to being transported to a solid waste disposal facility, the fee shall be collected by the owner or operator of the solid waste disposal facility where the wastes are disposed of. An owner or operator of a solid waste transfer or disposal facility who is required to collect the fee shall collect and forward the fee to the district in accordance with section 3734.57 of the Revised Code and rules adopted under division (H) of that section.

If the owner or operator of a solid waste transfer or disposal facility who did not receive notice pursuant to division (B) of this section to collect the fee levied by a district under division (A) of this section receives solid wastes generated in the district, the owner or operator, within thirty days after receiving the wastes, shall send written notice of that fact to the board of county commissioners or directors of the district. Within thirty days after receiving such a notice, the board of county commissioners or directors shall send written notice to the owner or operator indicating whether the district is levying a fee under division (A) of this section and, if so, the amount of the fee.

(G) Moneys received by a district levying a fee under division (A) of this section shall be credited to the special fund of the district created in division (G) of section 3734.57 of the Revised Code and shall be used exclusively for the purposes ~~set forth~~ specified in ~~divisions (G)(1) to (10) of~~ that ~~section~~ division. Prior to the approval under division (A) of section 3734.56 of the Revised Code of the first amended plan that the district is required to submit for approval under that section, the approval of an initial plan under section 3734.521 of the Revised Code, the approval of an amended plan under that section or division (D) of section 3734.56 of the Revised Code, or the amendment of the district's plan under division (E) of section 3734.56 of the Revised Code, moneys credited to the special fund arising from the fee levied pursuant to a resolution adopted and ratified under division (B) of this section shall be expended for those purposes in the manner prescribed by the solid waste management policy committee by resolution.

(H) The fee levied under division (A) of this section does not apply to the management of solid wastes that:

(1) Are disposed of at a facility owned by the generator of the wastes when the solid waste facility exclusively disposes of solid wastes generated at one or more premises owned by the generator regardless of whether the facility is located on a premises where the wastes were generated;

(2) Are disposed of at facilities that exclusively dispose of wastes that are generated from the combustion of coal, or from the combustion of primarily coal in combination with scrap tires, that is not combined in any way with garbage at one or more premises owned by the generator.

(I) When solid wastes that are burned in a disposal facility that is an incinerator or energy recovery facility are delivered to a solid waste transfer facility prior to being transported to the incinerator or energy recovery facility where they are burned, the fee levied under division (A) of this section shall be levied on the wastes delivered to the transfer facility.

(J) When solid wastes that are burned in a disposal facility that is an incinerator or energy recovery facility are not delivered to a solid waste transfer facility prior to being transported to the incinerator or energy recovery facility where they are burned, the fee levied under division (A) of this section shall be levied on the wastes delivered to the incinerator or energy recovery facility.

(K) The fee levied under division (A) of this section does not apply to sewage sludge that is generated by a waste water treatment facility holding a national pollutant discharge elimination system permit and that is disposed of through incineration, land application, or composting or at another resource recovery or disposal facility that is not a landfill.

(L) The fee levied under division (A) of this section does not apply to yard waste delivered to a solid waste composting facility for processing or to a solid waste transfer facility.

(M) The fee levied under division (A) of this section does not apply to materials separated from a mixed waste stream for recycling by the generator.

(N) The director of environmental protection may issue an order exempting from the fees levied under this section solid wastes, including, but not limited to, scrap tires, that are generated, transferred, or disposed of as a result of a contract providing for the expenditure of public funds entered into by the administrator or regional administrator of the United States environmental protection agency, the director of environmental protection, or the director of administrative services on behalf of the director of environmental protection for the purpose of remediating conditions at a hazardous waste facility, solid waste facility, or other location at which the administrator or regional administrator or the director of environmental protection has reason to believe that there is a substantial threat to public health or safety or the environment or that the conditions are causing or contributing to air or water pollution or soil contamination. An order issued by the director of environmental protection under this division shall include a determination that the amount of fees not received by a solid waste management district as a result of the order will not adversely impact the implementation and financing of the district's approved solid waste managment plan and any approved amendments to the plan. Such an order is a final action of the director of environmental protection.

Sec. 3734.85. (A) On and after the effective date of the rules adopted under sections 3734.70, 3734.71, 3734.72, and 3734.73 of the Revised Code, the director of environmental protection may take action under this section to abate accumulations of scrap tires. If the director determines that

an accumulation of scrap tires constitutes a danger to the public health or safety or to the environment, ~~he~~ the director shall issue an order under section 3734.13 of the Revised Code to the person responsible for the accumulation of scrap tires directing that person, within one hundred twenty days after the issuance of the order, to remove the accumulation of scrap tires from the premises on which it is located and transport the tires to a scrap tire storage, monocell, monofill, or recovery facility licensed under section 3734.81 of the Revised Code, to such a facility in another state operating in compliance with the laws of the state in which it is located, or to any other solid waste disposal facility in another state that is operating in compliance with the laws of that state. If the person responsible for causing the accumulation of scrap tires is a person different from the owner of the land on which the accumulation is located, the director may issue such an order to the landowner.

If the director is unable to ascertain immediately the identity of the person responsible for causing the accumulation of scrap tires, ~~he~~ the director shall examine the records of the applicable board of health and law enforcement agencies to ascertain that person's identity. Before initiating any enforcement or removal actions under this division against the owner of the land on which the accumulation is located, the director shall initiate any such actions against the person that ~~he~~ the director has identified as responsible for causing the accumulation of scrap tires. Failure of the director to make diligent efforts to ascertain the identity of the person responsible for causing the accumulation of scrap tires or to initiate an action against the person responsible for causing the accumulation shall not constitute an affirmative defense by a landowner to an enforcement action initiated by the director under this division requiring immediate removal of any accumulation of scrap tires.

Upon the written request of the recipient of an order issued under this division, the director may extend the time for compliance with the order if the request demonstrates that the recipient has acted in good faith to comply with the order. If the recipient of an order issued under this division fails to comply with the order within one hundred twenty days after the issuance of the order or, if the time for compliance with the order was so extended, within that time, the director shall take such actions as ~~he~~ the director considers reasonable and necessary to remove and properly manage the scrap tires located on the land named in the order. The director, through employees of the environmental protection agency or a contractor, may enter upon the land on which the accumulation of scrap tires is located and remove and transport them to a scrap tire recovery facility for processing, to

a scrap tire storage facility for storage, or to a scrap tire monocell or monofill facility for storage or disposal.

The director shall enter into contracts with the owners or operators of scrap tire storage, monocell, monofill, or recovery facilities for the storage, disposal, or processing of scrap tires removed through removal operations conducted under this section. In doing so, the director shall give preference to scrap tire recovery facilities.

If a person to whom a removal order is issued under this division fails to comply with the order and if the director performs a removal action under this section, the person to whom the removal order is issued is liable to the director for the costs incurred by the director for conducting the removal operation, storage at a scrap tire storage facility, storage or disposal at a scrap tire monocell or monofill facility, or processing of the scrap tires so removed, the transportation of the scrap tires from the site of the accumulation to the scrap tire storage, monocell, monofill, or recovery facility where the scrap tires were stored, disposed of, or processed, and the administrative and legal expenses incurred by the director in connection with the removal operation. The director shall keep an itemized record of those costs. Upon completion of the actions for which the costs were incurred, the director shall record the costs at the office of the county recorder of the county in which the accumulation of scrap tires was located. The costs so recorded constitute a lien on the property on which the accumulation of scrap tires was located until discharged. Upon the written request of the director, the attorney general shall bring a civil action against the person responsible for the accumulation of the scrap tires that were the subject of the removal operation to recover the costs ~~of the removal operation. If the director is unable to recover those costs through such a civil action, he shall certify them to the county recorder of the county in which the accumulation of scrap tires was located. The recorder shall record the costs so certified as a lien on the property on which the accumulation of scrap tires was located, which costs shall be a lien on the property until discharged~~ for which the person is liable under this division. Any money so received or recovered shall be credited to the scrap tire management fund created in section 3734.82 of the Revised Code.

If, in a civil action brought under this division, an owner of real property is ordered to pay to the director the costs of a removal action that removed an accumulation of scrap tires from the person's land or if a lien is placed on the person's land for the costs of such a removal action, and, in either case, if the landowner was not the person responsible for causing the accumulation of scrap tires so removed, the landowner may bring a civil action against the

person who was responsible for causing the accumulation to recover the amount of the removal costs that the court ordered the landowner to pay to the director or the amount of the removal costs certified to the county recorder as a lien on the landowner's property, whichever is applicable. If the landowner prevails in the civil action against the person who was responsible for causing the accumulation of scrap tires, the court, as it considers appropriate, may award to the landowner the reasonable attorney's fees incurred by the landowner for bringing the action, court costs, and other reasonable expenses incurred by the landowner in connection with the civil action. A landowner shall bring such a civil action within two years after making the final payment of the removal costs to the director pursuant to the judgment rendered against the landowner in the civil action brought under this division upon the director's request or within two years after the director certified the costs of the removal action to the county recorder, as appropriate. A person who, at the time that a removal action was conducted under this division, owned the land on which the removal action was performed may bring an action under this division to recover the costs of the removal action from the person responsible for causing the accumulation of scrap tires so removed regardless of whether the person owns the land at the time of bringing the action.

Subject to the limitations set forth in division (G) of section 3734.82 of the Revised Code, the director may use moneys in the scrap tire management fund ~~created in that division~~ for conducting removal actions under this division. Any moneys recovered under this division shall be credited to the scrap tire management fund.

(B) The director shall initiate enforcement and removal actions under division (A) of this section in accordance with the following descending listing of priorities:

(1) Accumulations of scrap tires that the director finds constitute a fire hazard or threat to public health;

(2) Accumulations of scrap tires determined by the director to contain more than one million scrap tires;

(3) Accumulations of scrap tires in densely populated areas;

(4) Other accumulations of scrap tires that the director or board of health of the health district in which the accumulation is located determines constitute a public nuisance;

(5) Any other accumulations of scrap tires present on premises operating without a valid license issued under section 3734.05 or 3734.81 of the Revised Code.

(C) The director shall not take enforcement and removal actions under

division (A) of this section against the owner or operator of, or the owner of the land on which is located, any of the following:

(1) A premises where not more than one hundred scrap tires are present at any time;

(2) The premises of a business engaging in the sale of tires at retail that meets either of the following criteria:

(a) Not more than one thousand scrap tires are present on the premises at any time in an unsecured, uncovered outdoor location;.

(b) Any number of scrap tires are secured in a building or a covered, enclosed container, trailer, or installation.

(3) The premises of a tire retreading business, a tire manufacturing finishing center, or a tire adjustment center on which is located a single, covered scrap tire storage area where not more than four thousand scrap tires are stored;

(4) The premises of a business that removes tires from motor vehicles in the ordinary course of business and on which is located a single scrap tire storage area that occupies not more than twenty-five hundred square feet;

(5) A solid waste facility licensed under section 3734.05 of the Revised Code that stores scrap tires on the surface of the ground if the total land area on which scrap tires are actually stored does not exceed ten thousand square feet;

(6) A premises where not more than two hundred fifty scrap tires are stored or kept for agricultural use;

(7) A construction site where scrap tires are stored for use or used in road resurfacing or the construction of embankments;

(8) A scrap tire collection, storage, monocell, monofill, or recovery facility licensed under section 3734.81 of the Revised Code;

(9) A solid waste incineration or energy recovery facility that is subject to regulation under this chapter and that burns scrap tires;

(10) A premises where scrap tires are beneficially used and for which the notice required by rules adopted under section 3734.84 of the Revised Code has been given;

(11) A transporter registered under section 3734.83 of the Revised Code that collects and holds scrap tires in a covered trailer or vehicle for not longer than thirty days prior to transporting them to their final destination.

(D) Nothing in this section restricts any right any person may have under statute or common law to enforce or seek enforcement of any law applicable to the management of scrap tires, abate a nuisance, or seek any other appropriate relief.

(E) An owner of real property upon which there is located an

accumulation of not more than two thousand scrap tires is not liable under division (A) of this section for the cost of the removal of the scrap tires, and no lien shall attach to the property under this section, if all of the following conditions are met:

(1) The tires were placed on the property after the owner acquired title to the property, or the tires were placed on the property before the owner acquired title to the property and the owner acquired title to the property by bequest or devise~~;~~.

(2) The owner of the property did not have knowledge that the tires were being placed on the property, or the owner posted on the property signs prohibiting dumping or took other action to prevent the placing of tires on the property~~;~~.

(3) The owner of the property did not participate in or consent to the placing of the tires on the property~~;~~.

(4) The owner of the property received no financial benefit from the placing of the tires on the property or otherwise having the tires on the property~~;~~.

(5) Title to the property was not transferred to the owner for the purpose of evading liability under division (A) of this section~~;~~.

(6) The person responsible for placing the tires on the property, in doing so, was not acting as an agent for the owner of the property.

Sec. 3734.901. (A)(1) For the purpose of providing revenue to defray the cost of administering and enforcing the scrap tire provisions of this chapter, rules adopted under those provisions, and terms and conditions of orders, variances, and licenses issued under those provisions; to abate accumulations of scrap tires; to make grants to promote research regarding alternative methods of recycling scrap tires and loans to promote the recycling or recovery of energy from scrap tires; and to defray the costs of administering and enforcing sections 3734.90 to 3734.9014 of the Revised Code, a fee of fifty cents per tire is hereby levied on the sale of tires. The fee is levied from the first day of the calendar month that begins next after thirty days from October 29, 1993, through June 30, ~~2006~~ 2011.

(2) Beginning on ~~the effective date of this section~~ September 5, 2001, and ending on June 30, 2011, there is hereby levied an additional fee of fifty cents per tire on the sale of tires the proceeds of which shall be deposited in the state treasury to the credit of the scrap tire management fund created in section 3734.82 of the Revised Code and be used exclusively for the purposes specified in division (G)(3) of that section.

(B) Only one sale of the same article shall be used in computing the amount of the fee due.

Sec. 3734.9010. ~~Four~~ Two per cent of all amounts paid to the treasurer of state pursuant to sections 3734.90 to 3734.9014 of the Revised Code shall be certified directly to the credit of the tire fee administrative fund, which is hereby created in the state treasury, for appropriation to the department of taxation for use in administering those sections. The remainder of the amounts paid to the treasurer of state shall be deposited to the credit of the scrap tire management fund created in section 3734.82 of the Revised Code.

Sec. 3735.27. (A) Whenever the director of development has determined that there is need for a housing authority in any portion of any county that comprises two or more political subdivisions or portions of two or more political subdivisions but is less than all the territory within the county, a metropolitan housing authority shall be declared to exist, and the territorial limits of the authority shall be defined, by a letter from the director. The director shall issue a determination from the department of development declaring that there is need for a housing authority within those territorial limits after finding either of the following:

(1) Unsanitary or unsafe inhabited housing accommodations exist in that area;

(2) There is a shortage of safe and sanitary housing accommodations in that area available to persons who lack the amount of income that is necessary, as determined by the director, to enable them, without financial assistance, to live in decent, safe, and sanitary dwellings without congestion.

In determining whether dwelling accommodations are unsafe or unsanitary, the director may take into consideration the degree of congestion, the percentage of land coverage, the light, air, space, and access available to the inhabitants of the dwelling accommodations, the size and arrangement of rooms, the sanitary facilities, and the extent to which conditions exist in the dwelling accommodations that endanger life or property by fire or other causes.

The territorial limits of a metropolitan housing authority as defined by the director under this division shall be fixed for the authority upon proof of a letter from the director declaring the need for the authority to function in those territorial limits. Any such letter from the director, any certificate of determination issued by the director, and any certificate of appointment of members of the authority shall be admissible in evidence in any suit, action, or proceeding.

A certified copy of the letter from the director declaring the existence of a metropolitan housing authority and the territorial limits of its district shall be immediately forwarded to each appointing authority. A metropolitan housing authority shall consist of members who are residents of the territory

in which they serve.

(B)(1) Except as otherwise provided in division (C), (D), or (E) of this section, the members of a metropolitan housing authority shall be appointed as follows:

(a)(i) In a district in a county in which a charter has been adopted under Article X, Section 3 of the Ohio Constitution, and in which the most populous city is not the city with the largest ratio of housing units owned or managed by the authority to population, one member shall be appointed by the probate court, one member shall be appointed by the court of common pleas, one member shall be appointed by the board of county commissioners, one member shall be appointed by the chief executive officer of the city that has the largest ratio of housing units owned or managed by the authority to population, and two members shall be appointed by the chief executive officer of the most populous city in the district.

(ii) If, in a district that appoints members pursuant to division (B)(1)(a) of this section, the most populous city becomes the city with the largest ratio of housing units owned or managed by the authority to population, when the term of office of the member who was appointed by the chief executive officer of the city with the largest ratio expires, that member shall not be reappointed, and the membership of the authority shall be as described in division (B)(1)(b) of this section.

(b) In any district other than one described in division (B)(1)(a) of this section, one member shall be appointed by the probate court, one member shall be appointed by the court of common pleas, one member shall be appointed by the board of county commissioners, and two members shall be appointed by the chief executive officer of the most populous city in the district.

(2) At the time of the initial appointment of the authority, the member appointed by the probate court shall be appointed for a period of four years, the member appointed by the court of common pleas shall be appointed for three years, the member appointed by the board of county commissioners shall be appointed for two years, one member appointed by the chief executive officer of the most populous city in the district shall be appointed for one year, and the other member appointed by the chief executive officer of the most populous city in the district shall be appointed for five years.

If appointments are made under division (B)(1)(a) of this section, the member appointed by the chief executive officer of the city in the district that is not the most populous city, but that has the largest ratio of housing units owned or managed by the authority to population, shall be appointed

for five years.

After the initial appointments, all members of the authority shall be appointed for five-year terms, and any vacancy occurring upon the expiration of a term shall be filled by the appointing authority that made the initial appointment.

(3) For purposes of this division, population shall be determined according to the last preceding federal census.

(C) For any metropolitan housing authority district that contained, as of the 1990 federal census, a population of at least one million, two members of the authority shall be appointed by the legislative authority of the most populous city in the district, two members shall be appointed by the chief executive officer of the most populous city in the district, and one member shall be appointed by the chief executive officer, with the approval of the legislative authority, of the city in the district that has the second highest number of housing units owned or managed by the authority.

At the time of the initial appointment of the authority, one member appointed by the legislative authority of the most populous city in the district shall be appointed for three years, and one such member shall be appointed for one year; the member appointed by the chief executive officer of the city with the second highest number of housing units owned or managed by the authority shall be appointed, with the approval of the legislative authority, for three years; and one member appointed by the chief executive officer of the most populous city in the district shall be appointed for three years, and one such member shall be appointed for one year. Thereafter, all members of the authority shall be appointed for three-year terms, and any vacancy shall be filled by the same appointing power that made the initial appointment. At the expiration of the term of any member appointed by the chief executive officer of the most populous city in the district before March 15, 1983, the chief executive officer of the most populous city in the district shall fill the vacancy by appointment for a three-year term. At the expiration of the term of any member appointed by the board of county commissioners before March 15, 1983, the chief executive officer of the city in the district with the second highest number of housing units owned or managed by the authority shall, with the approval of the municipal legislative authority, fill the vacancy by appointment for a three-year term. At the expiration of the term of any member appointed before March 15, 1983, by the court of common pleas or the probate court, the legislative authority of the most populous city in the district shall fill the vacancy by appointment for a three-year term.

After March 15, 1983, at least one of the members appointed by the

chief executive officer of the most populous city shall be a resident of a dwelling unit owned or managed by the authority. At least one of the initial appointments by the chief executive officer of the most populous city, after March 15, 1983, shall be a resident of a dwelling unit owned or managed by the authority. Thereafter, any member appointed by the chief executive officer of the most populous city for the term established by this initial appointment, or for any succeeding term, shall be a person who resides in a dwelling unit owned or managed by the authority. If there is an elected, representative body of all residents of the authority, the chief executive officer of the most populous city shall, whenever there is a vacancy in this resident term, provide written notice of the vacancy to the representative body. If the representative body submits to the chief executive officer of the most populous city, in writing and within sixty days after the date on which it was notified of the vacancy, the names of at least five residents of the authority who are willing and qualified to serve as a member, the chief executive officer of the most populous city shall appoint to the resident term one of the residents recommended by the representative body. At no time shall residents constitute a majority of the members of the authority.

(D)(1) For any metropolitan housing authority district located in a county that had, as of the 2000 federal census, a population of at least four hundred thousand and no city with a population greater than thirty per cent of the total population of the county, one member of the authority shall be appointed by the probate court, one member shall be appointed by the court of common pleas, one member shall be appointed by the chief executive officer of the most populous city in the district, and two members shall be appointed by the board of county commissioners.

(2) At the time of the initial appointment of a metropolitan housing authority pursuant to this division, the member appointed by the probate court shall be appointed for a period of four years, the member appointed by the court of common pleas shall be appointed for three years, the member appointed by the chief executive officer of the most populous city shall be appointed for two years, one member appointed by the board of county commissioners shall be appointed for one year, and the other member appointed by the board of county commissioners shall be appointed for five years. Thereafter, all members of the authority shall be appointed for five-year terms, with each term ending on the same day of the same month as the term that it succeeds. Vacancies shall be filled in the manner provided in the original appointments. Any member appointed to fill a vacancy occurring prior to the expiration of the term shall hold office as a member for the remainder of that term.

(E)(1) ~~An additional two members~~ One resident member shall be appointed to ~~the~~ a metropolitan housing authority ~~in any district that has three hundred or more assisted housing units and that does not have at least one resident as a member of its authority. For the purposes of this section, an "assisted unit" is a housing unit owned or operated by the housing authority or a unit in which the occupants receive tenant-based housing assistance through the federal section 8 housing program, 24 C.F.R. Ch VIII, and, a "resident" is a person who lives in an assisted housing unit~~ when required by federal law. The

~~(2) The~~ chief executive officer of the most populous city in the district shall appoint ~~an additional member who is a~~ that resident member for ~~an initial~~ a term of five years. ~~The board of county commissioners shall appoint the other additional member, who need not be a resident, for an initial term of three years. After the initial term, the terms of both members~~ Subsequent terms of that resident member also shall be for five years, and ~~vacancies~~ any vacancy in the position of the resident member shall be filled ~~in the manner provided for original appointments~~ by the chief executive officer of the most populous city in the district. Any member appointed to fill such a vacancy ~~occurring prior to the expiration of the term for which the member's predecessor was appointed~~ shall hold office as a resident member for the remainder of that term. If, at any time,

~~(3) A member appointed as~~ a resident member ~~who~~ no longer qualifies as a resident ~~shall be deemed unable to serve~~, ~~and~~ another resident member shall be appointed by the appointing authority who originally appointed the resident member to serve for the unexpired portion of that term.

(2) On and after the effective date of this amendment, any metropolitan housing authority to which two additional members were appointed pursuant to former division (E)(1) of this section as enacted by Amended Substitute House Bill No. 95 of the 125th general assembly shall continue to have those additional members. Their terms shall be for five years, and vacancies in their positions shall be filled in the manner provided for their original appointment under former division (E)(1) of this section as so enacted.

(F) Public officials, other than the officers having the appointing power under this section, shall be eligible to serve as members, officers, or employees of a metropolitan housing authority notwithstanding any statute, charter, or law to the contrary. Not more than two such public officials shall be members of the authority at any one time.

All members of an authority shall serve without compensation but shall be entitled to be reimbursed for all necessary expenses incurred.

After a metropolitan housing authority district is formed, the director

may enlarge the territory within the district to include other political subdivisions, or portions of other political subdivisions, but the territorial limits of the district shall be less than that of the county.

(G)(1) Any vote taken by a metropolitan housing authority shall require a majority affirmative vote to pass. A tie vote shall constitute a defeat of any measure receiving equal numbers of votes for and against it.

(2) The members of a metropolitan housing authority shall act in the best interest of the district and shall not act solely as representatives of their respective appointing authorities.

Sec. 3743.01. As used in this chapter:

(A) "Beer" and "intoxicating liquor" have the same meanings as in section 4301.01 of the Revised Code.

(B) "Booby trap" means a small tube that has a string protruding from both ends, that has a friction-sensitive composition, and that is ignited by pulling the ends of the string.

(C) "Cigarette load" means a small wooden peg that is coated with a small quantity of explosive composition and that is ignited in a cigarette.

(D)(1) "1.3G fireworks" means display fireworks consistent with regulations of the United States department of transportation as expressed using the designation "division 1.3" in Title 49, Code of Federal Regulations.

(2) "1.4G fireworks" means consumer fireworks consistent with regulations of the United States department of transportation as expressed using the designation "division 1.4" in Title 49, Code of Federal Regulations.

(E) "Controlled substance" has the same meaning as in section 3719.01 of the Revised Code.

(F) "Fireworks" means any composition or device prepared for the purpose of producing a visible or an audible effect by combustion, deflagration, or detonation, except ordinary matches and except as provided in section 3743.80 of the Revised Code.

(G) "Fireworks plant" means all buildings and other structures in which the manufacturing of fireworks, or the storage or sale of manufactured fireworks by a manufacturer, takes place.

(H) "Highway" means any public street, road, alley, way, lane, or other public thoroughfare.

(I) "Licensed exhibitor of fireworks" or "licensed exhibitor" means a person licensed pursuant to sections 3743.50 to 3743.55 of the Revised Code.

(J) "Licensed manufacturer of fireworks" or "licensed manufacturer"

means a person licensed pursuant to sections 3743.02 to 3743.08 of the Revised Code.

(K) "Licensed wholesaler of fireworks" or "licensed wholesaler" means a person licensed pursuant to sections 3743.15 to 3743.21 of the Revised Code.

(L) "List of licensed exhibitors" means the list required by division (C) of section 3743.51 of the Revised Code.

(M) "List of licensed manufacturers" means the list required by division (C) of section 3743.03 of the Revised Code.

(N) "List of licensed wholesalers" means the list required by division (C) of section 3743.16 of the Revised Code.

(O) "Manufacturing of fireworks" means the making of fireworks from raw materials, none of which in and of themselves constitute a fireworks, or the processing of fireworks.

(P) "Navigable waters" means any body of water susceptible of being used in its ordinary condition as a highway of commerce over which trade and travel is or may be conducted in the customary modes, but does not include a body of water that is not capable of navigation by barges, tugboats, and other large vessels.

(Q) "Novelties and trick noisemakers" include the following items:

(1) Devices that produce a small report intended to surprise the user, including, but not limited to, booby traps, cigarette loads, party poppers, and snappers;

(2) Snakes or glow worms;

(3) Smoke devices;

(4) Trick matches.

(R) "Party popper" means a small plastic or paper item that contains not more than sixteen milligrams of friction-sensitive explosive composition, that is ignited by pulling a string protruding from the item, and from which paper streamers are expelled when the item is ignited.

(S) "Processing of fireworks" means the making of fireworks from materials all or part of which in and of themselves constitute a fireworks, but does not include the mere packaging or repackaging of fireworks.

(T) "Railroad" means any railway or railroad that carries freight or passengers for hire, but does not include auxiliary tracks, spurs, and sidings installed and primarily used in serving a mine, quarry, or plant.

(U) "Retail sale" or "sell at retail" means a sale of fireworks to a purchaser who intends to use the fireworks, and not resell them.

(V) "Smoke device" means a tube or sphere that contains pyrotechnic composition that, upon ignition, produces white or colored smoke as the

primary effect.

(W) "Snake or glow worm" means a device that consists of a pressed pellet of pyrotechnic composition that produces a large, snake-like ash upon burning, which ash expands in length as the pellet burns.

(X) "Snapper" means a small, paper-wrapped item that contains a minute quantity of explosive composition coated on small bits of sand, and that, when dropped, implodes.

(Y) "Trick match" means a kitchen or book match that is coated with a small quantity of explosive composition and that, upon ignition, produces a small report or a shower of sparks.

(Z) "Wire sparkler" means a sparkler consisting of a wire or stick coated with a nonexplosive pyrotechnic mixture that produces a shower of sparks upon ignition and that contains no more than one hundred grams of this mixture.

(AA) "Wholesale sale" or "sell at wholesale" means a sale of fireworks to a purchaser who intends to resell the fireworks so purchased.

(BB) "Licensed premises" means the real estate upon which a licensed manufacturer or wholesaler of fireworks conducts business.

(CC) "Licensed building" means a building on the licensed premises of a licensed manufacturer or wholesaler of fireworks that is approved for occupancy by the building official having jurisdiction.

(DD) "Fireworks incident" means any action or omission that occurs at a fireworks exhibition, that results in injury or death, or a substantial risk of injury or death, to any person, and that involves either of the following:

(1) The handling or other use, or the results of the handling or other use, of fireworks or associated equipment or other materials;

(2) The failure of any person to comply with any applicable requirement imposed by this chapter or any applicable rule adopted under this chapter.

(EE) "Discharge site" means an area immediately surrounding the mortars used to fire aerial shells.

(FF) "Fireworks incident site" means a discharge site or other location at a fireworks exhibition where a fireworks incident occurs, a location where an injury or death associated with a fireworks incident occurs, or a location where evidence of a fireworks incident or an injury or death associated with a fireworks incident is found.

(GG) "Storage location" means a single parcel or contiguous parcels of real estate approved by the fire marshal pursuant to division (I) of section 3743.04 of the Revised Code or division (G) of section 3743.17 of the Revised Code that are separate from a licensed premises containing a retail showroom, and which parcel or parcels a licensed manufacturer or

wholesaler of fireworks may use only for the distribution, possession, and storage of fireworks in accordance with this chapter.

Sec. 3743.02. (A) Any person who wishes to manufacture fireworks in this state shall submit to the fire marshal an application for licensure as a manufacturer of fireworks before the first day of October of each year. The application shall be submitted prior to the operation of a fireworks plant, shall be on a form prescribed by the fire marshal, shall contain all information required by this section or requested by the fire marshal, and shall be accompanied by the license fee, fingerprints, and proof of insurance coverage described in division (B) of this section.

The fire marshal shall prescribe a form for applications for licensure as a manufacturer of fireworks and make a copy of the form available, upon request, to persons who seek that licensure.

(B) An applicant for licensure as a manufacturer of fireworks shall submit with the application all of the following:

(1) A license fee of two thousand seven hundred fifty dollars, which the fire marshal shall use to pay for fireworks safety education, training programs, and inspections~~;~~. If the applicant has any storage locations approved in accordance with division (I) of section 3743.04 of the Revised Code, the applicant also shall submit a fee of one hundred dollars per storage location for the inspection of each storage location.

(2) Proof of comprehensive general liability insurance coverage, specifically including fire and smoke casualty on premises and products, in an amount not less than one million dollars for each occurrence for bodily injury liability and wrongful death liability at the fireworks plant. All applicants shall submit evidence of comprehensive general liability insurance coverage verified by the insurer and certified as to its provision of the minimum coverage required under this division.

(3) One complete set of the applicant's fingerprints and a complete set of fingerprints of any individual holding, owning, or controlling a five per cent or greater beneficial or equity interest in the applicant for the license.

(C) A separate application for licensure as a manufacturer of fireworks shall be submitted for each fireworks plant that a person wishes to operate in this state.

(D) If an applicant intends to include the processing of fireworks as any part of its proposed manufacturing of fireworks, a statement indicating that intent shall be included in its application for licensure.

Sec. 3743.04. (A) The license of a manufacturer of fireworks is effective for one year beginning on the first day of December. The fire marshal shall issue or renew a license only on that date and at no other time.

If a manufacturer of fireworks wishes to continue manufacturing fireworks at the designated fireworks plant after its then effective license expires, it shall apply no later than the first day of October for a new license pursuant to section 3743.02 of the Revised Code. The fire marshal shall send a written notice of the expiration of its license to a licensed manufacturer at least three months before the expiration date.

(B) If, during the effective period of its licensure, a licensed manufacturer of fireworks wishes to construct, locate, or relocate any buildings or other structures on the premises of its fireworks plant, to make any structural change or renovation in any building or other structure on the premises of its fireworks plant, or to change the nature of its manufacturing of fireworks so as to include the processing of fireworks, the manufacturer shall notify the fire marshal in writing. The fire marshal may require a licensed manufacturer also to submit documentation, including, but not limited to, plans covering the proposed construction, location, relocation, structural change or renovation, or change in manufacturing of fireworks, if the fire marshal determines the documentation is necessary for evaluation purposes in light of the proposed construction, location, relocation, structural change or renovation, or change in manufacturing of fireworks.

Upon receipt of the notification and additional documentation required by the fire marshal, the fire marshal shall inspect the premises of the fireworks plant to determine if the proposed construction, location, relocation, structural change or renovation, or change in manufacturing of fireworks conforms to sections 3743.02 to 3743.08 of the Revised Code and the rules adopted by the fire marshal pursuant to section 3743.05 of the Revised Code. The fire marshal shall issue a written authorization to the manufacturer for the construction, location, relocation, structural change or renovation, or change in manufacturing of fireworks if the fire marshal determines, upon the inspection and a review of submitted documentation, that the construction, location, relocation, structural change or renovation, or change in manufacturing of fireworks conforms to those sections and rules. Upon authorizing a change in manufacturing of fireworks to include the processing of fireworks, the fire marshal shall make notations on the manufacturer's license and in the list of licensed manufacturers in accordance with section 3743.03 of the Revised Code.

On or before June 1, 1998, a licensed manufacturer shall install, in every licensed building in which fireworks are manufactured, stored, or displayed and to which the public has access, interlinked fire detection, smoke exhaust, and smoke evacuation systems that are approved by the superintendent of the division of industrial compliance, and shall comply

with floor plans showing occupancy load limits and internal circulation and egress patterns that are approved by the fire marshal and superintendent, and that are submitted under seal as required by section 3791.04 of the Revised Code. Notwithstanding section 3743.59 of the Revised Code, the construction and safety requirements established in this division are not subject to any variance, waiver, or exclusion.

(C) The license of a manufacturer of fireworks authorizes the manufacturer to engage only in the following activities:

(1) The manufacturing of fireworks on the premises of the fireworks plant as described in the application for licensure or in the notification submitted under division (B) of this section, except that a licensed manufacturer shall not engage in the processing of fireworks unless authorized to do so by its license.

(2) To possess for sale at wholesale and sell at wholesale the fireworks manufactured by the manufacturer, to persons who are licensed wholesalers of fireworks, to out-of-state residents in accordance with section 3743.44 of the Revised Code, to residents of this state in accordance with section 3743.45 of the Revised Code, or to persons located in another state provided the fireworks are shipped directly out of this state to them by the manufacturer. A person who is licensed as a manufacturer of fireworks on June 14, 1988, also may possess for sale and sell pursuant to division (C)(2) of this section fireworks other than those the person manufactures. The possession for sale shall be on the premises of the fireworks plant described in the application for licensure or in the notification submitted under division (B) of this section, and the sale shall be from the inside of a licensed building and from no other structure or device outside a licensed building. At no time shall a licensed manufacturer sell any class of fireworks outside a licensed building.

(3) Possess for sale at retail and sell at retail the fireworks manufactured by the manufacturer, other than 1.4G fireworks as designated by the fire marshal in rules adopted pursuant to division (A) of section 3743.05 of the Revised Code, to licensed exhibitors in accordance with sections 3743.50 to 3743.55 of the Revised Code, and possess for sale at retail and sell at retail the fireworks manufactured by the manufacturer, including 1.4G fireworks, to out-of-state residents in accordance with section 3743.44 of the Revised Code, to residents of this state in accordance with section 3743.45 of the Revised Code, or to persons located in another state provided the fireworks are shipped directly out of this state to them by the manufacturer. A person who is licensed as a manufacturer of fireworks on June 14, 1988, may also possess for sale and sell pursuant to division (C)(3) of this section fireworks

other than those the person manufactures. The possession for sale shall be on the premises of the fireworks plant described in the application for licensure or in the notification submitted under division (B) of this section, and the sale shall be from the inside of a licensed building and from no other structure or device outside a licensed building. At no time shall a licensed manufacturer sell any class of fireworks outside a licensed building.

A licensed manufacturer of fireworks shall sell under division (C) of this section only fireworks that meet the standards set by the consumer product safety commission or by the American fireworks standard laboratories or that have received an EX number from the United States department of transportation.

(D) The license of a manufacturer of fireworks shall be protected under glass and posted in a conspicuous place on the premises of the fireworks plant. Except as otherwise provided in this division, the license is not transferable or assignable. A license may be transferred to another person for the same fireworks plant for which the license was issued if the assets of the plant are transferred to that person by inheritance or by a sale approved by the fire marshal. The license is subject to revocation in accordance with section 3743.08 of the Revised Code.

(E) The fire marshal shall not place the license of a manufacturer of fireworks in a temporarily inactive status while the holder of the license is attempting to qualify to retain the license.

(F) Each licensed manufacturer of fireworks that possesses fireworks for sale and sells fireworks under division (C) of section 3743.04 of the Revised Code, or a designee of the manufacturer, whose identity is provided to the fire marshal by the manufacturer, annually shall attend a continuing education program consisting of not less than eight hours of instruction. The fire marshal shall develop the program and the fire marshal or a person or public agency approved by the fire marshal shall conduct it. A licensed manufacturer or the manufacturer's designee who attends a program as required under this division, within one year after attending the program, shall conduct in-service training for other employees of the licensed manufacturer regarding the information obtained in the program. A licensed manufacturer shall provide the fire marshal with notice of the date, time, and place of all in-service training not less than thirty days prior to an in-service training event.

(G) A licensed manufacturer shall maintain comprehensive general liability insurance coverage in the amount and type specified under division (B)(2) of section 3743.02 of the Revised Code at all times. Each policy of insurance required under this division shall contain a provision requiring the

insurer to give not less than fifteen days' prior written notice to the fire marshal before termination, lapse, or cancellation of the policy, or any change in the policy that reduces the coverage below the minimum required under this division. Prior to canceling or reducing the amount of coverage of any comprehensive general liability insurance coverage required under this division, a licensed manufacturer shall secure supplemental insurance in an amount and type that satisfies the requirements of this division so that no lapse in coverage occurs at any time. A licensed manufacturer who secures supplemental insurance shall file evidence of the supplemental insurance with the fire marshal prior to canceling or reducing the amount of coverage of any comprehensive general liability insurance coverage required under this division.

(H) The fire marshal shall adopt rules for the expansion or contraction of a licensed premises and for approval of such expansions or contractions. The boundaries of a licensed premises, including any geographic expansion or contraction of those boundaries, shall be approved by the fire marshal in accordance with rules the fire marshal adopts. If the licensed premises consists of more than one parcel of real estate, those parcels shall be contiguous unless an exception is allowed pursuant to division (I) of this section.

(I)(1) A licensed manufacturer may expand its licensed premises within this state to include not more than two storage locations that are located upon one or more real estate parcels that are noncontiguous to the licensed premises as that licensed premises exists on the date a licensee submits an application as described below, if all of the following apply:

(a) The licensee submits an application to the fire marshal and an application fee of one hundred dollars per storage location for which the licensee is requesting approval.

(b) The identity of the holder of the license remains the same at the storage location.

(c) The storage location has received a valid certificate of zoning compliance as applicable and a valid certificate of occupancy for each building or structure at the storage location issued by the authority having jurisdiction to issue the certificate for the storage location, and those certificates permit the distribution and storage of fireworks regulated under this chapter at the storage location and in the buildings or structures. The storage location shall be in compliance with all other applicable federal, state, and local laws and regulations.

(d) Every building or structure located upon the storage location is separated from occupied residential and nonresidential buildings or

structures, railroads, highways, or any other buildings or structures on the licensed premises in accordance with the distances specified in the rules adopted by the fire marshal pursuant to section 3743.05 of the Revised Code.

(e) Neither the licensee nor any person holding, owning, or controlling a five per cent or greater beneficial or equity interest in the licensee has been convicted of or pleaded guilty to a felony under the laws of this state, any other state, or the United States, after the effective date of this amendment.

(f) The fire marshal approves the application for expansion.

(2) The fire marshal shall approve an application for expansion requested under division (I)(1) of this section if the fire marshal receives the application fee and proof that the requirements of divisions (I)(1)(b) to (e) of this section are satisfied. The storage location shall be considered part of the original licensed premises and shall use the same distinct number assigned to the original licensed premises with any additional designations as the fire marshal deems necessary in accordance with section 3743.03 of the Revised Code.

(J)(1) A licensee who obtains approval for the use of a storage location in accordance with division (I) of this section shall use the storage location exclusively for the following activities, in accordance with division (C) of this section:

(a) The packaging, assembling, or storing of fireworks, which shall only occur in buildings, structures, or trailers approved for such hazardous uses by the building code official having jurisdiction for the storage location and shall be in accordance with the rules adopted by the fire marshal under division (G) of section 3743.05 of the Revised Code for the packaging, assembling, and storage of fireworks.

(b) Distributing fireworks to other parcels of real estate located on the manufacturer's licensed premises, to licensed wholesalers or other licensed manufacturers in this state or to similarly licensed persons located in another state or country;

(c) Distributing fireworks to a licensed exhibitor of fireworks pursuant to a properly issued permit in accordance with section 3743.54 of the Revised Code.

(2) A licensed manufacturer shall not engage in any sales activity, including the retail sale of fireworks otherwise permitted under division (C)(2) or (C)(3) of this section, or pursuant to section 3743.44 or 3743.45 of the Revised Code, at the storage location approved under this section.

(K) The licensee shall prohibit public access to the storage location. The fire marshal shall adopt rules to describe the acceptable measures a